

# **Irrigation and Landscaping of the Ascarate Annex**

**Bid # 14-023**



**Opening Date  
Monday, June 9, 2014**

# 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 commissioners 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

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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](http://www.epcounty.com). /Bids & More/Vendors List. Thank you for your cooperation. If you have any questions please contact Sally Borrego at (915)546-2048.

## INVITATION FOR BIDS {PRIVATE}

(Must be modified if applicable State or local law so requires)

The County of El Paso will receive Bids for Irrigation and Landscaping of the Ascarate Annex, Bid #14-023, until 2:00 P.M., on Monday, June 9, 2014, 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.

**Bids are invited upon the several items and quantities of work as follows:**

### **BASE BID**

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

**Provide all labor, material, transportation, and services necessary to furnish and install the Irrigation System as shown on the Drawing and described herein**

**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](mailto:bidquestions@epcounty.com) before **Thursday, May 29, 2014, 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 proposal as non-compliant.

Any changes in the specifications will be posted on the County website as an addendum. It shall be the proposer's responsibility to check the website prior to the bid opening date to verify whether any addendums have been posted. Website: [www.epcounty.com](http://www.epcounty.com); Bids and more.

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.

## **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 Thursday, May 29, 2014 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 shall 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**

- a. 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.
- b. Bid Documents including the Bid, the Bid Guarantee, the Non-Collusion Affidavit and the Statement of Bidder's Qualifications (if requested) shall 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.

- c. 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.
- d. 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**

- a. The Bid must be accompanied by a Bid Guarantee, which shall not be less than 5 percent (5%), of the amount of the Bid. At the option of the Bidder, the guarantee may be a certified cashier's check or a bid bond in the form attached. A guarantee or a surety company listed in the latest issue of U.S. Treasury Circular 570 shall secure the Bid bond. No Bid will be considered unless it is accompanied by the required guarantee. Certified cashier's check must be made payable to the order of El Paso County. Cash deposits will not be accepted.

The Bid Guarantee shall insure 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 shall 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 in regard to any Bid submitted.
- b. Before executing any subcontract the successful Bidder shall 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 shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Any changes shall be processed in accordance with the

GENERAL CONDITIONS. The net monetary values of such additive and subtractive changes, if any, shall not increase or decrease the original contract price by more than twenty-five (25%), except 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**

- a. 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.



14. **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.
- b. 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.
- c. 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 shall 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 **Irrigation and Landscaping of the Ascarate Annex**, 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:

- a. This Agreement
- b. Addenda
- c. Invitation for Bids
- d. Instructions to Bidders
- e. Signed copy of Bid
- f. General Conditions
- g. Technical Specifications
- h. Drawings (as listed in the Schedule of Drawings)
- i. Prevailing wage rates
- j. 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. 14-023, Irrigation and Landscaping of the Ascarate Annex

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 Irrigation and Landscaping of the Ascarate Annex that consists of the following:

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

Provide all labor, material, transportation, and services necessary to furnish and install the Irrigation System as shown on the Drawing and described herein

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 90 consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$700.00 for each consecutive calendar day thereafter as hereinafter provided in the GENERAL CONDITIONS.

Bidder acknowledges receipt of the following addenda:

Date

\_\_\_\_\_  
\_\_\_\_\_

Addendum Number

\_\_\_\_\_  
\_\_\_\_\_

BASE PROPOSAL: Bidder agrees to provide all labor, material, transportation, and services necessary to furnish and install the Irrigation System as shown on the Drawing and described herein as necessary and work described in the specifications and shown on the plans for the sum of (\$\_\_\_\_\_)

(Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern).

Please do not include tax, as the County is tax exempt. The County will sign tax exemption certificates covering these items. Please provide one (1) original and one hard copy and two (2) CD copies in Word/CD format. CD/hard copies must reflect the original copy.

_____ Company	_____ Mailing Address
_____ Federal Tax Identification No.	_____ City, State, Zip Code
_____ DUNS Number (Applicable to Grant Funded Project)	_____
_____ Representative Name & Title	_____ Telephone Number include area code
_____ Signature	_____ Fax Number include area code
_____ Date	_____ Email Address

## 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 10 days and deliver a Surety Bond 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 bond 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 Irrigation and Landscaping of the Ascarate Annex.

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 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 The County the difference between the amount specified in said Bid and the amount for which the 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, 200\_\_, 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.

<b>If Bidder is a Corporate, required: CERTIFICATE AS TO CORPORATE PRINCIPAL</b>
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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:

\_\_\_\_\_  
(INSERT PROPER NAME OF CONTRACTOR)

By: \_\_\_\_\_  
(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)

# 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\_\_

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      , 200 .

By: \_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_, 200\_\_

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

**FIXED PRICE CONSTRUCTION CONTRACT BETWEEN  
OWNER AND CONTRACTOR**

This FIXED PRICE CONSTRUCTION CONTRACT BETWEEN OWNER AND CONTRACTOR (the "Contract") is made and entered into by and between **El Paso County, Texas**, a political subdivision of the State of Texas (the "Owner") and \_\_\_\_\_. (the "Contractor"). This Contract is executed under seal, and shall be effective on \_\_\_\_\_.

This Contract is for the construction of a project as described by **El Paso County Bid No.** \_\_\_\_\_ to perform \_\_\_\_\_ (the "Project").

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree:

**1.**

**DOCUMENTS INCORPORATED BY REFERENCE**

This Contract includes the plans, drawings, and specifications for the Project identified thereon as such, plus the following: **El Paso County Bid No.** \_\_\_\_\_, all responses from the Contractor and addenda, all of which are hereby incorporated herein by reference and made a part hereof. 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 Paragraph 1 do not, and shall not, form any part of this Contract.

**1A.**

[unique considerations]

## **2.**

### **REPRESENTATIONS OF THE CONTRACTOR**

In order to induce the Owner to execute this Contract and recognizing that the Owner is relying thereon, the Contractor, by executing this Contract, makes the following express representations to the Owner:

- (A) 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;
- (B) The Contractor has become familiar with the Project site and the local conditions under which the Project is to be constructed and operated;
- (C) The Contractor has received, reviewed and carefully examined all of the documents which make up this Contract, including, but not limited to, the plans and specifications, and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for construction.

## **3.**

### **INTENT AND INTERPRETATION**

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

- (A) This Contract, together with the Contractor's and Surety's performance and payment bonds for the Project, if any, constitute the entire and exclusive agreements between the parties with reference to the Project, and said Contract supersedes any and all prior discussions, communications, representations, understandings, negotiations, or agreements. This Contract also supersedes any bid documents;
- (B) 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;
- (C) 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;
- (D) When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; 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;
- (E) The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation";



(F) The specification herein 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 shall be deemed not to constitute a material breach of this Contract;

(G) 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 and the Project Manager 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 or the Project Manager of any shop drawings or other submittals shall not relieve the Contractor of the continuing duties imposed hereby, 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 or are hereby made;

(H) In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:

- (1) As between figures given on plans and scaled measurements, the figures shall govern;
- (2) As between large scale plans and small scale plans, the large scale plans shall govern;
- (3) As between plans and specifications, the requirements of the specifications shall govern;
- (4) As between this document and the plans or specifications, this document shall govern.

4.

#### **OWNERSHIP OF THE DOCUMENTS WHICH MAKE UP THE CONTRACT**

The documents which make up this Contract, and each of them, 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 (1) copy of the Contract upon completion of the Project; provided, however, that in no event shall the Contractor use, or permit to be used, any portion or all of such Contract on other projects without the Owner's prior written authorization.

5.

#### **CONTRACTOR'S PERFORMANCE**

The Contractor shall perform all of the work required, implied or reasonably inferable from this Contract including, but not limited to, the following:

- (A) Construction of the Project in accordance with Bid No. 13-068 as documents submitted by Contractor in support of its successful bid;
- (B) The furnishing of a performance and payment bond in the full amount of the contract and insurance;
- (C) 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;**
- (D) The creation and submission to the Owner of detailed and comprehensive as-built drawings depicting all as-built construction. Said 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.

6.

#### **TIME FOR CONTRACTOR'S PERFORMANCE**

- (A) 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 \_\_\_\_\_ calendar days.

(B) The Contractor shall pay the Owner the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_.00) per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion. Any sums due and payable hereunder 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. 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;

(C) The term "Substantial Completion", as used herein, shall mean 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;

(D) All limitations of time set forth herein are material and are of the essence of this Contract.

## 7.

### FIXED PRICE AND CONTRACT PAYMENTS

(A) The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations hereunder the fixed price of \_\_\_\_\_ Dollars and \_\_ Cents (\$\_\_\_\_.00). The price set forth in this Subparagraph 7(A) shall constitute the Contract Price, which shall not be modified except by Change Order as provided in this Contract;

(B) Within **TEN (10)** calendar days of the effective date hereof, the Contractor shall prepare and present to the Owner and the Project Manager the **Contractor's Schedule of Values** apportioning the Contract Price among the different elements of the Project for purposes of periodic and final payment. The Contractor's Schedule of Values shall be presented in whatever format, with such detail, and backed up with whatever supporting information the Project Manager or the Owner requests. The Contractor shall not imbalance it's Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Contractor'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;

(C) The Owner shall pay the Contract Price to the Contractor in accordance with the procedures set forth in this Paragraph 7. On or before the **FIFTEENTH (15<sup>th</sup>)** day of each month after commencement of performance, but no more frequently than once monthly, the Contractor may submit a Payment Request for the period ending the last day of the month. Said Payment Request shall be in such format and include whatever supporting information as may be required by the Project Manager, the Owner, or both. Therein, the Contractor may request payment for ninety percent (90%) of that part of the Contract Price allocable to Contract requirements properly provided, labor, materials and equipment properly incorporated in the Project, and materials or equipment necessary for the Project and properly stored at the Project site (or elsewhere if offsite storage is approved in writing by the Owner), 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 THIRTY (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 Subparagraph 7(F) herein below. 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, wherein said subcontractors, materialmen, suppliers or others having lien rights, shall acknowledge receipt of all sums due pursuant to 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;

(D) 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. In the event the Owner becomes informed that the Contractor has not paid a subcontractor, materialman, laborer, or supplier as provided herein, the Owner shall have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due hereunder naming the Contractor

and any such subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by the Owner, 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;

(E) 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;

(F) 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:

- (1) The quality of a portion, or all, of the Contractor's work not being in accordance with the requirements of this Contract;
- (2) The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;
- (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;
- (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;
- (5) Claims made, or likely to be made, against the Owner or its property;
- (6) Loss caused by the Contractor;
- (7) The Contractor's failure or refusal to perform any of its obligations to the Owner.

In the event that the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Subparagraph 7(F), the Contractor shall promptly comply with such demand;

(G) If within thirty (30) days from the date payment to the Contractor is due, the Owner, without cause or basis hereunder, 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 ten (10) days' written notice of its intent to cease work to the Owner. Any payment not made within thirty (30) days after the date due shall bear interest at the applicable rate under the Texas Prompt Pay Act, Government Code Chapter 2251;

(H) 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 thereupon 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 will therein set forth 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 one hundred percent (100%) of the Contract Price less any amounts attributable to liquidated damages, together with One Hundred percent (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;

(I) When the Project is finally complete and the Contractor is ready for a final inspection, it shall notify the Owner and the Project Manager thereof in writing. Thereupon, 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 hereunder, 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 pursuant 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;

(J) If the Contractor fails to achieve **final completion** within **FIFTEEN (15)** days of the date of Substantial Completion, the Contractor shall pay the Owner the sum of \_\_\_\_\_ **Dollars (\$\_\_\_\_.00)** per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the work. Any sums due and payable hereunder 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. 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 and when 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;

(K) Prior to being entitled to receive final payment and as a condition precedent thereto, the Contractor shall furnish the Owner, in the form and manner required by Owner, if any, with a copy to the Project Manager:

- (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;
- (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;
- (3) If applicable, consent(s) of surety to final payment;
- (4) All product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of the Contractor, or expressly required herein, as a part of or prior to Project closeout;
- (L) The Owner shall, subject to its rights set forth in Subparagraph 7(F) above, make final payment of all sums due the Contractor within ten (10) days of the Project Manager's execution of a final Approval for Payment.

## **8.**

### **INFORMATION AND MATERIAL SUPPLIED BY THE OWNER**

- (A) The Owner shall furnish to the Contractor, prior to the execution of this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only in order 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;
- (B) The Owner shall obtain all required authorizations, approvals, easements, and the like excluding the building permit and other permits or fees required of the Contractor by this Contract, or permits and fees customarily the responsibility of the Contractor;

## **9.**

### **CEASE AND DESIST ORDER**

In the event the Contractor fails or refuses to perform the work as required herein, 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. In the event the Owner issues such instructions to cease and desist, and in the further event that the Contractor fails and refuses within seven (7) 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 herein are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the Contractor.

## 10.

### **DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR**

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 to the Owner:

(A) The Contractor is again reminded of its continuing duties set forth in Subparagraph 3(G), which are by reference hereby incorporated in this Subparagraph 10(A). 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;

(B) All work shall strictly conform to the requirements of this Contract;

(C) 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;

(D) The Contractor hereby 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, that the completed work will be complete, 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 Subparagraph shall constitute a breach of the Contractor's warranty;

(E) 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;**

(F) The Contractor shall employ and maintain at the Project site only competent supervisory personnel. **Key supervisory personnel assigned by the Contractor to this Project are as follows:**



## NAME

## FUNCTION

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assumes one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 10(f) as though such individuals had been listed above;

(G) The Contractor, within **TEN (10) days** of commencing the work, shall provide to the Owner and the Project Manager, and comply with, the **Contractor's schedule for completing the work**. Such schedule shall be in a form acceptable to the Owner. The Contractor's 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 and the Project Manager. Strict compliance with the requirements of this Subparagraph 10(G) shall be a condition precedent to payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract;

(H) 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;

(I) 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 pursuant thereto 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 any and all submittals before submission of same to the Owner or the Project Manager;

(J) 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;

(K) 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.

**11.**

**INDEMNITY**

THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, LIABILITY, DAMAGES, LOSS, COST AND EXPENSE OF EVERY TYPE WHATSOEVER INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES, IN CONNECTION WITH THE CONTRACTOR'S PERFORMANCE OF THIS CONTRACT, PROVIDED THAT SUCH CLAIMS, LIABILITY, DAMAGE, LOSS, COST OR EXPENSE IS DUE TO SICKNESS, PERSONAL INJURY, DISEASE OR DEATH, THE UNLAWFUL DISPOSAL OF CONSTRUCTION MATERIALS, CHEMICALS, OR DEBRIS, OR TO LOSS OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING LOSS OF USE RESULTING THERE FROM, TO THE EXTENT CAUSED BY THE CONTRACTOR, OR ANYONE FOR WHOSE ACTS THE CONTRACTOR MAY BE LIABLE, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIM, DAMAGE, LOSS, COST OR EXPENSE IS CAUSED IN PART BY THE OWNER.

**12.**

**THE PROJECT MANAGER**

The Project Manager for this Project is \_\_\_\_\_ (the "Project Manager"). In the event the Owner should find it necessary or convenient to replace the Project Manager, the Owner shall retain a replacement Project Manager and the role of the replacement Project Manager shall be the same as the role of the Project Manager. Unless otherwise directed by the Owner in writing, the Project Manager will perform those duties and discharge those responsibilities allocated to the Project Manager in this Contract. The duties, obligations and responsibilities of the Project Manager shall include, but are not limited to, the following:

- (A) 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;
- (B) 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;
- (C) When requested by the Contractor in writing, the Project Manager shall render interpretations necessary for the proper execution or progress of the work;
- (D) The Project Manager shall draft proposed Change Orders;
- (E) The Project Manager shall approve, or respond otherwise as necessary concerning shop drawings or other submittals received from the Contractor;
- (F) 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 requirements of this Contract;

(G) 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;

(H) The Project Manager shall, upon written request from the Contractor, perform those inspections required in Paragraph 7 hereinabove;

(I) 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;

(J) THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR UNDER THIS CONTRACT SHALL IN NO MANNER WHATSOEVER BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION OR RESPONSIBILITY OF THE PROJECT MANAGER. THE CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY CONTRACT BY AND BETWEEN THE OWNER AND THE PROJECT MANAGER. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT THE DUTIES OF THE CONTRACTOR TO THE OWNER ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE PROJECT MANAGER TO THE OWNER.

### **13.**

#### **CLAIMS BY THE CONTRACTOR**

Claims by the Contractor against the Owner are subject to the following terms and conditions:

(A) 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 seven (7) calendar days after the event, or the first appearance of the circumstances, causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim;

(B) The Contractor and the Owner shall continue their performance hereunder regardless of the existence of any claims submitted by the Contractor;

(C) In the event 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 seven (7) 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 Subparagraph 13(C) shall constitute a waiver by the Contractor of any rights arising out of or relating to such concealed and unknown condition;

(D) In the event the Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefore, the Contractor shall strictly comply with the requirements of Subparagraph 13(A) 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;

(E) 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 in no event 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;

(F) In the event the Contractor should be 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, or by Owner-authorized Change Orders, unusually bad weather not reasonably anticipatable, fire or other Acts of God, 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 Subparagraph 13(F) if, and only if, said 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 requirements of Subparagraph 13(A) above. If the Contractor fails to make such claim as required in this Subparagraph 13(F), any claim for an extension of time shall be waived.

## **14.**

### **SUBCONTRACTORS**

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 herein, including those rights of Contract termination as set forth herein below.

## **15.**

## **CHANGE ORDERS**

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:

(A) 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;

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

(1) By mutual agreement between the Owner and the Contractor as evidenced by (a) the change in the Contract Price being set forth in the Change Order, (b) such change in the Contract Price, together with any conditions or requirements relating thereto, being initialed by both parties and (c) the Contractor's execution of the Change Order, or,

(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 shall 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.

(C) 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, 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;

(D) 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.

## **16.**

## **DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK**

(A) In the event that 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;

(B) If any of the work is covered, concealed or obscured in a manner not covered by Subparagraph 16(A) 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;

(C) 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 thereof;

(D) In addition to its warranty obligations set forth elsewhere herein, the Contractor shall be specifically obligated to correct any and all defective or nonconforming work for a period of **TWO (2) years** following final completion upon written direction from the Owner.

(E) The Owner may, but shall in no event 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.

## 17.

### TERMINATION BY THE CONTRACTOR

If the Owner repeatedly fails to perform its material obligations to the Contractor for a period of thirty (30) days after receiving written notice from the Contractor of its intent to terminate hereunder, 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 pursuant to Subparagraph 19(A) hereunder.

## 18.

## **OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE**

(A) 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 THIRTY (30) calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply with same;

(B) In the event the Owner directs a suspension of performance under this Paragraph 18, 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:

- (1) Demobilization and remobilization, including such costs paid to subcontractors;
- (2) Preserving and protecting work in place;
- (3) Storage of materials or equipment purchased for the Project, including insurance thereon;
- (4) Performing in a later, or during a longer, time frame than that contemplated by this Contract.

## **19.**

### **TERMINATION BY THE OWNER**

The Owner may terminate this Contract in accordance with the following terms and conditions:

(A) 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:

- (1) 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 one

- (1) year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with Subparagraph (3) below;
- (2) The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder;
- (3) Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:
  - (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
  - (b) 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); provided however, that 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;
  - (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 19(A) of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 19(A) 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.

(B) If the Contractor does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or 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 hereunder, remains after the cost to the Owner of completing the work, including all costs and expenses of every nature incurred, has been deducted by the Owner, such remainder shall belong to the Contractor. Otherwise, the Contractor shall pay and make whole the Owner for such cost. This obligation for payment shall survive the termination of the Contract. In the event the employment of the Contractor is terminated by the Owner for cause pursuant to this Subparagraph 19(B) and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon



be deemed a Termination for Convenience under Subparagraph 19(A) and the provisions of Subparagraph 19(A) shall apply.

**20.**

**INSURANCE**

The Contractor shall have and maintain insurance in accordance with the requirements of Exhibit "A" attached hereto and incorporated herein by reference.

**21.**

**SURETY BONDS**

The Contractor shall furnish **separate performance and payment bonds to the Owner within FIVE (5) calendar days of execution of contract.** If the 5<sup>th</sup> calendar day is a Saturday, Sunday, or County holiday, Contractor may furnish the bonds to Owner on the next County business day. 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 form suitable to the Owner and shall be executed by a surety, or sureties, reasonably acceptable to the Owner.

**22.**

**PROJECT RECORDS**

All documents relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Contractor, or any subcontractor of the Contractor, shall be made available to the Owner or the Project Manager for inspection and copying upon written request by the Owner. Furthermore, said 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. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the cost of construction to the Contractor. The Contractor shall maintain and protect these documents for no less than four (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.

**23.**

**APPLICABLE LAW**

The law applicable to this Contract is hereby agreed to be the law of the State of Texas and venue shall lie in El Paso County.

**24.**

### **SUCCESSORS AND ASSIGNS**

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

**25.**

### **PREVAILING WAGE RATES AND APPRENTICESHIP PROGRAM**

**(A)** The Contractor is aware that and hereby agrees that not less than the prevailing wage rates included in the bid specifications, which were adopted by the El Paso County Commissioners Court on **November 19, 2012** for Highway/Heavy Construction and for Building Construction Trades, shall be paid to all workers on the Project. A copy of the prevailing wage rates is attached hereto and by this reference is incorporated herein as part of this contract.

**(B)** 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 said prevailing wage rates set forth in this contract.

**(C)** 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 through its officers and agents.

**(D)** The Contractor shall post the prevailing wage rate schedules made part of this contract at each work site in a prominent location readily accessible to the workers through the duration of the project. 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.

**(E)** Upon a determination by the County that there is good cause to believe that Contractor or a subcontractor has violated Chapter 2258 of the Texas Government Code, the County shall withhold any amount due under the 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 and 2) cover the costs of penalties under Section 2258.023 and 3) to ensure compliance with Chapter 2258 for the duration of the project.

**(F) 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.**

**(G)** No worker shall be discharged by the Contractor or 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.

**(H)** The Contractor and subcontractors shall allow expeditious jobsite entry by the County Director of Public Works and his/her agents and representatives displaying and presenting proper identification credentials to the jobsite superintendent or his/her representative. While on the jobsite the County Director of Public Works and his/her agents and representatives shall observe all jobsite rules and regulations concerning safety, internal security and fire prevention. The Contractor and subcontractors shall allow project employees to be interviewed at random for a reasonable duration by the County Director of Public Works and his/her agents and representatives to facilitate compliance determinations regarding the prevailing wage rate payment provisions and apprenticeship program provisions of this contract.

**(I)** 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 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.

**(J)** 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 comply with the following:

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;
2. Must hire registered apprentices enrolled in a DOL certified apprenticeship program. **No helpers shall be permitted;**
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 the 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.**

**(K)** The Contractor shall post the prevailing wage rate schedules made part of this contract at each work site in a prominent location readily accessible to the workers through the duration of the project. 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.

**(L)** 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.

**(M)** The County reserves the right to terminate this Contract for cause if the Contractor and/or subcontractors shall breach any of these provisions regarding the payment of prevailing wages or the apprenticeship program.

**(N) 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.**

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF THE PARTIES EXECUTE THIS CONTRACT:

**OWNER**

**CONTRACTOR**

**APPROVED AS TO FORM AND CONTENT:**

THE COUNTY OF EL PASO

\_\_\_\_\_

By \_\_\_\_\_  
Veronica Escobar  
El Paso County Judge

By \_\_\_\_\_  
Name  
TITLE  
(Signor must be authorized to bind corporation)

Date \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_  
Ernesto Carrizal III,  
Director of Public Works  
El Paso County, Texas

Date \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**

\_\_\_\_\_  
Assistant County Attorney

## EXHIBIT A

### **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 Worker 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 FROM 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.



**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 23<sup>rd</sup> day of June, 2008.

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ANTHONY COBOS  
EL PASO COUNTY JUDGE

# County of El Paso, Texas

## Building Construction Trades Wage Rates 2012



CLASSIFICATION	BASE WAGE PER HOUR	TOTAL FRINGES PER HOUR	HOURLY PREVAILING WAGE RATE	PER DIEM WAGE RATE
Automatic Fire Sprinkler Fitter, Certified	25.84	16.47	42.31	338.48
Brick Masons and Block Masons	16.92	0.00	16.92	135.36
Carpenters – Acoustical Ceiling	12.50	0.00	12.50	117.68
Carpenter – Rough	14.71	-	14.71	117.68
Carpenter – All Other Work, Millwright	14.85	0.00	14.85	118.80
Caulker / Sealers	10	0.00	10.00	80.00
Door & Hardware and Locksmith	12.00	1.35	13.35	106.80
Drywall and Ceiling Tile and Lather	12.5	0.00	12.50	100.00
Drywall Finishers & Tapers	14	0.00	14.00	112.00
Electrician	20.53	7.19	27.72	221.76
Electronic Technician	18.43	1.01	19.44	155.52
Elevator Installers and Repairers	31.35	15.10	46.45	371.60
Fence Erectors	9.5	0.00	9.50	76.00
Floor Layers–Carpet & Resilient	12.87	0.00	12.87	102.96
Floor Layers – Specialty	13	0.00	13.00	104.00
Floor Layers – Wood	11.50	0.00	11.50	92.00
Fork Lift Operator	18	5.83	23.83	190.64
Glaziers	10	0.00	10.00	80.00
Hazardous Materials Removal Workers	10.00	0.00	10.00	80.00
Heating, Air Conditioning, and Refrigeration Service Technician	22	0.00	22.00	176.00
Insulation Workers – Mechanical	14	0.00	14.00	112.00
Irrigator -- Landscape, Certified	14.92	0.00	14.92	119.36
Laborer, Common	9.88	0.00	9.88	79.04
Laborer, Skilled	13	0.00	13.00	104.00
Manlift Operator Include with trade	12.13	0.00	12.13	97.04
Masons, Cement and Concrete Finishers	13.25	0.00	13.25	106.00
Mason, Rock	17.97	0.00	17.97	143.76
Mason, Stone	11.91	0.00	11.91	95.28
Painters	10	0.00	10.00	80.00
Paper Hanger	10	0.50	10.50	84.00
Pipelayers	15.00	0.00	15.00	120.00
Pipe Fitters and Steamfitters	11.43	3.74	15.17	121.36
Plaster and Stucco Applicator	13.00	0.50	13.50	108.00
Plumbers	17.5	0.00	17.50	140.00
Reinforcing Iron and Rebar workers	18.38	4.64	23.02	184.16
Roofers	16	0.00	16.00	128.00
Sheet Metal Workers	23.92	0.00	23.92	191.36
Structural Iron and Steel Workers	17.2	0.00	17.20	137.60
Tile and Marble Setters	12.50	0.00	12.50	100.00
Truck Drivers, Heavy & Tractor-Trailer	14.69	0.00	14.69	117.52
Truck Drivers, Light (under 26,000 GVW)	15	0.00	15.00	120.00

All persons required to be licensed or certified must meet those qualifications to be paid the associated rate.



COUNTY OF EL PASO, TEXAS

**Paving and Street Construction, Dirt Work,  
Heavy Construction, Pipeline Work, Highway  
Wage Rates 2012**

CLASSIFICATION	BASE WAGE PER HOUR	TOTAL FRINGES PER HOUR	HOURLY PREVAILING WAGE RATE	PER DIEM WAGE RATE
Asphalt Distributor Operator	12.75	0	12.75	102
Asphalt Paving Machine Operator	12.5	0	12.5	100
Asphalt Raker	10.5	0	10.5	84
Backhoe Operator	14	0	14	112
Concrete Finisher (Paving and Structures)	12	0	12	96
Crane Operator, Lattice Boom	17.5	0	17.5	140
Crane Operator, Hydraulic	17	0	17	136
Electrician	23.09	0	23.09	184.72
Excavator Operator	16.1	0	16.1	128.8
Form Builder/Setter	13	0	13	104
Form Setter (Paving and Curb)	10.75	0	10.75	86
Front End Loader	11.75	0	11.75	94
Labor (Common)	9.25	0	9.25	74
Labor (Skilled)	10	0	10	80
Mechanic	17.5	0	17.5	140
Motor Grade Operator	17	0	17	136
Pipe Layer	11.5	0	11.5	92
Reinforcing Steel Setter (Paving)	14	0	14	112
Rock Mason	12	0	12	96
Servicer	12	0	12	96
Traveling Mixer Operator	10	0	10	80
Truck Driver, Single Axle	11	0	11	88
Truck Driver, Tandem Axle	12.74	0	12.74	101.92
Tunneling Machine Operator	13.61	0	13.61	108.88
Utility Operator Grade 1	11.5	0	11.5	92
Utility Operator Grade 2	11	0	11	88
Welder, Certified/Structural Steel Welder	12.08	0	12.08	96.64
Welder	13.08	0	13.08	104.64

All persons required to be licensed or certified must meet those qualifications to be paid the associated rate.

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- All persons required to be licensed or certified must meet those qualifications to be paid the associated rate.

• **Paving and Street Construction, Dirt Work, Heavy Construction, Pipeline Work, Highway Wage Rates 2012**

<b>CLASSIFICATION</b>	<b>BASE WAGE PER HOUR</b>	<b>TOTAL FRINGES PER HOUR</b>	<b>HOURLY PREVAILING WAGE RATE</b>	<b>PER DIEM WAGE RATE</b>
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Servicer	12	0	12	96
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Truck Driver, Single Axle	11	0	11	88
Truck Driver, Tandem Axle	12.74	0	12.74	101.92
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Utility Operator Grade 1	11.5	0	11.5	92
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Welder, Certified/Structural Steel Welder	12.08	0	12.08	96.64
Welder	13.08	0	13.08	104.64

• All persons required to be licensed or certified must meet those qualifications to be paid the associated rate.

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

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

**1. BID PACKAGE**

- a. The bid, general and special provisions, drawings, specifications/line item details, contract documents and the bid sheet are all considered part of the bid package. Bids must be submitted on the forms provided by the County, including the bid sheet completed in its entirety and signed by an authorized representative by original signature. Failure to complete and sign the bid sheet/contract page (s) may disqualify the bid from being considered by Commissioners’ Court. Any individual signing on behalf of the bid expressly affirms that he or she is duly authorized to tender this bid and to sign the bid sheet/contract under the terms and conditions in this bid. Bidder 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. 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 is required to thoroughly review this entire bid packet to familiarize themselves with the bid procedures, the plans and specifications for the requested work as well as the terms, and conditions of the contract the successful bidder will execute with the County.
- b. **Bid must be in the Purchasing Department BEFORE the hour and date specified. Faxed or e-mailed bids will not be accepted. Late bids will not be considered under any circumstances.**
- c. Any bid sent via express mail or overnight delivery must have the Bid number and title clearly marked on the outside of the envelope or package. Failure to clearly identify your bid may be cause for disqualification.

**2. COMPETITIVENESS AND INTEGRITY**

To prevent biased evaluations and to preserve the competitiveness and integrity of such acquisition efforts, bidders are to direct all communications regarding this bid 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. The signature acknowledges that the bidder has read the bid documents thoroughly before submitting a bid and will fulfill the obligations in accordance to the terms, conditions, and specifications.

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

**3. BIDDER’S RESPONSIBILITY**

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

- Have been in business of providing services for a minimum of 5 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 bid;
- 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**



The County, acting through its Commissioners' Court reserves the right to: (1) reject any and all bids and waive any informality in the bids received; (2) disregard the bid of any bidder determined to be not responsible. The County further reserves the right to reject any bid 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 bidder to review the entire invitation to bid 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 procedures must be received in the Purchasing Department no less than seventy-two hours prior to the time set for bid 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 bidder 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**

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

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

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

**8. PRICING**

Bids 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 will be either lump sum or unit prices as shown on the bid 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 subject to unlimited price increases will not be accepted. The County is tax exempt and no taxes should be included in your bid.

Unless prices and all information requested are complete, bid 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. 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.

**10. MODIFICATION OF BIDS**

A bidder may modify a bid by letter at any time prior to the submission deadline for receipt of bids. Modification requests must be received prior to the submission deadline. Modifications made before opening time must be initialed by bidder guaranteeing authenticity. Bids 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.

**11. SIGNATURE OF BIDS**

Each bid shall give the complete mailing address of the Bidder 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 shall include the Bidder's Federal Employer Identification Number (FEIN). Failure to sign the Contract page(s) and bid response sheet will disqualify the bidder from being considered by the County. The person signing on behalf of the Bidder expressly affirms that the person is duly authorized to render the bid and to sign the bid sheets and contract under the terms and conditions of this Bid and to bind the Bidder 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.

**12. 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.

**Proposals** will be made to the responsible proposer whose proposal is determined to be the best evaluated offer demonstrating the best ability to fulfill the requirements set forth in this Request for 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 in whole or in part received by reason of this bid and may discontinue its efforts under this Bid 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, waive minor technicalities, or to award by item or by total bid. Price should be itemized.

**A Bidder whose proposal does not meet the mandatory requirements set forth in this Bid will be considered noncompliant.**

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

**13. 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 agrees that it has marked any information that it considers to be confidential, proprietary, and/or trade secret in its bid. County agrees to provide notice to 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 Bidder has marked as confidential, proprietary, and/or trade secret.

**14. 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, proposal package, any addenda issued, and any change orders issued during the work.

The criteria utilized for determining responsibility of bid(s) includes, but is not limited to, the bidder'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 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.

**15. ESTIMATED QUANTITIES**

Any reference to quantities shown in the Bid 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.

**16. CONTRACTOR INVESTIGATION**

Before submitting a bid, 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 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.

**17. NO COMMITMENT BY COUNTY**

This Bid 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 proposal to this bid, or to procure or contract for services or supplies.

**18. SINGLE BID RESPONSE**

If only one proposal is received in response to the Request for Proposals, a detailed cost proposal may be requested of the single contractor. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

**19. REJECTION/DISQUALIFICATION OF BIDS**

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

- A. Failure to use the bid 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 form.
- C. Failure to properly complete the bid.
- D. Bids that do not meet the mandatory requirements.
- E. Evidence of collusion among bidders.

**20. CHANGES IN SPECIFICATIONS**

If it becomes necessary to revise any part of this bid, 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 the Bidder's responsibility to check the website prior to the bid opening date to verify whether any addendums have been posted.

**21. BID IDEAS AND CONCEPTS**

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

**22. BID/PROPOSAL DISCLOSURES**

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

The Proposal for Services: The names of those who submitted proposals will not 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.

**23. WITHDRAWAL OF BID**

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

**24. 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.

## **25. PROOF OF INSURANCE**

Successful bidder 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:

\$1,000,000 – Each Occurrence  
\$1,000,000 – General Aggregate  
\$1,000,000 – Personal & Advertising Injury  
\$1,000,000 – Products/Completed Operations – Aggregate  
\$5,000 – Premises Medical Expense  
\$500,000 – Fire Legal Damage Liability  
County named as “Additional Insured”  
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.

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

**26. Conflict of Interest Disclosure Reporting**

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

**27. NON-COLLUSION AFFIDAVIT**

The contractor declares, by signing and submitting a bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid 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, and has not directly or indirectly colluded, conspired, connived, or agreed with any contractor or anyone else to put in a sham bid, 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 price of the contractor of any other bidder, or to fix any overhead, profit or cost element of the bid 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 are true; and further, that the contractor has not, directly or indirectly, submitted his or her bid 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, proposal depository, or to any member or agent thereof to effectuate a collusive or sham bid.

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 Bid.

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.

**28. 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.

**29. MERGERS, ACQUISITIONS**

The Bidder 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 is submitted.

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

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

Moreover, Bidder is required to provide the County with notice of any anticipated merger or acquisition as soon as Bidder has actual knowledge of the anticipated merger or acquisition. The new Bidder'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.

**31. 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 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 attributed to these delays, should any occur. In addition, Bidder 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.

**32. ACCURACY OF DATA**

Information and data provided through this Bid are believed to be reasonably accurate.

**33. SUBCONTRACTING/ASSIGNMENT**

Bidder 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 of any of its responsibilities under this contract.

**34. INDEPENDENT CONTRACTOR**

Bidder 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 or its subcontractors perform in providing the requirements stated in the Bid.

**35. MONITORING PERFORMANCE**

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

**The County of El Paso is an equal opportunity employer.**

**36. 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 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/trainingvendor\\_files/frame.htm](http://www.epcounty.com/ethicscom/trainingvendor_files/frame.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 statutes 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

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\* 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?

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

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

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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.**

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Business Name

---

Date

---

Name of Authorized Representative

---

Signature of Authorized Representative

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\* This page must be included in all responses.



**COUNTY OF EL PASO**

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

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RE: Bid #14-023, Irrigation and Landscaping of the Ascarate Annex

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 Veronica Escobar  
Commissioner Carlos Leon  
Commissioner Sergio Lewis  
Commissioner Vincent Perez  
Commissioner Patrick Abeln

County Employees: Kennie Downing, Purchasing Agent  
Jose Lopez, Jr., Assistant Purchasing Agent  
Peter Gutierrez, Buyer II  
Elvia Contreras, Formal Bid Buyer  
Lucy Balderama, Inventory Bid Technician  
Araceli Hernandez, Inventory Bid Technician  
Edward Dion, County Auditor  
Wallace Hardgrove, Budget & Financial Manager  
Josie Brostrom, Assistant County Attorney  
Rebecca Quinn, Assistant County Attorney  
Michael Martinez, Contract Admin. Manager  
Claudia Martinez, Assistant Contract Admin Manager  
Monique Aguilar, Facilities Manager  
Gilbert Mijarez, Building Systems/EMS Operations Manager  
Gilbert Guerrero, Construction Coordinator  
Sal Alonzo, Civil Engineer  
Ernie Carrizal, Public Works/Facilities Management

# CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

**This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

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 person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

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

## OFFICE USE ONLY

Date Received

Bid # 14-023

**1 Name of person who has a business relationship with local governmental entity.**

**2**

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

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

**3**

**Name of local government officer with whom filer has employment or business relationship.**

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date

Adopted 06/29/2007

## SECTION 1-LANDSCAPE IRRIGATION

### PART 1 GENERAL

#### 1.00 Documents

- A. Drawings and general provision of the Contract, Specifications sections apply to the work of the section as well as the following sections:

#### SECTION 2-TREES, PLANTS AND GROUND COVER

- B. Bids must be submitted in sealed envelopes on or before the deadline. two (2) original responses on paper and two (2) CDs copy in PDF/Word Format of the bid must be submitted to the County of El Paso Purchasing Agent office, 800 E. Overland Rm. 300, El Paso, Texas 79901 or mailed to its registered address above and received by the deadline. To be deemed responsive, submittals must at a minimum include all information requested in addition to all documentation and information required by the El Paso County Purchasing Department.

#### 1.01 DESCRIPTION

- A. Scope of Work: Provide all labor, material, transportation, and services necessary to furnish and install the Irrigation System as shown on the Drawing and described herein.
- B. The contractor shall verify the exact location of all existing and proposed utilities and all site conditions prior to beginning construction. Any damage caused by the contractor shall be repaired or replaced at no additional cost to the County.
- C. Standards: All work and materials shall comply with governing Codes, safety orders, standards, and regulations, and meet the minimum requirements of the governing agencies.

#### 1.02 QUALITY ASSURANCE & AGREEMENTS

- A. Permits and Fees: The Contractor shall obtain and pay for any and all permits and all observations as required.
- B. Manufacturer's Directions: Manufacturer's directions and detailed drawings shall be followed in cases where the manufacturers of articles used in this Contract furnish directions covering points not shown In the Drawings and Specifications.
- C. Ordinances and Regulations: All local, municipal and state laws, and rules and regulations governing or relating to any portion of this work are hereby incorporated into and made a part of these Specifications, and their provisions shall be carried out by the Contractor. Anything contained in these Specifications shall not be construed to conflict with any of the above rules, regulations, or requirements of the same. However, when these Specifications and Drawings call for or describe materials, workmanship, or construction of a better quality, higher standard, or larger size than is required by the above rules and



regulations, the provisions of these Specifications and Drawings shall take precedence.

D. EXPLANATION OF DRAWINGS:

1. Due to the Scale of the Drawings, it is not possible to indicate all offset, fittings, sleeves, etc., which may be required. The Contractor shall carefully investigate the structural and finished conditions affecting all of his work and plan his work accordingly, furnished such fittings, etc., as may be required to meet such conditions. Drawings are generally diagrammatic and indicative of the work to be installed. The work shall be installed in such a manner as to avoid conflicts between the irrigation system, planting and architectural features.
2. All work called for on the Drawings by notes or details shall be furnished and installed whether or not specifically mentioned in the specifications.
3. The Contractor shall not willfully install the irrigation system as shown on the Drawings when it is obvious in the field that obstructions, grade differences, or discrepancies in area dimensions exist that might not have been considered in engineering. Such obstructions or differences should be brought to the attention of the County. In the event this notification is not performed, the Contractor shall assume full responsibility for any revision necessary.

1.03 SUBMITTALS

A. Materials List:

1. The Contractor shall furnish the article, equipment, materials, or processes specified by name in the Drawings and Specifications. No substitution shall be allowed without prior written approval by the Landscape Designer/Licensed Irrigator.
2. Complete material list shall be submitted prior to performing any work. Material list shall include the manufacturer, model number, and description of all materials and equipment to be used. Although manufacturer and other information may be different, the following is a guide to proper submittal format:

ITEM NO.	DESCRIPTION	MANUFACTURER	MODEL NO.
1	Backflow Preventer	FEBCO or equal	825Y RBY-100 AND PSI-M30 REGULATOR
2	Remote Control Valve	Rainbird or equal	PEB Series
3	Remote Control Valve	Rainbird or equal	#1804
4	Pop-up with Nozzle	Rainbird or equal	XBT-20-6
5	Drip Emitter	Rainbird or equal	ESP-8M
6	Electric Controller	Rainbird or equal	
7	Pressure Reducing Valve	Wilkins or equal	600C

Irrigation submittal must be specific and complete. All items must be listed and should include solvent, primer, wire, connectors, valve, boxes, etc. No copies of manufacturers literature (catalog cuts) are required as submittal information.

3. The Contractor may submit substitutions for equipment and materials listed on the Drawings by following procedures as outlined in Section 1.05 of the Irrigation Specifications.
4. Equipment or materials installed or furnished without prior approval of the Landscape Designer/Licensed Irrigator may be rejected and the Contractor may be required to remove such materials from the site at his own expense.
5. Approval of any item, alternate or substitute indicates only that the product or products apparently meet the requirements of the Drawings and Specifications on the basis of the information or samples submitted.
6. Manufacturer's warranties shall not relieve the Contractor of his liability under the guarantee. Such warranties shall only supplement the guarantee.

B. RECORD DRAWINGS:

1. The Contractor shall provide and keep up-to-date a complete record set of blackline prints which shall be corrected daily, showing the change from the original Drawings and Specifications and the exact installed locations, sizes, and kinds of equipment. Prints for this purpose may be obtained from the County at cost. This set of drawings shall be kept on the site and shall be used only as a record set.
2. The Contractor shall make neat and legible notations on the record drawing progress sheets daily as he proceeds, showing the work as actually installed. For example, should a piece of equipment be installed in a location that does not match the plan, the Contractor must indicate that equipment has been relocated in a graphic manner so as to match the originals as indicated in the irrigation legend. The relocated equipment and dimensions will then be transferred to the original record drawing plan at the proper time.
3. Before the date of the final observation, the Contractor shall transfer all information from the "record drawing" prints. The dimensions shall be made as to be easily readable even on the final controller chart (see paragraph C below). The original "record drawing" plan shall be submitted to the Landscape Designer/Licensed Irrigator for approval prior to the completion of the controller chart.
4. The Contractor shall dimension from two (2) permanent points of reference, such as building corners, sidewalks, edges, road intersections, etc., the location of the following Items:

- a. Connection to existing water lines.
  - b. Connection to existing electrical power.
  - c. Gate valves.
  - d. Routing of sprinkler pressure lines (dimension max. 100' along routing).
  - e. Control valves.
  - f. Routing of control wiring and locations of all splice boxes.
  - g. Quick coupling valves.
  - h. Stub-outs for future connections.
  - i. Other related equipment as directed by the City.
5. On or before the date of the final field observation, the Contractor shall deliver the corrected and completed record drawings to the County. Delivery of the drawings will not relieve the Contractor of the responsibility of furnishing required information that may be omitted from the prints.

C. CONTROLLER CHARTS:

1. As-built drawings shall be approved by the Landscape Designer/Licensed Irrigator before controller charts are prepared.
2. Provide one controller chart for each controller sequence.
3. The chart shall show the area controlled by the automatic controller and shall be the maximum size which the controller door will allow.
4. The chart is to be a reduced drawing of the actual installed system. However, in the event the controller sequence is not legible when the drawing is reduced, it shall be enlarged to a size that will be readable when reduced.
5. The chart shall be a block line or blue-line print and a different color shall be used to indicate the area of coverage for each station.
6. When completed and approved, the chart shall be hermetically sealed between two pieces of plastic, each piece being a minimum 20 mils.
7. These charts shall be completed and approved prior to the final field

D. OPERATION AND MAINTENANCE MANUALS:

1. Prepare and deliver to the County within ten calendar days prior to completion of construction, two hard-cover, three ring binders containing the following information:

- a. Index sheet which states Contractor's name, address and telephone number, and which lists each installed equipment and material item including names and addresses of manufactures local representatives.
  - b. Catalog and parts sheets on every material and equipment item installed under this Contract.
  - c. Guarantee statement.
  - d. Complete operating and maintenance instructions on all major equipment.
2. In addition to the above mentioned maintenance manuals, provide the County's maintenance personnel with instructions for major equipment and show evidence in writing to the County at the conclusion of the project that this service has been rendered.

E. EQUIPMENT TO BE FURNISHED:

1. Supply as part of this contract the following tools:
  - a. Two (2) sets of special tools required for removing, disassembling and adjusting each type of sprinkler and valve supplied on this project.
  - b. Two (2) four-foot valve keys for operation of gate valves.
  - c. Two (2) keys for each automatic controller.
  - d. One (1) quick coupler key and matching hose swivel for every five (5) or fraction thereof of each type of quick coupling valve installed.
2. The above mentioned equipment shall be turned over to the County at the conclusion of the project. Before final observation can occur evidence that the County has received material must be shown to the Landscape Designer/Licensed Irrigator.

1.04 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Handling of PVC pipe and fittings: The Contractor is cautioned to exercise care in handling, loading, unloading, and storing PVC pipe and fittings. All PVC pipe shall be transported in a vehicle which allows the length of pipe to lie flat so as not to subject it to under bending or a concentrated external load at any point. Any section of pipe that has been dented or damaged will be discarded, and if installed, shall be replaced with new piping.

## 1.05 SUBSTITUTIONS

- A. If the Contractor wishes to substitute any equipment or materials for the equipment or materials listed on the Drawings and Specifications, he may do so by providing the following information to the Landscape Designer/Licensed Irrigator for approval:
  - 1. Provide a statement indicating the reason for making the substitution. Use a separate sheet of paper for each item to be submitted.
  - 2. Provide descriptive catalog literature, performance charts and flow charts for each Item to be substituted.
  - 3. Provide the amount of cost savings if the substituted item is approved.
- B. The Landscape Designer/Licensed Irrigator and the County shall have the sole responsibility in accepting or rejecting any submittal item as an approved equal to the equipment and materials listed on the Drawings and Specifications.

## 1.06 GUARANTEE

- A. The guarantee for the irrigation system shall be made in accordance with the attached form. The General Conditions and Supplementary Conditions of these Specifications shall be filed with the County prior to acceptance of the irrigation system.
- B. A copy of the Guarantee form shall be included in the operations and maintenance manual.
- C. The guarantee form shall be re-typed onto the Contractors letterhead and shall contain the following information:

### GUARANTEE FOR IRRIGATION SYSTEM

We hereby guarantee that the irrigation system we have furnished and installed is free from defects in materials and workmanship, and the work has been completed in accordance with the Drawings and Specifications, ordinary wear and tear, unusual abuse or neglect except. We agree to repair or replace any defects in material or workmanship which may develop during the period of one year from date of acceptance and also to repair or replace any damage resulting from the repairing or replacing of such defects at no additional costs to the County. We shall make such repairs or replacements within a reasonable time, as determined by the County, after receipt of written notice. In the event of our failure to make such repairs or replacements within a reasonable time after receipt of written notice from the County, we authorize the County to proceed to have said repair or replacements made at our expense and we will pay the costs and charges therefore upon demand.

PROJECT:

LOCATION:

IRRIGATION CONTRACTOR:

SIGNED:

ADDRESS:

PHONE:

DATE OF SUBSTANTIAL COMPLETION:

## PART 2- PRODUCTS

### 2.01 MATERIALS

- A. General: Use only new materials of brands and types noted on drawings, specified herein, or approved equals.
- B. PVC Pressure Main Line Pipe and Fittings:
  - 1. Pressure main line piping for sizes 3" and larger shall be PVC Class 315.
  - 2. Class 315 pipe shall be made from on NSF approved Type I, Grade I PVC compound conforming to ASTM resin specification D1784. All pipe must meet requirements as set forth In Federal Specification PS-22-70, with an appropriate standard dimension (S.D.R.) (Solvent-weld Pipe).
  - 3. Pressure main line piping for sizes 1-1/2" and smaller shall be PVC Schedule 40 with solvent welded joints.
  - 4. Schedule 40 pipe shall be mode from NSF approved Type I, Grade 1 PVC compound conforming to ASTM resin specification D1785. All pipe must meet requirements as set forth in Federal Specification PS-21-70.
  - 5. PVC solvent-weld fittings shall be Schedule 40, 11-1 NSF approved conforming to ASTM test procedure D2466.
  - 6. Solvent cement and primer for PVC solvent-weld pipe and fittings shall be of type and installation methods prescribed by the manufacturer.
  - 7. All PVC pipe must bear the following markings: Manufacture's name, nominal pipe size, schedule or class, pressure rating in P.S.I., NSF (National Sanitation Foundation) approval, and date of extrusion.
  - 8. All Fittings shall bear the manufacturer's name or trademarks, material designation, size, applicable I.P.S. schedule and NSF seal of approval.
- C. PVC Non-Pressure Lateral Line Piping:
  - 1 Non-pressure buried laterals line piping shall be PVC Schedule 40 with solventweld joints when installed in planting areas.
  - 2. Non-pressure lateral line piping installed under paved areas shall be PVC Schedule 40 with solvent-welded joints.
  - 3. Pipe shall be made from NSF approved, Type I, Grade II, PVC compound conforming to ASTM resin specification D1794. All pipe must meet requirements set forth in Federal Specification PS-22-70 with and appropriate standard dimension ratio.
  - 4. Except as noted in paragraphs 1, 2, and 3 of this section (2.016), all requirements for non-pressure lateral line pipe and fittings shall be the same as for solvent-weld pressure main line pipe and fittings as set forth in section 2.01 B of the Specifications.

D. Brass Pipe and Fittings:

1. Where indicated on the Drawings, use red brass screwed pipe conforming to federal Specification #WW-P-351.
2. Fittings shall be red brass conforming to federal Specifications #WW-P-460.

E. Copper Pipe and Fittings:

1. Pipe: Type K, hard tempered.
2. Fittings: Wrought copper, solder joint type.
3. Joints shall be soldered with silver solder, 45% silver, 15% copper, 16% zinc, 24% cadmium, solidus at 1125° F, and liquidus at 1145° F.

F. Valves:

1. Ball Valves
  - a. Ball valves shall be a 125 lbs. SWP bronze valve with screw-in bonnet non rising stem, and solid wedge disc. with a stainless steel handle.
  - b. Ball valves shall be similar to those manufactured by Nibco or approved equal.
2. Resilient Wedge Gate Valve (2" and larger)
  - a. Resilient Wedge Gate valves shall be epoxy coated cast iron and equipped with a 2" operating nut.
  - b. Resilient Wedge Gate valves shall be No. 403 RT -RW as supplied by Watts or approved equal.
  - c. All Resilient Wedge Gate valves shall be installed per detail.

G. Quick Coupling Valves:

1. Quick coupling valves shall have a brass two-piece body designed for working pressure of 150 P.S.I.
2. Quick coupling valves 1" shall be operable with a quick coupler key. Key size and type shall be as shown on the Drawings.

H. Backflow Prevention Units:

1. Backflow prevention unit shall be of size and type indicated on the Irrigation drawings. Install backflow prevention units in accordance with the Drawings.

2. Wye strainers at backflow prevention units shall have a bronzed screwed boy with 60 mesh model screen and shall be similar to Bailey #1008 or approved equal.
3. All pressure main line piping between the point of connection and the backflow preventer shall be installed as required by local code. The Contractor shall verify with the local governing body as to material type and installation procedures prior to start of construction. Submit shop drawings for approval.

I. Check Valves:

1. Swing check valves 2" and smaller shall be 200 pound W.O.G. bronze construction with replaceable composition, neoprene, or rubber disc and shall meet or exceed Federal Specification WW-V--51 D, Class A, Type IV.
2. Anti-drain valves shall be of heavy duty virgin PVC construction with F.I.P. thread inlet and outlet. Internal parts shall be stainless steel and neoprene. Anti-drain valve shall be field adjustable against drawout from 5 to 40 feet of head. Anti-drain valve shall be similar to the Valcon "ADV" or approved equal.

J. Control Wiring:

1. Except as noted otherwise connections between the automatic controllers and electric control valves shall be made with direct burial copper wire AWG-U.F. 600 volt. Control wiring installed in controlled wire conduit within structure shall be made with AWG- TW solid copper wire. Pilot wire shall be a different color wire for each automatic controller. Common wires shall be white with a different color stripe for each automatic controller. Install in accordance with valve manufacturers specifications and wire charts in no case shall wire size be less than #14.
2. Wiring shall occupy the same trench and shall be installed along the same route as pressure supply or lateral lines wherever possible.
3. Where more than one (1) wire is placed in a trench the wiring shall be taped together at intervals of fifteen (15) feet.
4. An expansion curl shall be provided within three (3) feet of each wire connection. Expansion curl shall be of sufficient length at each splice connection at each electric control valve, so that in case of repair, the valve bonnet may be brought to the surface without disconnecting the control wires. Control wires shall be laid loosely in trench without stress or stretching wire conductors.
5. All splices shall be made with Scotch-Lock #3576 Connector Sealing Packs. Rainbird Snap-Tile wire connectors, or approved equal. Make only one splice with each connector sealing pack.



6. Field splices between the automatic controller and electric control valves will not be allowed without prior approval of the Landscape Designer.

K. Automatic Controller:

1. Automatic controller(s) shall be of the size and type shown on the Drawings.
2. Final location of automatic controller(s) shall be approved by the County.
3. Unless otherwise noted on the Drawings, the 120 volt power to each automatic controller location is to be furnished by others. The final electrical hook-up shall be the responsibility of the Contractor.

L. Electric Control Valves:

1. All electric control valves shall be the same size and type shown on the Drawings.

M. Control Valve Boxes:

1. Use 10" x 10-3/4" round box for all gate valves Carson Industries #910-12B with bolt-down cover or approved equal. Extension sleeves shall be PVC with minimum of six (6) inches.
2. Use 9-1/2" x 16" x 11" rectangular box for all electric control valves. Carson Industries #1419-12B with bolt-down cover or approved equal.
3. Use 6" diameter x 8-3/4" deep round plastic valve box for all quick coupling valves. Carson Industries #608-12 with flex-lock cover or approved equal.
4. Use 9-1/2" x 16" x 118 rectangular box for all electric control valves installed within on-grade landscaped areas. Carson Industries #1419-12B with bolt-down cover or approved equal.
5. Use 10" x 10-1/4" round box for all quick coupling valves installed within an on-structure landscaped areas. Carson Industries #910-12B with bolt-down cover or approved equal.

N. Sleeving:

1. Sleeving under hardscape or paved areas for mainline, lateral line or control wiring shall be Schedule 40 P.V.C. or approved equal.

O. Outlets:

1. Rainbird Corp. 970 WQ. Sierra Madre Ave, Azusa, CA.

P. Emitters:

1. Adjustable outlet, non-clogging, with (2) GPH, Model XB20PC Xeri-Bug emitter with trickle tubes. Locate emitters per Legend and details on Drawings.

## PART 3 EXECUTION

### 3.01 OBSERVATION OF SITE CONDITIONS

- A. All scaled dimensions are approximate. The Contractor shall check and verify all size dimensions and receive approval from the Landscape Designer/Licensed Irrigator prior to proceeding with work under this Section.
- B. Exercise extreme care in excavating and working near existing utilities. The Contractor shall be responsible for damage to utilities which are caused by his operations or neglect. Check existing utility drawings for existing utility locations.
- C. Coordinate installation of sprinkler materials including pipe, so there shall be no interference with utilities or other construction or difficulty in planting tree, shrubs and ground covers.
- D. The Contractor shall carefully check all grades to satisfy him/herself that he may safely proceed before starting work on the irrigation system.

### 3.02 PREPARATION

- A. Physical Layout:
  1. Prior to installation, the Contractor shall size stake out all pressure supply lines, routing and location of sprinkler heads.
  2. All layout shall be approved by the Landscape Designer/Licensed Irrigator prior to installation.
- B. Water Supply:
  1. The Irrigation system shall be connected to water supply point(s) of connection as indicated on the Drawings.
  2. Connections shall be made at the approximate location(s) shown on the Drawings. The Contractor is responsible for minor changes caused by actual site conditions.

### 3.03 INSTALLATION

- A. Trenching:
  1. Dig trenches straight and support pipe continuously on bottom of trench. Lay pipe to an even grade. Trenching excavation shall follow layout indicated on the Drawings and as noted.

2. Provide for a minimum of eighteen (18) inches cover for all irrigation lines Installed under paving or hardscaping.
3. Provide for a minimum of eighteen (18) inches cover for all pressure supply lines of three (3) inches or larger in diameter.
4. Provide for a minimum of eighteen (18) Inches cover for all pressure supply lines of two and one half (2-1/2") Inches or smaller.
5. Provide for a minimum of twelve (12) inches for all non-pressure lines.
6. Provide for a minimum cover of eighteen (18) inches for all control wiring.
7. Refer to City Standard details when within City streets susceptible to traffic loads.

B. Backfilling:

1. The trenches shall not be backfilled until all required tests are performed. Trenches shall be carefully backfilled with the excavated materials approved for backfilling, consisting of earth, loam, sandy clay, sand, or other approved materials, free from large clods of earth or stones. Backfilling shall be mechanically compacted in landscaped areas to a dry density equal to adjacent undisturbed soil in planting areas. Backfill will conform to adjacent grades without dips, sunken areas, humps or other surface irregularities.
2. A fine granular material backfill will be initially placed on all lines. No foreign matter larger than one-half (1/2) inch in size will be permitted in the initial backfill.
3. Flooding of trenches will be permitted only with approval of the Landscape Designer/Licensed Irrigator.
4. If settlement occurs and subsequent adjustments in pipe, valves, sprinkler heads, lawn, planting, or other construction are necessary, the Contractor shall make all required adjustments without cost to the County.

C. Trenching and Backfill Under Paving:

1. Trenches located under areas where paving, asphaltic concrete, or concrete will be installed, shall be pipe and six (6) inches above the pipe and compacted and backfilled with sand (a layer four (4) inches below the layer to 95% compaction, using manual or mechanical tamping devices. Trenches for piping shall be compacted to equal the compaction of the existing adjacent undisturbed soil and shall be left in a firm unyielding condition. All trenches shall be left flush with the adjoining grade. The Contractor shall set in place, cap and pressure test all piping under paving prior to the paving work.

2. Generally, piping under existing walk is done by jacking, boring, or hydraulic driving, but where any cutting or braking of old walk and/or concrete is necessary, it shall be done and replaced by the Contractor as a part of the Contract cost. Permission to cut or break old walk and/or concrete shall be obtained from the City or County.
3. Refer to City Standard details when within City streets susceptible to traffic loads.

D. Assemblies:

1. Routing of irrigation lines as indicated on the Drawings is diagrammatic. Install lines (and various assemblies) in such a manner as to conform with the detail in the Drawings.
2. Install NO multiple assemblies in plastic lines. Provide each assembly with its own outlet.
3. Install all assemblies specified herein accordance with respective detail. In absence of detail drawings or specification pertaining to specific items required to complete work, perform such work in accordance with best standard practice with prior approval of the Landscape Designer.
4. PVC pipe and fittings shall be thoroughly cleaned of dirt, dust, and moisture before installation. Installation and solvent-welding methods shall be as recommended by the pipe and fittings manufacturer.
5. On PVC to metal connections, the Contractor shall work the metal connection first. Teflon tape or approved equal, shall be used on all threaded PVC to PVC, and on all threaded PVC to metal joints. Light wrench pressure is all that is required. Where threaded PVC connections are required, use threaded PVC adapters into which the pipe may be solvent-welded.

E. Line Clearance

1. All lines shall have a minimum clearance of six (6) inches from each other and twelve (12) inches from lines of other trades, with the exception of the control wire sleeve(s) which shall be installed adjacent to pressure supply line. Parallel lines shall not be installed directly over one another.
2. Valves shall be connected to controller in numerical sequence.

F. Automatic Controller Assembly:

1. Install as per manufacturers instructions. Remote control as shown on the Drawings.

G. High Voltage Wiring for Automatic Controller:

1. 120 volt power connection to the automatic controller shall be provided by the Contractor.
2. All electrical work shall conform to local codes, ordinances, and union authorities having jurisdiction.

H. Remote Control Valves:

1. Install where shown on the Drawings. Where grouped together allow at least twelve (12) inches between adjacent valve boxes. Install each remote control valves in a separate valve box.

I. Flushing of System:

1. After all new sprinkler pipe lines and risers are in place and connected, all necessary diversion work has been completed and prior to installation of sprinkler heads, the control valves shall be opened and full head of water used to flush out the system.
2. Sprinkler heads shall be installed only after flushing of the system has been accomplished to the complete satisfaction of the Landscape Designer/Licensed Irrigator.

J. Sprinkler Heads:

1. Install the sprinkler heads as designated on these Drawings. Sprinkler heads to be installed in this work shall be equivalent in all respects to those itemized.
2. Spacing of heads shall not exceed the maximum indicated on the Drawings. In no case shall the spacing exceed the maximum recommended by the manufacturer.

### 3.04 TEMPORARY REPAIRS

The County reserves the right to make temporary repairs as necessary to keep the sprinkler system equipment in operating condition. The exercise of this right by the County shall not relieve the Contractor of his responsibilities under the terms of the guarantee as herein specified.

### 3.05 EXISTING TREES

Two (2) Afghan/Mondale Pine Existing to remain.

### 3.06 FIELD QUALITY CONTROL

A. Testing of Irrigation System:

When the Irrigation System is completed, perform a coverage test in the presence of the Licensed Irrigator to determine if the water coverage for planting area is complete and adequate. Furnish all materials and perform all work required to correct any inadequacies of coverage due to deviations from the Drawings, or where the system has been willfully installed as indicated on the Drawings when it is obviously inadequate, without bringing this to the attention of the Licensed Irrigator.

Upon completion of each phase of work, the entire system shall be tested and adjusted to meet site requirements.

### 3.07 MAINTENANCE

- A. The entire Irrigation System shall be under full automatic operation for a period of seven (7) days prior to any planting.
- B. The County reserves the right to waive or shorten the above operation period.

### 3.08 CLEAN-UP

Clean-up shall be made as each portion of work progresses. Refuse and excess dirt shall be removed from the site, all walks and paving shall be groomed or washed down, and any damage sustained on the work of others shall be repaired to its original condition.

### FINAL SITE OBSERVATION PRIOR TO ACCEPTANCE

Any items deemed not acceptable by the Landscape Designer/Licensed Irrigator shall be reworked to the complete satisfaction of the Landscape Designer/Licensed Irrigator and the County.

The Contractor shall show evidence to the Landscape Designer/Licensed Irrigator that the County has received all accessories, charts, record drawings, and equipment as required before final site observation can occur.

### 3.09 SITE OBSERVATION SCHEDULE

A. The Contractor shall be responsible for notifying the Landscape Designer/Licensed Irrigator in advance for the following observation meetings, (verify with County), according to the time indicated:

- Pre-Job Conference - 7 days
- Lateral line and installation - 24 hours
- Pressure supply line testing - 48 hours
- Coverage test-48 hours
- Final observations - 7 days

When observations have been conducted by someone other than the County, show evidence in writing of when and by whom these observations were made.

End of Section 1

## SECTION 2 TREES, PLANTS AND GROUND COVER

### PART 1 GENERAL

#### 1.00 RELATED DOCUMENTS

A. Section 1 LANDSCAPE IRRIGATION

#### 1.01 SCOPE OF WORK

Contractor shall provide materials, labor, and equipment incidental to and necessary for completing all work, as indicated on the drawings, as reasonably implied, or as delineated in the Specifications as follows.

#### 1.02 STANDARDS

All work and materials shall comply with governing codes, safety orders, standards, and regulations, and meet the minimum requirements of the governing agencies.

The Contractor shall verify the exact location of all existing and proposed utilities and all site conditions prior to beginning construction. Any damage caused by the contractor or sub-contractor shall be repaired or replaced at no additional cost to the County.

#### 1.03 QUALITY ASSURANCE

A. All Contractors performing Site Development work must be licensed in accordance with the laws of the state and the City.

- B. Contractor shall provide the Landscape Designer and the County with a list of Subcontractors and Material Suppliers expected to be employed during the course of construction.

Contractor shall obtain and keep in force Public Liability and Property Damage Insurance, during entire course of the Construction Contract. The amount of insurance shall be determined by the County.

Prior to start of site development work, the Contractor shall notify the Landscape Designer of starting and completion dates. Contractor shall supply the Landscape Designer/Licensed Irrigator and County with the name and telephone number of the person in charge of the work.

#### 1.04 RESPONSIBILITIES AND COORDINATION

- A. Permits: The Contractor shall obtain and pay for all permits and inspections required by governing authorities for the work to be performed.
- B. Existing Conditions: The Contractor shall verify all conditions and dimensions shown on the plans at the site prior to commencement of any work under this contract. The Contractor shall verify the location and depth of all underground utilities prior to start of work.
- C. Survey, Reference Points, and Elevations: The Contractor is responsible for establishing all surveys, reference points and elevations required by him, and shown on plans for proper execution of site construction.

#### 1.05 DEFECTIVE AND UNAUTHORIZED WORK

All work which is determined by inspection to be defective in its construction or deficient in any of the requirements of the plans and specifications, shall be remedied or removed, and replaced by the Contractor at his own expense in a manner acceptable to the Landscape Designer.

#### 1.06 INSPECTIONS

The Contractor shall arrange for inspections by notifying the Landscape Designer, City and governing authorities 24 hours prior to time of inspection, unless otherwise noted. Inspections shall be as listed below, but not necessarily in this order. Only the inspection pertaining to the project scope of work will apply:

- Rough Grading
- Drain Lines and Catch Basins
- Irrigation Main Pressure Test
- Irrigation System Operations Test
- Soil Preparation and Finish Grading



- Plant Material and Placement
- Final Inspection - 7 days.

#### 1.07 GUARANTIES

A. Plant Materials: All trees, shrubs, ground cover; bedding plants and lawn shall be guaranteed from date of final acceptance of landscape construction for periods as follows:

- Trees 24" box & larger = 1 year
- Trees 15 gal. & smaller = 1 year
- Shrubs All sizes = 1 year
- Ground Cover = 1 year
- Bedding Plant = 120 days

Guarantees begin after substantial completion of the project and acceptance by Landscape Designer and/or County's Representative. Landscape Contractor shall replace and plant all materials which have died within the time span stated above at no cost and within 14 days of receiving written notice from the Landscape Designer or County. If dead material is not replaced and planted within the 14 day period, County may replace dead material with new material and charge the Landscape Contractor for all expenses incurred.

C. Construction Materials: The contractor shall guarantee all workmanship and materials for all site development, for a period of one year from date of final acceptance of project.

#### 1.08 MATERIAL AND LABOR RELEASES

Upon completion of the work, the Contractor shall present to the County signed copies of all labor and materials releases for all work performed under Site Development.

#### 1.09 DISPOSAL AND CLEAN-UP

Remove all waste materials (including excavated material classified as unacceptable soil material), trash and debris generated or encountered during the course of landscape construction, and legally dispose of it. During the course of the work, remove surplus materials from the site and leave premises in a neat and clean condition. Clean up and remove all remaining debris and surplus materials upon completion of work, leaving the premises neat and clean. The site shall be cleaned upon the request of the inspector.

## PART 2 EXECUTION

### 2.01 PROTECTION

Keep all plant material delivered to site in a healthy condition for planting. Plants shall not be allowed to dry out. Bare root stock shall be separated and heeled-in, in moist earth or other suitable material until planting. Balled and burlapped plants shall have root ball kept moist and covered until planting.

### 2.02 INSTALLATION

Detailed layout of plants within the planting areas shall be performed by Contractor and approved by the Landscape Designer and County prior to planting.  
Soil excavated from planting holes shall be amended to backfill around trees and shrubs using the mixture shown in planting details per plans.

## PART 3 SOIL PREPARATION AND FINISH GRADING

### 3.01 SCOPE OF WORK

- A. Provide all materials and equipment, and perform all work necessary for and incidental to the soil preparation and finish grading of all planting and lawn areas as shown on plans, as reasonably implied, or as delineated in the specifications.
- B. Furnishing, placement and grading of topsoil for backfilling of planters if required.
- C. Cleaning and finish grading of planter areas and planting areas.

### 3.02 TOPSOIL

- A. Topsoil imported to site for use as fill, backfill in planters and mounding, shall be sandy textured silt plus clay content of this soil shall be no greater than 15% by weight. The boron content of this soil shall be no greater than 1 part per million as measured on the saturation extract. The sodium absorption ratio (SAR) shall not exceed 3.0 millimhos per centimeter at 25 C. In order to ensure conformance, soil analysis and recommendations are required.

Preferred: reddish brown silty. Sandy aridisol common to El Paso and surrounding area.

Physical characteristics as follows:

Total sand content:	70%
Silt content:	17%
Clay content:	8%
Organic content:	5%

### 3.03 SOIL AMENDMENTS

All soil amendments shall be as specified in the Agronomic Suitability/Fertility soils report furnished by the Contractor.

### 3.04 SOIL PREPARATION FOR PLANTING BEDS

- A. After contractor levels field area, remove 6" depth of existing soil and install new top soil. Complete with a mix of 1 part organic compost to 3 parts top soil. Contractor to thoroughly water down soil mix and compact to 70% of its density prior to turf installation. After compaction, soil must be 6" in depth.
- B. All rock and debris more than 2" in diameter shall be removed from the site, except for areas that are to be sodded, in which all rocks and debris more than 1" in diameter shall be removed.
- C. Apply, spread, and rototill in all soil amendments as recommended to a depth of 6". Water area thoroughly after rototilling is complete.
- D. Incorporate evenly into the top 4" to 6" the following for each 1,000 square feet of planting area:  
  
4 cubic yards of composted organic mulch, 200 lbs. of Gro-Power or approved equal. The above soil conditioning are minimal qualities only and should be used only for bidding purposes, because soil conditions may change drastically from the time these specifications were developed to the time the actual soil conditioning take place. Therefore, the Contractor shall obtain his own soils analysis. These soils tests shall be conducted by an approved Agronomic soils testing laboratory. Copies of the soil test to be provided during the pre-construction job conference.

### 3.05 FINISH GRADING

After rototilling operations are complete, grade areas to establish finish grades for planting. All flow lines shall be maintained and proper tolerances shall be met after settlement at the end of the project maintenance period. Finish grading shall leave surface of the ground uniformly smooth and free of abrupt grade change. Berms and swales shall be gradual, not to exceed 3:1 slope at any point.

## PART 4 TREES, SHRUBS, AND TURF

### 4.01 SCOPE OF WORK

Provide all material, equipment, and labor necessary to install all trees and shrubs as shown on plans, as reasonably implied and as delineated in the specifications.

### 4.02 PRODUCTS

- A. Nomenclature Plant names indicated on the drawings conform to the "Standard Plant Names" established by the American Joint Committee on Horticulture. Except for names covered therein, the established custom of the nursery is followed.

- B. Condition Plants shall be symmetrical, typical for variety and species, sound, healthy, vigorous, free from plant disease, insect pests, or their eggs, and shall have healthy, normal root systems, well-filling their container, but not to the point of being root bound. Plants shall not be pruned at any time unless indicated in plans, and in no case shall trees be topped.
- C. Trees and shrubs shall be grown at a recognized nursery in accordance with good horticulture practices and shall be of the size and caliper normally associated with the container size specified on plans. All tags, labels, nursery stakes and ties shall be removed. Trees shall have a single leader unless otherwise indicated in plans.
- D. All plant material delivered to the site showing signs of damage or disease or is insufficient in size to carry out the intent of the planting plan will not be accepted and will be replaced at Contractor's expense.
- E. Sizes of Plants - Shall be as stated on the Plan. Container stock (1gallon, 5-gallon, and 15-gallon) shall have been grown in containers for at least one (1) year, but not over two (2) years.
- F. Substitutions - All plants designated in plans may be found at one or a combination of the following nurseries, among others: Sierra Vista Growers, Mountain States Wholesale Nursery, Sunland Nursery, Production Growers, and Enchanted Gardens. Substitutions for indicated plant material will be permitted ONLY if substitute materials are approved in advance by the Landscape Designer, and are made at no additional cost.
- G. If applicable, stake all trees immediately after planting to prevent wind damage.

#### TREE SPECIFICATIONS:

QTY	COMMON NAME	BOTANICAL NAME	CONT	GAL	SIZE
2	AFGHAN/MONDALE PINE (EXISTING)	PINUS ELDARICA	B & B	2"-2 1/2" GAL.	12-15' H
4	FAN-TEX ASH	FRAXINUS VELUTINA 'FAN-TEX' <sup>TM</sup>	B & B	2"-2 1/2" GAL.	10'-12' H
2	SOUTHERN LIVE OAK	QUERCUS VIRGINIANA	B & B	2"-2 1/2" GAL.	10'-12' H
4	WHITE CRAPE MYRTLE MULTI-TRUNK	LAGERSTROEMIA INDICA 'WHITE'	B & B	2"-2 1/2" GAL.	8'-10' H

#### SHRUB SPECIFICATIONS:

QTY	COMMON NAME	BOTANICAL NAME	CONT	SIZE
28	DWARF INDIAN HAWTHORN	RAPHIOIEPIS INDICA	5 GAL	18-24' H
27	JAPANESE BOXWOOD	BUXUS MICROPHYILA JAPONICA	5 GAL	18-24' H
37	LITTLE RED OLEANDER	NERIUM OLEANDER 'LITTLE RED' <sup>TM</sup>	5 GAL	18-24' H

#### 4.03 SOIL AMENDMENT

Soil amendments shall be as recommended in the Agronomic soils report.

#### 4.04 TREE STAKES

Trees shall either be staked according to standard horticultural practice, or guaranteed by contractor for upright growth for a period of one year.

#### 4.05 GROUND COVER

- A. Rock and cobblestone shall be installed as indicated on Drawing. All rock must be installed 3" thick, 1" below top of curb underlaid with woven polypropylene weed barrier. Weed barrier must not weigh less than 3oz per square yard.

$\frac{3}{4}$ " Padre Canyon Rock                      Approx. 28,313 Sq. Ft.

1" – 6" Cobblestone                      Approx. 378 Sq. Ft.

- B. Turf areas shall be Princess Hybrid Bermuda Turf or Equal Approx. 5,719 Sq. Ft.

### PART 5 LANDSCAPE MAINTENANCE

#### 5.01 SCOPE OF WORK

Provide all materials, labor and equipment necessary for, or incidental to, performing all maintenance requirements as reasonably implied or as delineated in the specifications including, but not limited to the following:

- Maintain all plants and planted areas.
- Keep planted areas free of weeds and debris.
- Prune trees and shrubs.
- Maintain irrigation schedule and regulate water application.

#### 5.02 GENERAL

Maintenance shall start immediately after landscape irrigation and planting. Maintain all plants and planted areas on a continuous basis as they are installed during the progress of the work, and continue to maintain them until final acceptance of total project. Replace any dead or dying plants as directed by the Landscape Designer and County's Representative. Should plants die due to timer/controller issues prior to project acceptance, contractor shall replace plants in order to achieve substantial completion. This shall be true regardless of reasons behind timer/controller failure.

- A. Irrigation: Operate irrigation system on an established program to maintain all plants and planted areas in a healthy condition. Irrigation system run-off shall be kept to a minimum. Damage to irrigation system resulting from maintenance and

equipment and/or maintenance personnel, shall be restored to its original condition at no cost to the County. Failure of any part of the irrigation system shall be brought to the attention of the Landscape Designer/Licensed Irrigator. No repairs other than emergency repairs shall be accomplished without permission from the Landscape Designer/Licensed Irrigator.

- B. Weed Control: Keep all planted areas free of weeds and debris by cultivating areas at intervals not to exceed 10 calendar days. The Contractor may elect to remove such concentrations of weeds manually or by an approved herbicide program.
- C. Pest Control: Spray all plants and planted areas at beginning of maintenance program and as may become necessary thereafter by an approved method of pest control, to keep all plants and planted areas free of insects and disease. Method shall be reviewed by the Landscape Designer/Licensed Irrigator prior to any applications. Pest control shall include Gopher control.
- D. Pruning: Prune all plants as designated and directed by Landscape Designer/Licensed Irrigator, at start of maintenance program and continue to prune plants as directed or as may become necessary until the end of the maintenance program. Remove trash weekly. Edge ground cover to keep in bounds and trim top growth as necessary to achieve an overall even appearance.

### SECTION 3 GENERAL TERMS AND CONDITIONS

The County reserves the right to reduce the quantity of plantings, or select an alternative product, as long as it complies with City of El Paso ordinance rules in order to meet budgetary limitations.

#### 1. CONTRACTOR RESPONSIBILITY

- A. Contractor is responsible for storing all parts and material off site until the start of the project. Once work begins, Contractor will be permitted to store material on site, however, the Contractor is solely responsible for the security of the equipment and material. The County is not responsible for lost or stolen equipment or material from the jobsite.
- B. All plantings delivered must be planted the same day. The Contractor may not leave unplanted material on the job-site.
- C. Contractor shall remove the existing dead plantings and surfaces in manner that does not damage the underground utilities.
- D. The Contractor is solely responsible for the removal, transportation, and lawful disposal of ALL waste produced in the project. The County will provide a space for an on-site dumpster, however all rental fees and disposal fees are the sole responsibility of the Contractor. The Vendor shall supply proof of compliance disposal records.

- E. The selected Contractor will be required to properly supervise and coordinate its work.
- F. Participate and assist in Project/Planning meetings.
- G. Maintain full-time on-site construction supervision and provide daily inspections, quality control, monitoring, and coordination of various trades, record drawings, and daily work log.
- H. Conduct weekly progress meetings following a Contractor-generated agenda with the County Facilities Manager.
- I. Contractor shall coordinate all scheduling of access to offices, departments, and work areas with the Facilities Manager.
- J. Provide general safety and signage and posting for the project and see that each subcontractor prepares and submits adequate safety program and monitoring throughout the project.
- K. Report any damages, problems, concerns, or any other type of relevant factors that occur or are discovered during the course of the project to the Facilities Manager.
- L. Contractor shall make a reasonable effort to keep noise and distraction of their work to a minimum, and keep all work areas safe, clean, and orderly.
- M. The Vendor is 100% responsible for providing all necessary tools and equipment to complete project in its entirety, including, man-lift, crane, pallet jack, ladder, lifting, and transportation type equipment. This equipment shall be owned or leased by the Vendor and be properly insured.
- N. The Vendor is 100% responsible for obtaining all permits required by the City of El Paso and complying with all local, state, and federal regulations as applicable.
- O. Provide original copies of all manufacturer documentation, warranties, information, fact sheets, parts lists, contact information, etc that relates to the installed product.
- P. Prepare payment requests, verify accuracy and forward to the County for approval and payment.
- Q. Assemble close-out documents as required.
- R. Provide copy of all warranties.
- S. Provide assistance to the County through any applicable warranty periods.

LEGAL IDENTIFICATION, QUALIFICATIONS, & REFERENCES

Legal Name of Business	
DUNS #	
Legal description of business (Corp, LLC, LLP, etc)	
Address	
City/County	
State	
Owners, President, Interested Parties:	
Number of years in business:	
Number of employees:	
Accreditations, certifications, special recognition:	
Defaulted/Cancelled Contracts?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, Explain	
Current Business(es) Under Same Ownership	
Former Business(es) Under Same Ownership	



REFERENCES

Government Agency/Business Name	
Address	
Phone Number	
Project Contract Administrator	
Owner Representative/Project Manager	
Description of Project	
Project Start Date	
Final Completion Date	
Government Agency/Business Name	
Address	
Phone Number	
Project Contract Administrator	
Owner Representative/Project Manager	
Description of Project	
Project Start Date	
Final Completion Date	

## PRICING

TOTAL COST OF PROJECT	\$ _____
Estimated Time To Complete	_____ Calendar Days
Manufacturer Warranty Period	_____
Contractor Workmanship Warranty Period	_____

## SUB-CONTRACTOR IDENTIFICATION

Name of Sub-Contractor:	_____
Address:	_____
Phone:	_____
Work To Be Performed:	_____

Name of Sub-Contractor:	_____
Address:	_____
Phone:	_____
Work To Be Performed:	_____

Name of Sub-Contractor:	_____
Address:	_____
Phone:	_____
Work To Be Performed:	_____

## SPECIFICATION DATA SUBMITTAL

On separate submittal sheet, provide list of irrigation equipment and material proposed for this project.

On separate submittal sheet, provide list of trees, shrubs, and plantings proposed for this project. Include common and botanical names, as well as a picture of the planting.

On separate submittal sheet, provide list of rock, pavement, and cobblestone that will be used for this project. Include common name and picture of material.

**COUNTY OF EL PASO, TEXAS**  
**Solicitation Check List**  
**Irrigation and Landscaping of the Ascarate Annex**  
**Bid #14-023**

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**THIS CHECKLIST IS PROVIDED FOR YOUR CONVENIENCE**

\_\_\_\_\_ Responses should be delivered to the County Purchasing Department by 2:00 p.m., Monday, June 9, 2014. Did you visit our website ([www.epcounty.com](http://www.epcounty.com)) for any addendums?

\_\_\_\_\_ Did you sign the Bid?

\_\_\_\_\_ 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 "Ethics Affidavit Form"?

\_\_\_\_\_ Did you provide one (1) original and one hard copy and two (2) CD copies in Word/CD format. CD/hard copies must reflect the original copy.