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ALAZAN CREEK TRAIL
SOLICITATION #00129
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INVITATION FOR BID (IFB)
For
Construction of Westside Creeks- Alazan Creek Trail
# 00129

THIS PROJECT IS FUNDED IN PART BY THE U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Issue Date: July 23rd, 2019
Responses must be received BEFORE:
Friday, August 23, 2019, 11:00 A.M. C.S.T

Bid Bond: Performance Bond: Payment Bond: Maintenance Bond:
YES YES YES YES

See Part 2, Terms and Conditions for information on these requirements.

Pre-Submittal Conference: There will be a non-mandatory pre-submittal conference held on August 2, 2019 at 11:00 AM CST, located at 100 E. Guenther, Board Room, San Antonio, TX 78204.

Staff Contact Person: Karen Smith
Purchasing Agent
Email: ksmith@SARA-tx.org
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Exhibit 6 – TxDOT Special Provisions SP-000-394L
Exhibit 7 – Quality Assurance Program for Design-Bid-Build Projects, May 2018
Exhibit 8 – TxDOT Certification
NOTICE TO RESPONDENTS  
INVITATION FOR BID  
# 00129

The San Antonio River Authority (SARA) is seeking sealed bids for the furnishing of all labor, materials, equipment and performing all work required for the construction of:

CONSTRUCTION OF WESTSIDE CREEKS- ALAZAN CREEK TRAIL

Sealed responses shall be addressed to the Purchasing Department will be received BEFORE August 23, 2019 at, 11:00 AM, C.S.T, 100 East Guenther St, San Antonio, Texas 78204. All submittals must be in SARA’s possession on or before the scheduled date and time (no late response will be considered). **SARA Purchasing is not open for weekend or holiday deliveries.** Immediately following the due date and time, SARA will conduct a public opening and read the bids aloud.

The plans, specifications, and bidding documents can be obtained electronically at [https://www.sara-tx.org/public-information/about-sara/contracting-opportunities/](https://www.sara-tx.org/public-information/about-sara/contracting-opportunities/) or by contacting the Purchasing Department, 100 E. Guenther, San Antonio Texas 78204 or by calling Purchasing at (210) 302-3603.

All bids shall be accompanied by a Cashier's or Certified Check in the amount of not less than five percent (5%) of the total bid, payable to the San Antonio River Authority, or an acceptable bid bond in the same amount, as a guarantee that bidder will enter into a contract and furnish performance and payment bond and labor and materials payment bond on the forms provided within fourteen (14) days after notice of award of contract to him.

The successful bidder must furnish performance bond, payment & maintenance bond each in the amount of one hundred percent (100%) of the contract price from a surety company acceptable to the San Antonio River Authority.

The contract will be awarded to the lowest responsible bidder meeting the minimum qualifications and specifications.

SARA reserves the right to refuse and reject any or all responses, waive any or all formalities or technicalities, accept the response or portions of the response determined to be the best value and most advantageous to SARA, and hold the responses for a period of 120 days without taking action. Respondents are required to hold their responses firm for the same period of time.

**Hand-delivered & Courier Submissions:**

Purchasing Department  
100 East Guenther St., San Antonio, Texas 78204

**LABELING INSTRUCTIONS:** Envelopes must be clearly marked:

SAN ANTONIO RIVER AUTHORITY  
INVITATION FOR BID  
CONSTRUCTION OF WESTSIDE CREEKS- ALAZAN CREEK TRAIL  
# 00129
PART I - REQUIREMENTS FOR RESPONSES

1. INTRODUCTION

In accordance with the provisions the State of Texas Water Code Chapter 49, the San Antonio River Authority (SARA) Enabling Statute (Chapter 276, Page 556, Acts of the 45th Legislature, 1937, and subsequent amendments), policies and procedures, SARA is requesting submissions to contract with an individual(s) or business(es) with considerable experience in providing construction services as provided in this solicitation. The responses and the cost solutions shall be submitted to SARA in a sealed submission.

2. BACKGROUND

The State of Texas has empowered SARA to preserve, protect and manage the resources and environment of the San Antonio River Watershed. The San Antonio River flows from its headwaters in highly urbanized San Antonio, Texas (7th largest city in the nation) through a largely agrarian area to its confluence with the Guadalupe River where its freshwater inflows into San Antonio Bay support a thriving ecosystem including endangered species (Whooping Crane). SARA continues to develop the technical and professional expertise needed to fulfill its service mission while promoting a holistic approach to develop and implement projects on a watershed basis. SARA is committed to innovative, collaborative, adaptive and strategic actions that address watershed issues and priorities and as such, the agency has formalized partnerships at the federal, state and local levels and regularly works with community and stakeholder groups to successfully accomplish projects throughout the San Antonio River Watershed. By working collaboratively, SARA is able to sustain and enrich the watershed’s ecosystem and the lives of the people in and the economies of the communities we serve.

SARA’s Vision: Inspiring Actions for Health Creeks and Rivers
SARA’s Mission: Committed to Safe, Clean, Enjoyable Creeks and Rivers
SARA’s Core Values: Stewardship, Integrity and Excellence.

3. PROJECT DESCRIPTION

SARA is seeking a contract for the Construction of Westside Creeks- Alazan Creek Trail, utilizing U.S. Department of Transportation Federal Highway Administration funding and requirements. The budget for the base bid is approximately $7 million.

The construction shall be accomplished per the solicitation documents, all exhibits and Attachments identified in the table of contents.

Before submitting a bid, the bidder shall examine carefully the Bid, Plans, Specifications, General Conditions, Supplementary Conditions, Special Provisions, Addenda, Contract Forms and sites of the proposed work. He shall satisfy himself as to the character, quality and quantities of work to be performed and materials to be furnished. The submission of a bid by a bidder shall be conclusive evidence that he has complied with these requirements.
Claims for additional compensation due to variation between conditions actually encountered in construction and as indicated by the plans will not be allowed.

4. MINIMUM QUALIFICATIONS

The following minimum requirements must be demonstrated in order for the submission to be considered responsive to SARA. Any submission received, which is determined to not meet these mandatory requirements may be immediately disqualified and rejected as non-responsive.

- Three (3) years’ experience providing similar products or services of equal complexity and magnitude.
- Five (5) references from entities for which the Respondent provided the products or services, of equal complexity and magnitude, requested. SARA cannot be used as a reference.
- Acceptable bid bond in an amount not less than 5% of the total submitted bid price. All submissions received without the above will be rejected and considered non-responsive. Additional information regarding bond requirements are described in Part II, Bonds.
- The responding individual or business is not on the debarred vendor list with SARA, the State of Texas, or Federal Debarment List (sam.gov).
- Submittal documents including a cover sheet, Exhibit 1, Attachments A –H, and equipment list per the method described in SUBMISSION FORMAT.

5. SCHEDULE OF EVENTS

Following is a list of projected dates with respect to this solicitation:

<table>
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<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue Solicitation:</td>
<td>7/23/2019</td>
</tr>
<tr>
<td>Pre-submittal conference</td>
<td>8/2/2019 at 11:00 AM CST</td>
</tr>
<tr>
<td>Deadline for Submission of Questions:</td>
<td>8/5/2019 at 11:00 AM CST</td>
</tr>
<tr>
<td>Deadline for Submission of Responses:</td>
<td>8/23/2019 before 11:00 AM CST</td>
</tr>
<tr>
<td>Evaluate and rank initial results:</td>
<td>8/30/2019</td>
</tr>
<tr>
<td>Completion of Negotiations:</td>
<td>9/15/2019</td>
</tr>
<tr>
<td>Official Award:</td>
<td>9/18/2019</td>
</tr>
</tbody>
</table>

SARA reserves the right to change the dates indicated above.
6. PRE-SUBMITTAL CONFERENCE

A Pre-Submittal conference will be held at the San Antonio River Authority Main Office at 100 E. Guenther, Board Room, San Antonio TX, 78204, at 11:00 AM Central Standard Time, on Friday, August 2, 2019. Respondents are encouraged to prepare and submit their questions in writing in advance, in order to expedite the proceedings. SARA’s responses to questions received in advance, may be distributed at the Pre-Submittal Conference and posted with this solicitation. Attendance at the Pre-Submittal Conference is optional, but highly recommended.

This meeting place is accessible to disabled persons. The San Antonio River Authority Main Office Building is wheelchair accessible. The accessible entrance is located at 100 E. Guenther. Accessible parking spaces are located in the San Antonio River Authority Main Office Building main parking lot at 100 E. Guenther.

Any oral responses provided by SARA staff at the Pre-Submittal Conference are not confirmed until they are in writing and posted with this solicitation. Only written responses shall be official and all other forms of communication with any officer, employee or agent of SARA shall not be binding on SARA. Respondents are encouraged to resubmit their questions in writing, to SARA Staff person identified in the Restrictions on Communication section, after the conclusion of the Pre-Submittal Conference.

7. CONTRACT TERM

The anticipated term for the proposed contract is:

- Six Hundred sixty-one (661) calendar days from notice to proceed for substantial completion, and
- thirty (30) additional days allowed from substantial completion to final completion for a total of
- Six Hundred ninety-one (691) calendar days from notice to proceed for final completion.

A calendar day is twenty-four hours measured from midnight to the next midnight.

8. PRICING

The pricing shall include all labor, materials, services, equipment and appliances required with, or properly incidental to all construction as described in all attachments and exhibits of this solicitation. Prices shall be firm for 120 days after the due date of this bid and shall be stated in Exhibit 1, Pricing Sheet. All prices must be typewritten using the excel document provided. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the response prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, responder MUST indicate the items required and attendant costs or forfeit the right to payment for such items.
The unit bid prices should not include sales tax on materials and tangible equipment used in the performance of the contract. The Authority will furnish the contractor with a tax exemption certificate to be issued to his retailer in lieu of the tax.

Where unit pricing, extended pricing and/or total pricing differ, unit pricing prevails.

9. PRICE ADJUSTMENTS

Price adjustments will not be allowed for this project unless a change in scope is approved that increases or decreases the amount of work required.

Requests for changes in scope must be submitted in writing with documentation that provides justification for the change and supporting evidence that describes the basis for the cost change.

Upon receipt of such request, SARA reserves the right to either: accept the proposed change as competitive with the original agreed upon proposed unit pricing at the time and issue appropriate authorizations or reject the increases after receipt of a properly submitted request. No work shall be undertaken on a proposed change until authorized by SARA in the form of a Purchase Order change and/or other documentation appropriate to amending the contract.

The request can be sent by e-mail to: contracting@sara-tx.org noting the solicitation number.

SARA reserves the right to accept, reject, or negotiate the proposed price changes.

10. QUANTITIES

The quantities listed in the bid documents and on Exhibit 1 are approximate and will be used for the comparison of bids. Payments will be made for actual quantities of work performed in accordance with the Contract.

11. ADDENDA AND MODIFICATIONS

Any changes, additions, or clarifications to the solicitation are made by amendments (addenda) and will be posted at sara-tx.org under About SARA then Contracting Opportunities and on the Texas Purchasing Group website at www.bidnetdirect.com/texas. Any Respondent in doubt as to the true meaning of any part of the solicitation or other documents may request an interpretation from the Purchasing Department. At the request of the Respondent, or in the event the Purchasing Department deems the interpretation to be substantive, the interpretation will be made by written addendum issued by the Purchasing Department. Such addendum will be attached to the original solicitation at sara-tx.org under About SARA then Contracting Opportunities and in the Texas Purchasing Group file and will become part of the solicitation package having the same binding effect.
as provisions of the original solicitation. It shall be the Respondent(s)’s responsibility to ensure that they have received all Addenda in respect to this solicitation. Furthermore, Respondents are advised that they must recognize, comply with each Addendum. Respondent(s)’s signature on Addenda shall be interpreted as the Respondent’s recognition and compliance to official changes as outlined by SARA and as such are made part of the original solicitation documents. Failure of any Respondent to receive any such addendum or interpretation shall not relieve such Respondent from its terms and requirements. Addendums are available online at sara-tx.org under About SARA then Contracting Opportunities and at Texas Purchasing Group website at www.bidnetdirect.com. No verbal explanations or interpretations will be binding. SARA does not assume responsibility for the receipt of any addendum sent to Respondents.

The bidder shall properly acknowledge all addenda in the spaces provided in the Acknowledgment (Attachment H).

12. SUBMITTAL INSTRUCTIONS

Respondent shall submit one (1) original signed document, and three (3) copies. The original shall be clearly marked. In addition, the submittal shall be provided electronically on a USB drive. The pricing sheet should be submitted in excel format.

Submittals must be received, in a sealed envelope, at the San Antonio River Authority Main Office no later than published date and time on the cover sheet at the address below. Submittals sent by facsimile or email will not be accepted. Any submittal or modification received after this time shall not be considered, and will be returned, unopened to the Respondent. Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

Address:
San Antonio River Authority
Attn: Purchasing Solicitation # 00129
100 E. Guenther
San Antonio, Texas 78204

Each respondent is responsible for taking the necessary steps to ensure their submission is received by the date and time noted herein. SARA is not responsible for missing, lost or late mail or any mail delays, internal or external, that may result in the submission arriving after the set time.

13. SUBMISSION FORMAT

Each submittal shall be typewritten, single spaced and submitted on 8 ½” x 11” white paper. Font size shall be no less than 12-point type and be in full color. All pages shall be numbered and should be printed two-sided. Margins shall be no less than 1” around the perimeter of each page. Submittals shall be no longer than 80 pages. Websites or URLs shall not be submitted in lieu of the printed submittal or electronic submission.
Each submittal must include the sections and attachments in the sequence listed below, and each section and attachment must be indexed and divided by tabs and indexed in a Table of Contents page. If Respondent is proposing as a team, provide the same information for each member of the team. The electronic submittal should be submitted in Adobe PDF and excel, with each separate section attached as a separate file.

Submission shall be in the following order:

A. COVER SHEET: including solicitation number and name, firm name, address, contact phone, fax, website and email address.

B. PRICING SHEET- EXHIBIT 1 – Printed and submitted electronically on USB drive in excel format.

C. BID BOND

D. SOLICITATION PACKET ATTACHMENTS:

- Attachment A Business Questionnaire
- Attachment B Exception Form
- Attachment C References
- Attachment D Conflict of Interest Form
- Attachment E Safety Record
- Attachment F Subcontractor Disclosure
- Attachment G Child Support Business Owner Form
- Attachment H Acknowledgment

E. EQUIPMENT LIST

Failure to meet the above conditions may result in disqualification of the submittal or may negatively affect scoring.

14. PREPARATION OF RESPONSE

Responses MUST give full firm name and address of respondent, and be manually signed in the Acknowledgment, Attachment H. Failure to do so will disqualify your submittal. The person signing the response must show title or AUTHORITY TO BIND FIRM IN A CONTRACT. Firm name and authorized signature must appear on each page that calls for this information. The legal status of the Respondent whether corporation, partnership, or individual, shall also be stated in the submittal. A corporation shall execute the submittal by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated. A partnership Respondent shall give full names and business addresses of all partners. All partners shall execute the submittal. Partnership and Individual Respondent shall state in the submittal the names and addresses of all persons with a vested interest therein. The place of residence of each respondent, or the office
address in the case of a firm or company, with county and state and telephone number, shall be given after the signature. Any costs associated with assembling this submittal will be at the sole expense of the respondent.

15. INTERPRETATIONS

Any questions concerning the requirements or scope of work with regards to this solicitation shall be directed to the designated individuals as outlined herein. Such interpretations, which may affect the eventual outcome of this solicitation for Responses, shall be furnished in writing to all prospective respondents via Addendum. No interpretation shall be considered binding unless provided in writing by SARA in accordance with paragraph entitled “Addenda and Modifications”.

16. WITHDRAWAL

Responses may be withdrawn prior to the due date for submission. Written notice of withdrawal shall be provided to the Purchasing Department for submittals submitted in hard copy. No response may be withdrawn after opening time without reasonable exception in writing and only after approval by SARA.

17. ALTERATIONS/AMENDMENTS TO RESPONSES

Responses CANNOT be altered or amended after the opening deadline. Alterations made before opening time must be initialed by respondent guaranteeing authenticity.

18. TIME ALLOWED FOR ACTION TAKEN

SARA may hold response responses 120 days after submittal deadline without taking action. Respondents are required to hold their Responses, including pricing, firm for same period of time.

19. EVALUATION PROCEDURES

Selection of a firm(s) to provide the aforementioned construction shall be in accordance with the SARA policies and procedures and the State of Texas Water Code 49. SARA shall evaluate each submission utilizing the following process:

Step 1: A public opening will be conducted. Responses will be read aloud at publish date and time on the coversheet.

Step 2: SARA will prepare a tabulation sheet of responsive submittals and publish online at www.sara-tx.org.

Step 3: SARA validate and evaluate each submission in accordance with the minimum qualifications, adherence to the specifications and price.
San Antonio River Authority
IFB for Construction of Westside Creeks- Alazan Creek Trail

Step 4: Upon selection of the lowest responsible bidder meeting the specifications, a written recommendation will be presented to the appropriate approving authority for SARA requesting authorization to proceed with contract execution for the proposed services.

After the contract has been awarded all submissions will be open for public inspection, and the unsuccessful respondent(s) may request a debriefing regarding their submittal. Please contact the Purchasing Department to document the request for a debriefing. A meeting with the Purchasing Department and the using Division will be scheduled within a reasonable time.

20. QUALIFICATIONS OF RESPONDENTS

A. After the low bidder has been determined, the next step is to consider the bidder's qualifications to perform the proposed contract. The award of a contract, if awarded, will be to the lowest responsible bidder that meets all the qualification requirements. The ability to obtain bonds does not necessarily qualify a contractor for award.

B. A contract may be awarded only after it has been determined that the bidder is qualified to perform the contract. Qualification checks will be made of all pertinent factors including: Financial resources or ability to obtain them; present or impending work commitments; safety record; record of past performance on comparable projects; business ethics and integrity; eligibility to receive an award under applicable laws and regulations; the necessary organization, experience, operational controls and technical skills or the ability to obtain them; and the necessary construction equipment or ability to obtain it, as may be needed to prosecute the work in an expeditious, safe and satisfactory manner.

C. If the proposed contractor does not have adequate equipment but plans to obtain it after contract award, a firm commitment in writing from the suppliers must be furnished to the Authority. Also, if the contractor proposes to subcontract part of the work, they must provide information needed for the Authority's evaluation of the subcontractor's capability.

D. Before disqualifying the low bidder, the Authority will inform them of the reason for the proposed disqualification.

21. DISQUALIFICATIONS OF RESPONDENTS

Listed are some of the causes which may be considered as sufficient for the disqualification of a bidder and the rejection of their submittal:

A. The proposal was not in the hands of the letting official at the time and location specified in the advertisement.
B. Incomplete bid or failure to furnish Exhibits or Attachments at the time of the bid opening.
C. Inability to demonstrate that bidder meets minimum qualifications as stated in Section 4.
D. Failure to submit Child Support Business Ownership Form and certification
E. Not submitting an original bid bond with raised seal
F. More than one bid for the same work from an individual, firm, partnership or corporation.
G. Evidence of collusion among bidders.
H. Poor performance in the execution of work under previous contracts, as determined by the Authority.
I. Being in arrears on existing contracts, in litigation with the San Antonio River Authority, or having defaulted on a previous contract.
J. Poor safety record, as determined by the Authority, including any injuries to worker's and third parties due to the Contractor's work.
K. Lack of comparableproject experience.
L. The person or, in the case of a joint venture, persons do not sign the proposal.
M. The proposal is in a form other than the official proposal form issued to the Bidder or Bidders.
N. The proposal submitted has the incorrect number of Items.
O. A computer printout, when used, is not signed in the name of the Bidder (or joint Bidders, in the case of a joint venture), is not in the proper format, or omits required Items or includes an Item or Items not shown in the proposal.
P. The Bidder submits more than one proposal, under the same or different name, for a specific proposed Contract.
Q. The Bidder fails to acknowledge or improperly acknowledges receipt of all addenda issued.
R. The Bidder bids more than the maximum or less than the minimum number of allowable working days shown on the plans when working days is an Item.
S. The Bidder modifies the proposal in a manner that alters the conditions or requirements for work as stated in the proposal form.
T. The Bidder did not attend a specified mandatory pre-bid conference.

22. **AWARD OF CONTRACT**

SARA shall award the contract to the lowest responsible bidder meeting the specifications and minimum qualifications.

Evaluation will be based upon the base bid, plus the any alternates SARA selects.

SARA may reject any and all responses or line items at SARA’s sole discretion.

SARA reserves the right to accept any item or group of items on this response, unless the Responder qualifies his/her Response by specific limitations.
Breaking of tie Responses shall be in accordance with Section 271.901 of the Texas Local Government Code.

Although the information furnished to Respondents specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. SARA reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities to be procured. SARA will give written notification of all changes made.

23. **DISADVANTAGED BUSINESS ENTERPRISES**

SARA has adopted the TXDOT DBE program for this project. The contract provisions in the attached Exhibit 6, TXDOT Special Provisions SP000-394L shall be applicable to the final executed contract. No exceptions shall be granted. Should there be any conflicts, the provisions in TXDOT Special Provisions SP000-394L shall prevail.

SARA has adopted the following Disadvantaged Business Enterprise (DBE) goal for this project is 6%.

24. **RIGHT TO REJECT/ AWARD**

SARA reserves the right to reject any or all submittals, to waive any or all formalities or technicalities, and to make such awards of contract(s) as may be deemed to be in the best interest and most advantageous to SARA, considering the relative importance and other evaluation factors specified herein.

25. **RESTRICTIONS ON COMMUNICATION**

Respondent(s) are prohibited from communicating with: 1) SARA Board of Directors and SARA staff regarding the solicitation or submittals from the time the solicitation has been released until the contract is posted as a Board agenda item; and 2) SARA employees from the time the solicitation has been released until the contract is awarded. These restrictions extend to “thank you” letters, phone calls, emails and any contact that results in the direct or indirect discussion of the solicitation and/or submittal by Respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent’s submittal from consideration.

Exceptions to the restrictions on communication with SARA employees include:

A. Respondents may ask verbal questions concerning this solicitation at the Pre-Submittal Conference (if applicable) or submit clarification requests pursuant to Section entitled: CLARIFICATION OF REQUIREMENTS AND QUESTIONS

B. Respondents may provide responses to questions asked of them by the Purchasing Department after submittals are received and opened. The Purchasing Department
San Antonio River Authority  
IFB for Construction of Westside Creeks- Alazan Creek Trail

may request clarification to assist in evaluating Respondent’s Response. The information provided is not intended to change the Response in any fashion. Such additional information must be provided within two (2) business days from SARA’s request. Respondents may also respond to requests by the Purchasing Department for best and final offers, which do allow Respondents to change their Response. Requests for best and final offers will be clearly designated as such.

Respondents shall direct all inquiries and communications concerning this solicitation to the Point of Contact(s) listed below:

Karen Smith  
Purchasing Officer  
(210) 302-3603  
ksmith@sara-tx.org

26. INVITATION FOR RESPONSES PREPARATION COSTS

Issuance of this solicitation does not commit SARA, in any way, to pay any costs incurred in the preparation and submission of a response. All costs related to the preparation and submission of this solicitation shall be borne by the respondent.

27. ANTI-LOBBING PROVISION

During the period between solicitation submission date and the contract award, Respondents, including their agents and representatives, shall not directly discuss or promote their response with any member of the Board of Directors or SARA staff except in the course of SARA-sponsored inquiries, briefings, interviews, or presentations. Violation of this provision may result in the rejection of the respondent's response and disqualification from future consideration of a similar solicitation.

28. CONFIDENTIAL INFORMATION & SECURITY

Any information deemed to be confidential by the respondent should be clearly annotated on the pages where confidential information is contained and provide a separate USB drive, clearly identifying as confidential. SARA cannot guarantee that it will not be required to disclose all or part of any public record under Texas Public Information Act, since information deemed to be confidential by the responder may not be confidential under Texas Law, or pursuant to a Court order.

Should the successful respondent be awarded a contract and become the holder of, and have access to, confidential information, (in the process of fulfilling its responsibilities in connection with the contract), the successful respondent agrees that it shall keep such information confidential and will comply fully with the laws and regulations of the State of Texas, ordinances and regulations of SARA, and any applicable federal laws and regulations relating to confidentiality.
29. **EQUIPMENT SCHEDULE**

The respondent shall provide an equipment schedule. The schedule shall include the year, make, model and description of the equipment.

30. **LOBBYING CERTIFICATION**

State and federal law place restrictions on the use of state and federal funds in regard to lobbying. This provisions is applicable to all construction contracts and to all related subcontracts which exceed $100,000. The Potential Contractor certifies, to the best of his or her knowledge and belief, that:

1. In accordance with 31 U.S.C. §1352, no federal appropriated funds have been paid or will be paid, by or on behalf of the Potential Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

3. The potential contractor certifies the material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

4. The potential contractor also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

Bidders certified by signing the Acknowledgment – Attachment H

31. **DEBARMENT CERTIFICATION**

Bidder must certify that the firm or its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered
transactions by any federal department, State of Texas Comptroller, SARA or agency and has not been convicted or had civil judgment rendered within the past three years for certain types of offenses. This includes subcontractors, material suppliers, vendors, consultants, or any other firm that would be paid by the contractor under the contract.

Bidders certify the above by signing the Acknowledgment – Attachment H

32. BUSINESS OVERVIEW – ATTACHMENT A

Respondent shall complete the Business Overview Questionnaire as applicable per Attachment A.

33. DEVIATION FROM SPECIFICATION/CLARIFICATIONS – ATTACHMENT B

Please read the requirements thoroughly and be sure that your response complies with all requirements/specifications noted. Any variation from the solicitation requirements/specifications or clarifications must be clearly indicated in Attachment B, on a point-by-point basis, attached to and made a part of your response. If no exceptions are noted, and you are the successful respondent, SARA will require that the goods/service(s) be provided as specified.

Respondents shall itemize all exceptions on Attachment B. Additional pages may be added as necessary. **Do not mark or change the text of the solicitation document, exceptions shall be noted only on Attachment B.**

34. REFERENCES – ATTACHMENT C

Provide three (3) references, that the Respondent has provided goods/services to within the past three (3) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

SARA reserves the right to use other references and any additional information provided to evaluate the firm’s ability to meet SARA’s needs.

35. CONFLICT OF INTEREST – ATTACHMENT D

Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity must disclose in the Questionnaire Form CIQ, the vendor or person’s affiliation or business relationship that might cause a conflict of interest with a local government entity. This questionnaire must be filed, by law, with SARA no later than the 7th business day after the date the person becomes aware of facts that require the statement be filed. See Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. For
more information or to obtain the Questionnaire CIQ, go to the Texas Ethics Commission web page at www.ethics.state.tx.us/forms/CIQ.pdf.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT. AN OFFENSE UNDER CHAPTER 176 IS A CLASS C MISDEMEANOR.

36. SAFETY RECORD – ATTACHMENT E

The 70th Legislature of the State of Texas passed House Bills 662 and 665 relating to safety standards for construction projects and consideration of safety records when awarding bids on construction projects. House Bill 1569 later amended prior Legislation concerning trench safety standards. The law provides that:

"On construction projects in which trench excavation will exceed a depth of five feet ..." that "In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder ..."

Where it has been determined that a project has excavations exceeding five (5) feet, the bid form entitled "House Bills 662, 665 and 1569 Safety Record Requirements" must be completed and submitted with the Bid by the Contractor.

This record is to indicate the Contractor's safety performance concerning trenching and/or shoring requirements over the past ten (10) years including all insurance carriers over the reporting period and including trench safety related claims made by the Contractor against those policies. Claimant's name, nature of claim and amounts of award shall be indicated. Major safety violations of OSHA Standards or other appropriate standards must be indicated in the report. A poor safety record may be the basis for disqualification of the Bidder. For example, a report indicating an unreasonable number of safety related claims and/or violations for the particular size of the Bidder's organization may be the basis for disqualification of said Bidder. Failure to submit a complete safety report concerning trenching and/or shoring requirements or falsifying information may also be the basis for disqualification of the Bidder.

The Contractor is required to complete the "General Safety Record" which shall include all safety related incidents not listed on form "House Bills 662, 665 and 1569 Safety Record Requirements". The Bidder must indicate his overall safety record over the past five (5) years by listing all insurance carriers over the reporting period and including all general safety claims made by the Contractor against those policies. The Bidder must include in the list any injured individuals, either employee or third party that resulted from actions or negligence of the Contractor on previous projects under the Contractor's control or charge.
A poor safety record may be the basis for disqualification of the Bidder. Failure to submit a complete safety report or falsifying information may also be the basis for disqualification of the Bidder.

37. **SUBCONTRACTOR DISCLOSURE-ATTACHMENT F**

The Bidder will be required to establish, to the satisfaction of the Project Manager and the Authority, the reliability and responsibility of the bidder’s own work force and his proposed subcontractors to be used for stated portions of the work under this Contract. The bidder is required to complete and submit with his bid the "Listing of Subcontractors".

If the respondent is the successful bidder, prior to the award of Contract, the Project Manager will notify the bidder in writing if either the Authority or the Project Manager, after due investigation, has reasonable and substantial objection to any person or organization on the "Listing of Subcontractors". If the Authority or the Project Manager has a reasonable and substantial objection to any person or organization on the "Listing of Subcontractors" in Attachment F, and refuses in writing to accept such person or organization, the bidder may, at his option, withdraw his bid without forfeiture of bid security, notwithstanding anything to the contrary contained herein. If the bidder submits an acceptable substitute with an increase in his bid price to cover the difference in cost occasioned by such substitution, the Authority may, at its discretion, accept the increased bid price or may disqualify the bidder. Subcontractors and other persons and organizations proposed by the bidder and accepted by the Authority and the Project Manager must be used on the work for which they were proposed and accepted and shall not be changed except with the written approval of the Authority and the Project Manager.

38. **STATE OF TEXAS CHILD SUPPORT BUSINESS OWNERSHIP FORM–ATTACHMENT G**

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certifications is inaccurate.

Names and social security numbers of individuals owning 25% or more of the firm submitting a bid must be included, or the bid is considered non-responsive.

39. **ACKNOWLEDGEMENT - ATTACHMENT H**

Submit a signed acknowledgement by authorized agent of the responding firm.

40. **CONTRACT**

The successful respondent will be required to sign a contract using SARA’s standard terms and conditions. A draft of the contract is provided as Exhibit 2.
The Contracting Officer will email the authorized agent the contract with the email subject “Pending Contract” from contracts@sara-tx.org. This email is considered the Notice of Award to the Contractor.

The unexecuted agreement attached to the email will include the Agreement, and exhibits, Tax Exemption Certificate, Intent of Award, General Conditions, Supplementary Conditions, Wage Determination Decision, Measure and Payment and might contain Special Provisions, Specifications and/or Plans.

Within fourteen (14) days after receipt of the Notice of Award of the Contract, the contractor shall sign and return a complete contract packet. The Bonds are to be furnished as a guaranty of the faithful performance of the work and for protection of the claimants for labor and material.

The Contract will be approved, signed and executed by the General Manager under authority of the San Antonio River Authority Board of Directors. The Contract will not be binding upon the Authority until it has been executed by the Authority and delivered to the Contractor.

Respondents should note any exceptions to the draft contract on Attachment B, otherwise the respondent accepts the draft contract terms and conditions.
Part II – TERMS AND CONDITIONS

1. INSURANCE

The successful respondent will be required to maintain, at all times during performance of the contract, the insurance detailed below:

- General Liability (Premises Operations) $1,000,000/$2,000,000
- Workers Compensation WC Statutory
- Employers’ Liability - $500,000
- Automotive Liability $500,000 Combined Single Limit
- Umbrella Policy $1,000,000
- Builders Risk Policy Bodily injury, death and property damage in combined amount of $2 million per occurrence with an aggregate of $6 million applying separately to each annual period.
- Railroad Insurance

SARA shall be named as an additional insured and provide a Waiver of Subrogation in favor of SARA, its officials, agents, employees and volunteers.

Insurance shall be carried with financially responsible insurance companies, licensed in the State of Texas, with an A.M. Best Rating of A (-) VI or better.

2. WARRANTIES

Respondents shall furnish all data pertinent to warranties or guarantees which may apply to items in the response.

The Responder shall warrant that any equipment furnished or work performed shall be free from defects in design, materials, workmanship, and will give successful service under the specified operating conditions. Furthermore, the Responder agrees, upon notice from SARA, to make good all defects in design, materials, or performance developing in the materials or equipment under its intended use for at least twelve (12) months from the date of installation and initial operation, or the manufacturer’s warranty, whichever is greater length of time.

In the event that the equipment must be returned to the factory under warranty, the Responder shall be responsible for delivery charges both to and from the factory.

3. QUANTITIES

The quantities indicated on the drawings, technical specifications, and pricing exhibit are believed to be accurate but shall be considered only as estimates. The project requires
complete and functional construction in accordance with the Technical Specifications in Exhibit 3 and the plans in Exhibit 4. Differences between the quantities of material required and the estimated quantities will not be considered as basis for a change in the unit price for the project. In submitting a response, the respondent is stating that he has reviewed the project drawings and specifications and understands their intent and has checked the quantities and dimension and is asserting that the submissions is intended to account for all conditions and quantities to complete the project as described in the plans and specification.

Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the Contract, based upon the contracted unit price(s).

4. **LIQUIDATED DAMAGES**

SARA and the awarded contractor recognize that time is of the essence with respect to the Substantial Completion and Final Completion dates for the Project. Failure to achieve the applicable dates specified in the contract, plus any extensions thereof allowed in accordance with the contract will result in the assessment of delay liquidated damages or as otherwise agreed upon by the Parties in any amendment ("Amendment"). They also recognize the delays, expense, and difficulties involved in quantifying the actual loss suffered by SARA if the Work is not substantially complete on Time. Accordingly, instead of requiring any such proof, SARA and the awarded contractor agree that the awarded contractor shall pay SARA liquidated damages for delay (but not as a penalty) in the sum of ELEVEN HUNDRED DOLLARS ($1,100.00) per calendar day that expires after the time specified in the contract.

5. **SUBSTITUTIONS/CANCELLATIONS**

No substitutions or cancellations are permitted without written approval of SARA.

6. **INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by both parties hereto that SARA is contracting with the successful respondent as an independent contractor. The parties hereto understand and agree that SARA shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful respondent under this contract and that the successful respondent has no authority to bind SARA.

7. **ASSIGNMENT**

Respondents are advised that SARA shall not allow the successful respondent to sell, assign, transfer, or convey any part of any contract resulting from this response in whole or in part, to a third party without the written approval of SARA.
8. INDEMNIFICATION CLAUSE

CONSULTANT covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, SARA and the elected officials, employees, officers, directors, volunteers and representatives of SARA, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon SARA directly or indirectly arising out of, resulting from or related to Consultant’s activities under this SUBMITTAL, including any acts or omissions or negligence of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this SUBMITTAL, all without however, waiving any governmental immunity available to SARA under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF RIVER AUTHORITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF RIVER AUTHORITY, UNDER THIS AGREEMENT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise SARA in writing within 24 hours of any claim or demand against SARA or CONSULTANT known to CONSULTANT related to or arising out of Consultant’s activities under this SUBMITTAL and shall see to the investigation and defense of such claim or demand at Consultant’s cost. SARA shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph. It is the express intent of the parties to this AGREEMENT, that the indemnity provided for in this section, is an indemnity extended by CONSULTANT to indemnify, protect and hold harmless, RIVER AUTHORITY, from the consequences of RIVER AUTHORITY’S own negligence. CONSULTANT further agrees to defend, at its own expense and own behalf of and in the name of RIVER AUTHORITY, any claim or litigation brought against RIVER AUTHORITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death or damage for which this indemnity shall apply, as set forth above.

9. FORCE MAJEURE

If either party shall be wholly or partially prevented from the performance of any contractual obligation or duty by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in
such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of Force Majeure shall rest solely with SARA.

10. JURISDICTION

Contract(s) executed as part of this solicitation shall be subject to and governed under the laws of the State of Texas. Any and all obligations and payments are due and payable in Bexar County, Texas.

11. VENUE

The parties agree that venue for purposes of any and all lawsuits, cause of action, arbitration, and/or any other dispute(s) shall be in Bexar County, Texas.

12. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS

The respondent shall comply with all State, Federal, and Local laws and requirements. The respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

13. SAFETY

The respondent shall comply with all State, Federal and local safety laws and requirements, including but not limited to the Texas Labor Code §411.103 – Requiring employers to:

a. provide and maintain employment and a place of employment that is reasonably safe and healthful for employees;

b. install, maintain and use methods, processes, devices and safeguards, including methods of sanitation and hygiene, that are reasonably necessary to protect the life, health and safety of the employer’s employees; and

c. take all other actions reasonably necessary to make the employment and place of employment safe.

It will the responsibility of the respondent to implement and keep in effect the requirements of OSHA throughout the duration of the project. Respondent shall also comply with all necessary reporting criteria for OSHA.
14. TRENCH SAFETY

If the project requires any trench excavation exceeding a depth of five feet must comply with:

- Requirements of Texas Health and Safety Code §756.022 applies to all projects with state or private funding whether on-system or off-system.
- Requirements of Texas Health and Safety Code §756.023 applies to all projects with city or county funding whether on-system or off-system.

15. RESPONDENT’S EMPLOYEES

Neither the Respondent nor his/her employees engaged in fulfilling the terms and conditions of any awarded contract shall be employees of SARA. The method and manner of performance of such undertakings shall be under the exclusive control of the respondent on contract. SARA shall have the right of inspection of said undertakings at any time.

16. VERBAL THREATS

Any threats made to any employee of SARA, be it verbal or written, to discontinue the providing of item/material/services for whatever reason and/or reasons shall be considered a breach of contract and SARA may immediately sever the contract with the successful respondent.

17. EQUAL EMPLOYMENT OPPORTUNITY

The awarded contractor will not discriminate against any employee or applicant for employment because of race, religion, ethnicity, gender, age, national origin, disability, veterans status or any other status or condition protected by applicable federal and state laws. The awarded contractor will take affirmative action to ensure that applicants are employees and that employees are treated during employment, without regard to their race, religion, ethnicity, gender, age, national origin, disability, veterans status or any other status or condition protected by applicable federal and state laws.

In the event of the awarded contractor’s noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated, or suspended in whole or in part, and the awarded contractor may be debarred from further contracts with the Authority.

18. NONDISCRIMINATION AGAINST PERSONS WITH DISABILITIES

The Americans with Disabilities Act, 42 U.S.C. Chapter 126 (ADA) requires equal opportunity for individuals with disabilities. Title II of the ADA governs public facilities including roads and sidewalks. Such opportunity prohibits discrimination against individuals with disabilities in government services, public accommodations, transportation and telecommunications. Further, “reasonable accommodation” must be provided to qualified individuals with disabilities. Contractors must comply with all Federal, State and Local requirements, including but not limited to 28 CFR 35.151, 49 CFR...

19. **BONDS**

A. **Bid Bond**

Respondent must submit a bid bond with a raised seal, in a form acceptable to SARA, made payable to San Antonio River Authority, executed by a corporate surety acceptable to SARA who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of the Treasury’s Listing of Approved Sureties (Dept Circular 570) in the amount of **5% of the entire bid.** The Bid Bond shall be valid for 120 days following the deadline for submission of bids. The Bid Bond must be accompanied by an original signed and notarized Power-of-Attorney bearing the seal of the issuing surety company and reflecting that the signatory to the bond is a designated Attorney-in-Fact. If Respondent is not selected, SARA will not collect on the bond, but will keep the original document pursuant to the Local Government Records Act and applicable retention schedule. Any bids received without a Bid Bond will be disqualified.

Should the bidder to whom the Contract is awarded, refuse or neglect to execute the Contract and furnish the required bonds and required additional Post Bid Information within fourteen (14) days after notice of award of the Contract, or fail to successfully submit requested Supplemental information to support required additional Post Bid Information at the option of the Project Manager, the bidder's submission shall be treated as withdrawn; and at the option of the Manager, the bid guaranty shall become the property of the San Antonio River Authority, not as a penalty, but as liquidated damages, or the Authority may pursue any other action allowed by law.

B. **Performance Bond**

Contractor shall provide a performance bond made payable to the San Antonio River Authority, executed by a corporate surety acceptable to SARA who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury’s Listing of Approved Sureties (Dept. Circular 570) in the amount of the **cost of the entire project.** Said bond shall further provide coverage for all damages or losses resulting from the principal’s default. Said bond shall further guarantee the principal’s performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, Chapter 2253 for contracts in excess of $100,000. This bond must be executed and delivered to SARA prior to commencement of work under this contract. Any repairs exceeding the bond’s value must be approved separately, and Contractor must supply a supplemental performance bond, meeting the same requirements herein, to cover the incremental increase between this bond’s value and the cost of the repair.
C. Payment Bond

Contractor shall provide a payment bond as a security for all persons supplying labor and material in the performance of the Project completion. Bond shall be made payable to the San Antonio River Authority, executed by a corporate surety acceptable to SARA who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury’s Listing of Approved Sureties (Dept. Circular 570) in the amount of the cost of the entire project. Said bond shall further provide coverage for all damages or losses resulting from the principal’s default. Said bond shall further guarantee the principal’s payment of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, Chapter 2253 for contracts in excess of $25,000. This bond must be executed and delivered to SARA prior to commencement of work under this contract. Any repairs exceeding the bond’s value must be approved separately, and Contractor must supply a supplemental performance bond, meeting the same requirements herein, to cover the incremental increase between this bond’s value and the cost of the repair.

D. Maintenance Bond

Contractor shall provide a maintenance bond to guarantee Contractors will resolve all maintenance incidents on the Project for a 12 month period. Maintenance bond shall be made payable to the San Antonio River Authority, executed by a corporate surety acceptable to SARA who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury’s Listing of Approved Sureties (Dept. Circular 570) in the amount of the cost of the entire project. Said bond shall further provide coverage for all damages or losses resulting from the principal’s default. Said bond shall further guarantee the principal’s performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253. This bond must be executed and delivered to SARA prior to commencement of work under this contract. Any repairs exceeding the bond’s value must be approved separately, and Contractor must supply a supplemental performance bond, meeting the same requirements herein, to cover the incremental increase between this bond’s value and the cost of the repair.

20. RETAINAGE

In accordance with the Water Code Section 49.276(d), SARA shall retain 10% of each payment request until final completion and acceptance of the contract work.

SARA shall not be obligated to pay any interest on the 10 percent retainage held on the first 50 percent of work completed. If SARA holds any retainage on the remaining 50 percent of the work completed, SARA shall pay interest on such retainage from the date
the retainage is withheld to the date of payment to the contractor. The interest rate to be paid on such retainage shall be the rate of interest paid by the SARA’s depository bank on interest bearing accounts of similar amounts during the period of time interest accrues as provided herein.

21. PAYMENT PROVISIONS FOR SUBCONTRACTORS

For the purposes of this article only, the term subcontractor includes suppliers and the term work includes materials provided by suppliers at a location approved by the Engineer. These requirements apply to all tiers of subcontractors. Incorporate the provisions of this article into all subcontract or material purchase agreements.

Pay subcontractors for work performed within 10 days after receiving payment for the work performed by the subcontractor. Also, pay any retainage on a subcontractor’s work within 10 days after satisfactory completion of all of the subcontractor’s work. Completed subcontractor work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the subcontractor.

For the purpose of this section, satisfactory completion is accomplished when:

- the subcontractor has fulfilled the Contract requirements of both the Owner and the subcontract for the subcontracted work, including the submittal of all information required by the specifications and the Owner; and
- the work done by the subcontractor has been inspected, approved, and paid by the Owner.

Provide a certification of prompt payment in accordance with the Owner’s prompt payment procedure to certify that all subcontractors and suppliers were paid from the previous months payments and retainage was released for those whose work is complete. Submit the completed form each month and the month following the month when final acceptance occurred at the end of the project.

The inspection and approval of a subcontractor’s work does not eliminate the Contractor’s responsibilities for all the work as defined in Article 7.17., “Contractor’s Responsibility for Work.”

The Owner may pursue actions against the Contractor, including withholding of estimates and suspending the work, for noncompliance with the subcontract requirements of this section upon receipt of written notice with sufficient details showing the subcontractor has complied with contractual obligations.

22. TAX EXEMPTION

The San Antonio River Authority is a political subdivision of the State of Texas, which is the reason for this claim of exemption from the Sales Tax. The San Antonio River Authority’s tax-exempt number is 74-6011311.
The Contractor performing this contract may purchase all materials and supplies consumed in the performance of this contract by issuing to his retailer an exempt certificate in lieu of the tax, said exemption certificate complying with State Comptroller's Ruling No. 95-9.07. Any such exemption certificate issued by the Contractor in lieu of the tax shall be subject to the provisions of the State Comptroller's Ruling No. 95-0.09 as amended to be effective October 2, 1968.

The Contractor will be liable for payment of the Limited Sales and Use Tax if the Contractor uses the goods and services in some other manner for some other use than the reason listed above, and shall pay the tax based on the price paid for the goods and services.

SARA will furnish the Contractor with a Tax Exemption Certificate. It is the awarded contractor's responsibility to take all necessary action to establish tax exemption in accordance with the Texas Tax Code. The awarded contractor is totally responsible for maintaining auditable records to track tax exempt materials and tangible equipment.

23. **PREVAILING WAGE RATES**

The Provisions of Chapter 2258 of the Texas Government Code, and the “Wage and Labor Standard Provisions” expressly are made a part of this Contract. In accordance therewith, a schedule of the general prevailing rate of per diem wages in this locality for each craft or type of worker needed to perform this Contract shall be included in the project bid package prior to the bidding of the Project, **Exhibit 2**. The establishment of prevailing wage rates, pursuant to Chapter 2258 of the Texas Government Code, shall not be construed to relieve Contractor from its obligation under any Federal or State Law, regarding the wages to be paid to or hours worked by laborers, workmen or mechanics, insofar as applicable to the work to be performed hereunder. Contractor, in the execution of this Project, agrees it shall not discriminate in its employment practices against any person because of race, color, creed, sex, or origin. Contractor agrees it will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, creed, national origin, sex, age, handicap or political belief or affiliation. This Contract provision shall be included in its entirety in any subcontract agreement entered into by the Contractor or any Subcontractor employed on the project.

24. **PRISON-PRODUCED MATERIALS**

There are limitations on using materials produced by convict labor in a Federal aid Highway project. Materials produced after July 1, 1991 by convict labor may only be incorporated in a Federal-aid highway construction project if materials have been produced by convicts who are on parole, supervised release, or probation from a prison.
25. **BUY AMERICA ACT**

A. **General**

The Contractor must comply with the latest provisions of Buy America as listed at 23 CFR 635.410. The contractor is required to use steel or iron materials manufactured in the United States except when:

- the cost of materials, including delivery, does not exceed 0.1 percent of the total contract cost or $2,500, whichever is greater;
- the contract contains an alternate item for a foreign source steel or iron product and the contract is awarded based on the alternate item; or
- the materials are temporarily installed.

B. **Manufacturing Process**

Buy America requires all manufacturing processes must take place domestically. Manufacturing begins with the initial melting and mixing, and continues through the coating stage. Any process modifying the chemical content, the physical size or shape, or the final finish is considered a manufacturing process. These processes include rolling, extruding, machining, bending, grinding, drilling and coating.

- Coating includes epoxy coating, galvanizing, painting or any other coating that protects or enhances the value of the material.
- Shapes produced domestically from foreign source steel billets are not acceptable under Buy America since the initial melting and mixing of alloys to create the steel occurred in a foreign country.
- All welding must take place domestically since the welding rod itself is typically an iron/steel product and the welding process substantially alters the rod.
- The manufacturing process for a steel/iron product is considered complete when the product is ready for use as an item (e.g., fencing, posts, girders, pipe, manhole cover, etc.) or could be incorporated as a component of a more complex product through a further manufacturing process (e.g., the case for a traffic signal head).
- The final assembly process does not need to be accomplished domestically so long as the steel/iron component is only installed and no manufacturing process is performed on the steel/iron component.

C. **Application of Buy America**

Buy America does not apply to minimal use of iron/steel materials, provided the total cost of all foreign source items used in the project, as delivered to the project site, is less than $2,500 or one-tenth of 1 percent of the contract amount, whichever is greater. If a supplier or fabricator wishes to use a partial fabrication process where
domestic and foreign source components are assembled at a domestic location, the “as delivered cost” of the foreign components should include any transportation, assembly and testing costs required to install them in the final product.

For the Buy America requirements to apply, the steel or iron product must be permanently incorporated into the project. Buy America does not apply to temporary steel items (e.g. temporary sheet piling, temporary bridges, steel scaffolding and falsework, etc.). Further, Buy America does not apply to materials remaining in place at the contractor’s convenience.

The practice of making otherwise eligible items non-participating for the purpose of circumventing the Buy America requirements is unacceptable and will not be approved. There is no clear-cut rule for resolving an after-the-fact discovery of the inadvertent incorporation of an excess amount of foreign materials into a project. Each situation should be resolved on a case-by-case basis. FHWA retains the authority to resolve all Buy America issues.

Buy America provisions apply to all material permanently incorporated in a federal-aid project, even if an item is rendered as a “donated material” in accordance with 23 U.S.C. 323 – Donations and Credits. While the SARA may receive a credit for donated material, this material must generally comply with Buy America.

D. Waivers

Buy America does not apply to raw materials (iron ore and alloys), scrap, pig iron or processed, pelletized and reduced iron ore. Insufficient domestic supplies of raw materials caused FHWA to issue a nationwide waiver allowing foreign source supplies of these items. The waiver may be found at the [FHWA nationwide waiver website](#). If domestically produced steel billets or iron ingots are shipped overseas for any manufacturing process and then returned to the United States, the resulting product does not conform to the Buy America requirements.

Approval authority for waivers of Buy America requirements is retained by FHWA for all federally funded projects. The FHWA may grant a waiver of the Buy America requirements for specific projects if the contractor can demonstrate either of the following:

1. compliance with the requirements is inconsistent with the public interest; or
2. insufficient quantities of satisfactory quality domestic products are available.

Materials delivery delay will not be considered as grounds for a waiver. The cost differential between domestic and foreign products is also not grounds for a waiver.

A contractor may apply for a waiver of the Buy America provisions if it believes a waiver is warranted. The contractor must submit the waiver request with supporting
information to SARA for formal request through TxDOT to FHWA sufficiently in advance of its need to allow time for proper review and action.

E. Alternative Bidding Procedures

An alternative bidding procedure may be used to justify the use of foreign steel or iron. Under this procedure, the total project is bid using two alternatives: one based on foreign source products; and the second using domestic products. The use of foreign products may be justified if the lowest total bid based on domestic steel or iron products is 25 percent more than the lowest bid using corresponding foreign steel or iron products. The 25 percent differential applies to the total bid for the entire project, not just the bids for the steel or iron products.

F. Enforcement

The contractor shall provide details about the origin of all products covered under the Buy America provisions. An alternate procedure is to use step certification for products. Under step certification, each handler of the product (supplier, fabricator, manufacturer, processor, etc.) certifies its step in the process was domestically performed.

G. Federal Requirements

1. 23 CFR 635.410 – Requires all iron and steel products to be of domestic origin. Waivers may be approved by FHWA.
2. 23 CFR 636.119 – Requires TxDOT to ensure compliance with Buy America for design-build projects regardless of the form of FHWA funding.

26. DIFFERING SITE CONDITIONS

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project, including construction services contracts of CM/GC projects, approved under 23 U.S.C. 106:

(1) Differing site conditions. (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an
adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

(2) Suspeions of work ordered by the engineer. (i) If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

(ii) Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(3) Significant changes in the character of work. (i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be
agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term “significant change” shall be construed to apply only to the following circumstances:

(A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
(B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be made applicable to Federal-aid highway contracts.

(2) Where the State transportation department has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State transportation department may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State's action must be pursuant to a specific State statute requiring differing contract conditions clauses. Such State developed clause or clauses, however, must be in conformance with 23 U.S.C., 23 CFR and other applicable Federal statutes and regulations as appropriate and shall be subject to the Division Administrator's approval as part of the PS&E.

27. FEDERAL-AID CONSTRUCTION PROVISIONS (FHWA-1273)

The contract provisions in the attached Exhibit 5, Form FHWA-1273 shall be applicable to the final executed contract. No exceptions shall be granted. Should there be any conflicts, the provisions in FHWA-1273 shall prevail.

Failure to comply with the provisions of FHWA-1273 may be sufficient grounds for:

- Withholding progress payments
- Withholding final payment
- Termination of the contract
• Suspension/debarment
• Any other action determined appropriate

Bidders certify acknowledgment and acceptance of the above by signing the Acknowledgment – Attachment H

28.   EQUIPMENT RENTAL

Equipment rental rates must comply with TxDOT standard specifications, TxDOT Item 9L, Article 7 (9L.7) Rates shall be determined per the Rental Rate Blue Book rates for the worksite location.

29.   INSPECTION

SARA or a partnering government entity may require independent inspection by a licensed engineer upon project completion. The firm will verify all materials are incorporated into the project and that the materials conform to the approved plans and specifications. The cost of the independent engineer will be at the cost of SARA or the partnering entity.

30.   CERTIFICATE OF INTERESTED PARTIES

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the SARA Board of Directors, and/or with the amount of the contract being in excess of $1,000,000, will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for any and all contract amendments, extensions or renewals. The awarded respondent(s) will be required to complete and file electronically with the Texas Ethics Commission using the online filing application.


IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT.

31.   NO BOYCOTTING ISRAEL VERIFICATION

Contractor agrees that it does not boycott Israel and will not do so during the term of this Agreement. This provision is in compliance with §2270.001 of the Texas Government Code. The Water System agrees to comply with the United States and Texas Constitutions in consideration of whether to enforce this provision.
32. NON-TERRORIST/IRAN/SUDAN CERTIFICATION

The San Antonio River Authority may not enter into a contract with a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations. Contractor certifies their firm is not listed on the website of the Comptroller of the State of Texas concerning companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. And further certifies that should their firm enter into a contract with a firm listed on the on the Comptrollers’ website which does business with Iran, Sudan, or any Foreign Terrorist Organization, they will immediately notify the San Antonio River Authority.
PART III - ATTACHMENTS

All Attachments and Exhibit 1 are to be returned with submittal.
ATTACHMENT A-BUSINESS QUESTIONNAIRE

Provide the following information regarding the Responders.

(NOTE: Co-Responders are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Responders and should not be identified here. If this submittal includes Co-Responders, provide the required information in this Item #1 for each Co-Responders by copying and inserting an additional block(s) before Item #2.)

1. Contract Information (for formal contracting purposes):

   The following information will be used to write a contract, should your firm be selected for award.

   1. Firm’s Legal Name:

   2. Principal Address:

   3. Telephone No.

   4. Fax No:

   5. Agent Authorized to sign contract (Name):

   6. Authorized Agent’s Job Title

   7. Authorized Agent’s email address:

2. Provide any other names under which responders have operated within the last 10 years and length of time for each:

3. Website address:
4. Organization Class (check):

☐ Individual or Sole Proprietorship, if checked, list Assumed Name, if any:

☐ Partnership

☐ Corporation, if checked check one:

☐ For-Profit

☐ Nonprofit

☐ Domestic

☐ Foreign

5. Federal Employer Identification Number:

6. Texas Comptroller’s Taxpayer Number, if applicable

(NOTE: This 11-digit number is sometimes referred to as the Comptroller’s TIN or TID.)

7. DUNS Number:

8. Date Established:

   • Number of years in business under present name:

9. Provide address of office from which this project would be managed:

   • Principal Address:

   • Telephone No.

   • Fax No:

   • Total Number of Employees:

   • Total Number of Current Clients/Customers:
10. Contact Information: List the one person who SARA may contact contract concerning your submittal:

- Name
- Title
- Address:
- Telephone No:
- Fax No:
- Email address:

11. Does your firm anticipate any mergers, transfers or organization ownership or management reorganization within the next twelve (12) months?

☐ No
☐ Yes

12. Has the firm or any of its principals been debarred or suspending from contracting with any public entity?

☐ No
☐ Yes. If yes, identify the public entity, contact name and phone number of representative familiar with the debarment or suspension, and state the reason for or the circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension:

13. Has the firm ever had a bond or surety canceled or forfeited?

☐ No
☐ Yes. If yes, state name of bonding company, date, amount of bond, and reason for cancellation or forfeiture:

14. Has the firm ever been declared bankrupt or filed for protection from creditors under state of federal proceedings:

☐ No
☐ Yes. If yes, state the date, court jurisdiction, cause number, amount of liabilities and amount of assets:

15. Has the firm ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations?

☐ No
☐ Yes. If “Yes”, state the name of the regulatory body or professional organization, date and reason for disciplinary or impending disciplinary action:

16. Has the firm ever failed to complete any contract awarded?

☐ No
☐ Yes. If yes, state name of the organization contracted with, services/goods contracted, date, contract amount and reason for failing to complete the contract:

17. Has any officer or partner proposed for this project/contract ever failed to complete a contract handled in her or her own name:

☐ No
☐ Yes. If yes, state name of the organization contracted with, services/goods contracted, date, contract amount and reason for failing to complete the contract:

18. Litigation Disclosure:

   a. Has the project manager or any member of the firm’s team to be assigned to this engagement ever been indicted or convicted of a felony of misdemeanor greater than Class C in the last five (5) years?

      ☐ No
      ☐ Yes

   b. Has the project manager or any member of the firm’s team been terminated (for cause or otherwise) from any work being performed by SARA or any other federal, state, or local government, or private entity?

      ☐ No
      ☐ Yes
c. Has the project manager or any member of the firm’s team been involved in any claim or litigation with SARA or any other federal, state or local government, or private entity during the last ten (10) years?

☐ No
☐ Yes

19. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 “General Industry Standards” and/or 29 CFR 1926 “General Construction Standards” as they apply to your Company’s customary activities?


☐ No
☐ Yes

20. Provide details on how firm meets the minimum qualifications stated in Part 1, Section 4.

a. The details must be completed on this form, and shall not point to another document in the respondent’s submittal.

b. Sign below and return form with final submission.

I certify that our firm meets the minimum qualifications as stated in Part 1, Section 4.

_______________________            _____________________          _____________________
Signature                      Company                      Date
ATTACHMENT B-SUBMISSION EXCEPTIONS/CLARIFICATIONS

Any exceptions or clarifications taken to this solicitation must be itemized on the lines below. Additional pages may be added as needed. If there are no exceptions or clarifications, please sign where indicated at the bottom of the page.

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The above exceptions and clarifications (and any additional pages identified) are the ONLY exceptions/clarifications to the specifications. I understand that SARA may not accept additional exceptions produced after final submission of this submittal.

_______________________            _____________________          _____________________
Signature                      Company                              Date

No Exceptions are taken to this solicitation.

_______________________            _____________________          _____________________
Signature                      Company                              Date
ATTACHMENT C - REFERENCES

Bidder, shall list below five (5) recent projects upon which he has performed work similar to that specified herein. All lines for each reference shall be filled in completely with up to date information. Any omissions to this form, discrepancies in reference, or unverifiable information may be ground for disqualification of the Bidder.

1. Project Name: ___________________________________________________________
   Owner: ________________________ Total Contract Cost: $ ______________________
   Location: ______________________ Completion Date: _______________________
   Description of Work: ___________________________________________________
   _______________________________________________________________________
   Contact: ______________________ Phone Number: (___) ______________________

2. Project Name: ___________________________________________________________
   Owner: ________________________ Total Contract Cost: $ ______________________
   Location: ______________________ Completion Date: _______________________
   Description of Work: ___________________________________________________
   _______________________________________________________________________
   Contact: ______________________ Phone Number: (___) ______________________

3. Project Name: ___________________________________________________________
   Owner: ________________________ Total Contract Cost: $ ______________________
   Location: ______________________ Completion Date: _______________________
   Description of Work: ___________________________________________________
   _______________________________________________________________________
   Contact: ______________________ Phone Number: (___) ______________________
4. Project Name:_______________________________________________________________
   Owner: ______________________ Total Contract Cost: $ ______________________
   Location: ______________________ Completion Date: ______________________
   Description of Work: ______________________________________________________
   ________________________________________________________________________
   Contact: ______________________ Phone Number: (____) ______________________

5. Project Name:_______________________________________________________________
   Owner: ______________________ Total Contract Cost: $ ______________________
   Location: ______________________ Completion Date: ______________________
   Description of Work: ______________________________________________________
   ________________________________________________________________________
   Contact: ______________________ Phone Number: (____) ______________________
### ATTACHMENT D- CONFLICT OF INTEREST QUESTIONNAIRE

**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. 23, 84th Leg., Regular Session.

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

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

---

1. **Name of vendor 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 on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3. **Name of local government officer about whom the information in this section is being disclosed.**

   
   Name of Officer

   This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor 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 vendor?

   - Yes
   - No

   B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer 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 one percent or more?

   - Yes
   - No

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

4. **I have no Conflict of Interest to disclose.**

5. **Signature of vendor doing business with the governmental entity**

   ____________________________

   **Date**

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San Antonio River Authority
IFB for Construction of Westside Creeks- Alazan Creek Trail

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ATTACHMENT E – SAFETY RECORD

In accordance with the Texas Health & Safety Code § 756.023, a governing body may consider a Contractor's safety record when awarding bids on a construction project. For the project it has been determined that:

[ ] Excavation does not exceed five (5) feet and the Contractor's safety record is not required.

[X] Excavation exceeds five (5) feet and the Contractor's safety record must be completed for a period including the past ten (10) years concerning trenching and/or shoring requirements.

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<th>INSURING AGENT</th>
<th>CLAIMS INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>POLICY NUMBER</td>
<td>CARRIERS NAME</td>
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<tr>
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<td>CLAIMANT</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td>AMOUNT OF AWARD</td>
</tr>
<tr>
<td></td>
<td>NATURE OF CLAIM</td>
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<td></td>
<td>*GROSS INCOME</td>
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*Contractor is to indicate gross income of associated utilities work during the year in which the claim was made.

Contractor shall report all violations of OSHA Standards:

<table>
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<tr>
<th>DATE</th>
<th>NATURE OF VIOLATION</th>
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<tbody>
<tr>
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<tr>
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</tr>
</tbody>
</table>

Attach supplemental sheets as required should additional space be required.
The Contractor must indicate his overall safety record over the past five (5) years.

<table>
<thead>
<tr>
<th>INSURING AGENT</th>
<th>CLAIMS INFORMATION</th>
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</thead>
<tbody>
<tr>
<td>POLICY NUMBER</td>
<td>CARRIERS NAME</td>
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<tr>
<td></td>
<td>CLAIMANT DATE OF INCIDENT AMOUNT OF AWARD NATURE OF CLAIM</td>
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</table>

*Contractor is to indicate gross income of associated utilities work during the year in which the claim was made.

Contractor shall report all violations of OSHA Standards:

<table>
<thead>
<tr>
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<th>NATURE OF VIOLATION</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

Attach supplemental sheets as required should additional space be required.
ATTACHMENT F – SUBCONTRACTOR DISCLOSURE

CONTRACTOR

ADDRESS

CONTRACT AMOUNTS __________________ LETTING DATE __________________

PROJECT FUNDING INFORMATION (CHECK ALL THAT APPLY) FEDERAL _____ STATE _____ 3RD
PARTY ___

SUBCONTRACTOR

ADDRESS

TELEPHONE ______________ EMAIL ADDRESS ____________________________

DBE ____ HUB ____ SMALL BUSINESS ____ TAX ID.NO. __________

<table>
<thead>
<tr>
<th>ITEMS OF WORK</th>
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<tbody>
<tr>
<td>ITEM NO.</td>
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<tr>
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</table>

<table>
<thead>
<tr>
<th>AMOUNT SUBCONTRACTED</th>
<th>% OF CONTRACT</th>
<th>$ SUBCONTRACTED TO DATE</th>
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</thead>
<tbody>
<tr>
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</tbody>
</table>

EST. BEGIN DATE: ____________ EST. COMPLETED DATE: ________________

Attach additional forms as needed to document subcontractors.
ATTACHMENT G – STATE OF TEXAS SUPPORT CHILD SUPPORT
BUSINESS OWNER FORM

Section 231.006, Family Code, requires that a bid for a contract paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid.

1. In the spaces below please provide the names and social security number of individuals owning 25% or more of the business.

<table>
<thead>
<tr>
<th>Name</th>
<th>Social Security Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Please check the box below if no individual owns 25% or more of the business.

   ( ) No individual own 25% or more of the business.

Except as provided by Section 231.302(d), Family Code, a social security number is confidential and may be disclosed only for the purpose of responding to a request for information from an agency operating under the provisions of Part A and D to Title IV of the Federal Social Security Act (42 USC Section 601-617 and 651-699).

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

The information collected on this form will be maintained by San Antonio River Authority. With few exceptions, you are entitled on request to be informed about the information collected about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under Section 559.004 of the Government Code, you are also entitled to have information about you corrected that you believe is incorrect.

IF THIS PROJECT IS A JOINT VENTURE,
ALL PARTIES TO THE JOINT VENTURE MUST PROVIDE A COMPLETED FORM
ATTACHMENT H - ACKNOWLEDGMENT

The undersigned agrees this submission becomes the property of the San Antonio River Authority (SARA) after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings, attachments, exhibits and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a response.

The undersigned agrees, if this submission is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this submission will be 120 calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this submission has not been prepared in collusion with any other respondent, nor any employee of the SARA, and that the contents of this submission have not been communicated to any other respondent or to any employee of the SARA prior to the acceptance of this submission.

The undersigned hereby assigns to SARA any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications, all exhibits and attachments contained in this solicitation package.

The undersigned affirms that all Attachments submitted are acknowledged, complete and true.

The undersigned agrees that the solicitation package posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the SARA Purchasing Website at: https://www.sara-tx.org/public-information/about-sara/contracting-opportunities/ to ensure they have downloaded and signed all addendum(s) required for submission with their response.

I certify that I have made no willful misrepresentations in this submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this submission will be investigated, with my full permission, and that any misrepresentations or omissions may cause my submission to be rejected.

In submitting a response to SARA, the responder offers and agrees that if the response is accepted, the responder will convey, sell, assign or transfer to SARA all rights, titles and interest in and to all causes to action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of TX for price fixing relating to the particular commodities or services purchased or acquired by SARA. At SARA’s discretion, such assignment shall be made and become effective at the time SARA tenders final payment to the responder.
By signing the proposal the bidder certifies:

1. the only persons or parties interested in this proposal are those named and the bidder has not directly or indirectly participated in collusion, entered into an agreement or otherwise taken any action in restraint of free competitive bidding in connection with the above captioned project.

2. in the event of the award of a contract, the organization represented will secure bonds for the full amount of the contract.

3. the signatory represents and warrants that they are an authorized signatory for the organization for which the bid is submitted and they have full and complete authority to submit this bid on behalf of their firm.


5. that the certifications and representations contained in the proposal are true and accurate and the bidder intends the proposal to be taken as a genuine government record.

Acknowledge receipt of following addenda to the solicitation:

Addendum No 1 Dated _______________________
Received _________________

Addendum No 2 Dated _______________________
Received _________________

Addendum No 3 Dated _______________________
Received _________________

Addendum No 4 Dated _______________________
Received _________________

Addendum No 5 Dated _______________________
Received _________________

Addendum No 6 Dated _______________________
Received _________________

NAME AND ADDRESS OF COMPANY: ____________________________
_________________________________
_________________________________
Tel. No. ____________________________
Email ____________________________

AUTHORIZED REPRESENTATIVE: ____________________________
Signature ____________________________
Date ____________________________
Name ____________________________
Title ____________________________

If Contractor Is a Corporation
(SEAL)
## Exhibit 1
**IFB 00129 - Pricing Sheet for Construction of Alazan Creek Trail**

The respondent shall complete the following highlighted in yellow, which directly corresponds to the specifications. The contractor shall not make changes to this format.

**I. Respondent’s Name:**

**II. Principal Place of Business (City and State):**

**III. Respondent is a Corporation, Partnership, sole Proprietorship, Individual:**

**IV. Days to mobilize to jobsite from receipt of Notice to Proceed (Calendar Days):**

**V. Days to Substantial Completion, from mobilization on jobsite (Calendar Days):**

**IV. Total Calendar Days to Substantial Completion:**

### MOBILIZATION:

<table>
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<th>Item</th>
<th>Spec</th>
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<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>1</td>
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<td>1</td>
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<tr>
<td>2</td>
<td>PAYMENT BOND, PERFORMANCE BOND AND INSURANCE</td>
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<td>LS</td>
<td>$</td>
<td>-</td>
<td></td>
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<tr>
<td>3</td>
<td>MAINTENANCE BOND</td>
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<td>LS</td>
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<td>-</td>
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### DEMOLITION SUMMARY:

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<td>4</td>
<td>0100.2002</td>
<td>PREPARING ROW</td>
<td>158</td>
<td>STA</td>
<td>$</td>
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<tr>
<td>5</td>
<td>0104.6009</td>
<td>REMOVING CONC (RIPRAP)</td>
<td>1314</td>
<td>SY</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td>6</td>
<td>0104.6015</td>
<td>REMOVING CONC (SIDEWALKS)</td>
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<td>SY</td>
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<td>-</td>
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<tr>
<td>7</td>
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<td>624</td>
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<td>-</td>
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<tr>
<td>8</td>
<td>0105.6008</td>
<td>REMOVING STAB BASE AND ASPH PAV (6')</td>
<td>284 LF</td>
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<td>-</td>
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<tr>
<td>9</td>
<td>0700.6001</td>
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<td>10</td>
<td>0550.6003</td>
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<td>-</td>
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<td>11</td>
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<td>1</td>
<td>ST</td>
<td>$</td>
<td>-</td>
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<td>12</td>
<td>0542.6001</td>
<td>REMOVE METAL BEAM GUARD FENCE</td>
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<td>13</td>
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<td>1</td>
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<td>14</td>
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<td>REMOVE STR (PIPE)</td>
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<td>LF</td>
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**Total:**

### TRAIL SUMMARY:

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<td>17</td>
<td>0531.6003</td>
<td>CONCRETE SIDEWALK (TRAIL)</td>
<td>17805</td>
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<td>-</td>
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<tr>
<td>18</td>
<td>0423.6015</td>
<td>RETAINING WALL (SPECIAL) (0-2 FT)</td>
<td>2969</td>
<td>SF</td>
<td>$</td>
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<tr>
<td>20</td>
<td>0423.6015</td>
<td>RETAINING WALL (SPECIAL) (4-5 FT)</td>
<td>5797</td>
<td>SF</td>
<td>$</td>
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<tr>
<td>21</td>
<td>0465.6233</td>
<td>INLET (COMP) (TY SIDEWALK BRIDGE)</td>
<td>2</td>
<td>EA</td>
<td>$</td>
<td>-</td>
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<tr>
<td>22</td>
<td>7056.6102</td>
<td>CONCRETE ENCAEMENT</td>
<td>16</td>
<td>CY</td>
<td>$</td>
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<tr>
<td>23</td>
<td>0530.105.1</td>
<td>CONCRETE RIPRAP (5' THICK)</td>
<td>1918</td>
<td>SY</td>
<td>$</td>
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<tr>
<td>24</td>
<td>SS 1536.2100</td>
<td>4 INCH WIDE GREEN LINE</td>
<td>287</td>
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<tr>
<td>25</td>
<td>SAWS 858</td>
<td>CONCRETE SADDLE</td>
<td>27</td>
<td>CY</td>
<td>$</td>
<td>-</td>
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<tr>
<td>26</td>
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<td>INLET (COMP) (SPEC B)</td>
<td>24</td>
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<td>$</td>
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<td>INLET (COMP) (SPEC A)</td>
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<td>0530.502.3</td>
<td>SIDEWALK DRAFT (TY B)</td>
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<td>29</td>
<td>0466.2008</td>
<td>WINDOW WALL (6 FT X 6 FT)</td>
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<tr>
<td>30</td>
<td>0466.1959</td>
<td>WINDOW WALL (6 FT X 6 FT)</td>
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<td>EA</td>
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<tr>
<td>31</td>
<td>0462.6010</td>
<td>CONCRETE CURB (6 FT X 3 FT)</td>
<td>32</td>
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<tr>
<td>32</td>
<td>0450.6102</td>
<td>END CAP (TY 11)</td>
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<tr>
<td>33</td>
<td>SAWS 851</td>
<td>ADJMENT OF existing MANHOLES</td>
<td>1</td>
<td>EA</td>
<td>$</td>
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<tr>
<td>34</td>
<td>SAW51</td>
<td>RECONSTRUCTION OF existing MANHOLES</td>
<td>2</td>
<td>EA</td>
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**Total:**

### DRAINAGE SUMMARY:

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<th>Unit</th>
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<th>Total</th>
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<tbody>
<tr>
<td>35</td>
<td>0460.6010</td>
<td>CONCRETE BOX (6' X 3')</td>
<td>187</td>
<td>LF</td>
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<td>-</td>
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<tr>
<td>36</td>
<td>0466.6208</td>
<td>WINDOW WALL (6' X 6')</td>
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<td>$</td>
<td>-</td>
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<tr>
<td>37</td>
<td>0466.6209</td>
<td>WINDOW WALL (6' X 6')</td>
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<td>EA</td>
<td>$</td>
<td>-</td>
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<tr>
<td>38</td>
<td>0530.501.1</td>
<td>RIP RAP (CONC) (5 IN)</td>
<td>937</td>
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**Total:**

### TRAFFIC SUMMARY:

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<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
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<tbody>
<tr>
<td>39</td>
<td>0650.403.10</td>
<td>INLET (COMPLETE) 20'</td>
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<td>EA</td>
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<tr>
<td>40</td>
<td>0464.6005</td>
<td>RC PIPE (CL III) (24 IN)</td>
<td>8</td>
<td>LF</td>
<td>$</td>
<td>-</td>
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<tr>
<td>41</td>
<td>SS 801.002</td>
<td>SPECIALTY PAVING TYPE 'B'</td>
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<td>SY</td>
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<td>-</td>
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<tr>
<td>42</td>
<td>0529.6001</td>
<td>CONC CURB (TY 3)</td>
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<td>43</td>
<td>0531.6002</td>
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<td>CURB RAMPS (TY 1)</td>
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<td>EA</td>
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</table>
**Exhibit 1**

**IFB 00129 - Pricing Sheet for Construction of Alazan Creek Trail**

<table>
<thead>
<tr>
<th>Item</th>
<th>Spec</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
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<td>46</td>
<td>SS 1516.2400</td>
<td>3 INCH WIDE YELLOW LINE DASHED</td>
<td>260</td>
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<tr>
<td>47</td>
<td>COSA 536.1</td>
<td>4 INCH WIDE YELLOW LINE</td>
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<td>SS 1516.2300</td>
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<td>51</td>
<td>SS 1516.1800</td>
<td>WORD &quot;STOP&quot; (PER WORD)</td>
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<td>$</td>
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<td>52</td>
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<td>SIGN</td>
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<td>SF</td>
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<td>O066.6042</td>
<td>REF PAV MRK TY1 (W) 12&quot; (SLD) (100 MIL)</td>
<td>280</td>
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**Total**

| $ | $ |

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**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):**

<table>
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**Total**

| $ | $ |

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**Total**

| $ | $ |
### Exhibit 1
**IFB 00129 - Pricing Sheet for Construction of Alazan Creek Trail**

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**Total**

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**Total**

**BASE PROJECT TOTAL**

**CITY OF SAN ANTONIO JOINT BID ITEMS:**

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**Project Allowances Total**

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<th>Unit Price</th>
<th>Total</th>
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<tr>
<td>141</td>
<td>0531.6003 CONCRETE SIDEWALK (TRAIL)</td>
<td>301</td>
<td>SY</td>
<td>$</td>
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<tr>
<td>142</td>
<td>0423.6015 RETAINING WALL (SPECIAL) (0-2 FT)</td>
<td>52</td>
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<td>148</td>
<td>SS 804.000 PEDESTRIAN LIGHT</td>
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<td>149</td>
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<td>SS 805.003 WAYFINDING SIGNAGE</td>
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<td>SS 806.001 TRASH RECEPTACLES</td>
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<td>154</td>
<td>SS 806.002 PET WASTE STATION</td>
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<td>157</td>
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### Exhibit 1
IFB 00129 - Pricing Sheet for Construction of Alazan Creek Trail

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Quantity</th>
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<td>158</td>
<td>LANDSCAPE BOULDERS</td>
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<td>159</td>
<td>LANDSCAPE BOULDER WALL</td>
<td>42</td>
<td>LF</td>
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<td>160</td>
<td>ANTI-GRAFFITI COATING</td>
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<td>161</td>
<td>ELECTRICAL (E1.03)</td>
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<td>LS</td>
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**Alternate 2 Total** $ -

**ADDITIVE ALTERNATE 3:**

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<th>Item</th>
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<td>167</td>
<td>CONCRETE PAINT FINISH</td>
<td>31286</td>
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</table>

**Alternate 3 Total** $ -

**Base Bid Total** $ -

**Base Bid Plus Joint Bid, Allowances, Alternate 1, Alternate 2 and Alternate 3 Total** $ -

*NOTE: PLEASE SAVE THIS EXHIBIT 1 AS AN EXCEL FILE AND SUBMIT ELECTRONICALLY*
CONTRACT DOCUMENTS AND SPECIFICATIONS

FOR THE

Project Name Here

Contract No. C190XXX

PREPARED BY:
SAN ANTONIO RIVER AUTHORITY
100 EAST GUENTHER STREET
SAN ANTONIO, TEXAS 78204
# PROJECT NAME HERE

## PART 1 – GENERAL PROVISIONS

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<th>PAGE NUMBER</th>
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<td>AB-6</td>
</tr>
<tr>
<td>Senate Bill 252 - GC 2252 Certification (Exhibit C)</td>
<td>AB-7</td>
</tr>
<tr>
<td>Performance Bond (Exhibit D)</td>
<td>AB-8 to AB-9</td>
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<td>Payment Bond (Exhibit E)</td>
<td>AB-10 to AB-11</td>
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<tr>
<td>Maintenance Bond (Exhibit F)</td>
<td>AB-12 to AB-13</td>
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<tr>
<td>Certificate of Insurance (Exhibit G)</td>
<td>AB-14 to AB-17</td>
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<tr>
<td>State and Local Sales Tax Exemption Certificate</td>
<td>AB-18</td>
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<tr>
<td>Intent of Award</td>
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<tr>
<td>General Conditions (Table of Contents)</td>
<td>GC-TOC-1</td>
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<tr>
<td>General Conditions</td>
<td>GC-1 to GC-39</td>
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<td>Supplementary Conditions (Table of Contents)</td>
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<td>Supplementary Conditions</td>
<td>SC-1 to SC-3</td>
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<tr>
<td>Wage Determination Decision</td>
<td>W-1 to W-5</td>
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<td>Measure and Payment</td>
<td>MP-1 to MP-2</td>
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<tr>
<td>FHWA 1273 Federal Provisions (Exhibit H)</td>
<td>1 - 12</td>
</tr>
<tr>
<td>Contractor Bid (Exhibit A – Attached Separately)</td>
<td></td>
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</tbody>
</table>
AGREEMENT

STATE OF TEXAS  §
COUNTY OF BEXAR §

THIS AGREEMENT is dated as of the ______ day of _____________ in the year 2019 by and between the SAN ANTONIO RIVER AUTHORITY, acting through its General Manager, thereunto duly authorized so to do, Party of the First Part, hereinafter called "RIVER AUTHORITY," and _______________, Party of the Second Part, hereinafter called "CONTRACTOR."

RIVER AUTHORITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: _____________________.

ARTICLE 2. PROJECT MANAGER.

The Project has been designed by the RIVER AUTHORITY. PROJECT MANAGER shall have the right to delegate the duties, responsibilities, and authority to others, as they deem necessary.

ARTICLE 3. CONTRACT TIME.

3.1 The Contractor shall achieve Substantial Completion of the construction of the _____________________ within _____________________ calendar days after the date when the Contract Time commences to run as provided in Article 2.3 of the General Conditions, and shall achieve Final Completion of the construction of the _____________________ within _____________________ calendar days after the date when the Contract Time commences to run as provided in Article 2.3 of the General Conditions.

3.2 Liquidated Damages. RIVER AUTHORITY and CONTRACTOR recognize that time is of the essence with respect to the Substantial Completion and Final Completion dates for the Project. Failure to achieve the applicable dates specified in Article 3.1 above, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions will result in the assessment of delay liquidated damages ("Delay Liquidated Damages"), established in this agreement, or as otherwise agreed upon by the Parties in any amendment ("Amendment"). They also recognize the delays, expense, and difficulties involved in quantifying the actual loss suffered by RIVER AUTHORITY if the Work is not substantially complete on Time. Accordingly, instead of requiring any such proof, RIVER AUTHORITY and CONTRACTOR agree that CONTRACTOR shall pay RIVER AUTHORITY liquidated damages for delay (but not as a penalty) in the applicable amounts set forth in Article 14 of the Supplementary Conditions.
ARTICLE 4. CONTRACT PRICE.

4.1 RIVER AUTHORITY shall pay CONTRACTOR for performance of the Work in accordance with Exhibit "A" and the Contract Documents in current funds. The bid prices based on estimated quantities and the CONTRACTOR unit prices are:

MATERIALS: $_____________________

SERVICES: $_____________________

As shown in Exhibit "A" – ___________________

ARTICLE 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 13 of the General Conditions. Applications for Payment will be processed by PROJECT MANAGER as provided in Article 13 of the General Conditions.

5.1 Progress Payments. RIVER AUTHORITY shall make progress payments on account of the Contract Price based on CONTRACTOR Applications for Payment as recommended by PROJECT MANAGER and in accordance with Article 13 of the General Conditions. All progress of the Work shall be measured by the schedule of values provided for in Article 13.1 of the General Conditions.

5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to:

NINETY percent (90%) of the Work completed, and

NINETY percent (90%) of the approved materials and equipment on hand not incorporated in the Work but delivered and suitably stored in accordance with Article 5 of the Supplementary Conditions, less in each case the aggregate of payments previously made.

5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with Article 13.13 of the General Conditions, RIVER AUTHORITY shall pay the remainder of the Contract Price as recommended by PROJECT MANAGER as provided in said Article 13.13.

5.3 The RIVER AUTHORITY will not pay any indirect charges over the subcontractor bill. A copy of all subcontractor invoices must be included with request for reimbursement.

ARTICLE 6. INTEREST.

All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

ARTICLE 7. CONTRACTOR REPRESENTATIONS.

In order to induce RIVER AUTHORITY to enter into this Agreement CONTRACTOR makes the following representations:
7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the Work.

7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the sites or otherwise affecting cost, progress, or performance of the Work which were relied upon by PROJECT MANAGER in the preparation of the Plans and Specifications and which have been identified in the Supplementary Conditions.

7.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in Article 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.

7.5 CONTRACTOR has given PROJECT MANAGER written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by PROJECT MANAGER is acceptable to CONTRACTOR.

ARTICLE 8. CONTRACT DOCUMENTS.

The Contract Documents, which comprise the entire agreement between RIVER AUTHORITY and CONTRACTOR, are attached to this Agreement, made a part hereof and consists of the following:

8.1 This Agreement (AB-1 to AB-5, inclusive).

8.2 Exhibits to this Agreement:


8.3 CONTRACTOR Bid (not numbered) marked Exhibit "A." (Attached separately)

8.4 Notice of Award.

8.5 Notice to Proceed. (Provided separately)

8.6 General Conditions (GC-1 to GC-39, inclusive).

8.7 Supplementary Conditions (SC-1 to SC-3, inclusive).

8.8 Wage Determination Decision (W-1 to W-5).

AB-3
8.9 Measurement and Payment (MP-1 to MP-2).

8.10 Addenda.

8.11 Specifications bearing the title Contract Documents and Specifications for the _____________________.

8.12 Plans, consisting of the attached plan sheets: Attachment A – _____________________.

8.13 Any Modification, including Change Orders, duly authorized and delivered after execution of Agreement.

There are no Contract Documents other than those listed above in Article 8. The Contract Documents may only be altered, amended, or repealed by a Modification (as defined in Article 3.1 of the General Conditions).

ARTICLE 9. ABANDONEMENT OF WORK OR DEFAULT OF CONTRACT

RIVER AUTHORITY may declare the CONTRACTOR to be in default of the Contract if the CONTRACTOR:

• fails to begin the work within the number of days specified,
• fails to prosecute the work to assure completion within the number of days specified,
• fails to perform the work in accordance with the Contract requirements,
• neglects or refuses to remove and replace rejected materials or unacceptable work,
• discontinues the prosecution of the work without the Engineer’s approval
• makes an unauthorized assignment,
• fails to resume work that has been discontinued within a reasonable number of days after notice to do so,
• is uncooperative, disruptive or threatening, or
• fails to conduct the work in an acceptable manner.

If any of these conditions occur, the RIVER AUTHORITY will give notice in writing to the CONTRACTOR and the Surety of the intent to declare the CONTRACTOR in default. If the CONTRACTOR does not proceed as directed within 10 days after the notice, the RIVER AUTHORITY may upon written notice declare the CONTRACTOR to be in default of the Contract. The RIVER AUTHORITY will also provide written notice of default to the Surety. Working day charges will continue until completion of the Contract.

ARTICLE 10. MISCELLANEOUS.

10.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, shall have the meanings indicated in the General Conditions.

10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

AB-4
10.3 RIVER AUTHORITY and CONTRACTOR each binds himself, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

10.4 CONTRACTOR is required to make any information created or exchanged with the RIVER AUTHORITY pursuant to this contract, and not otherwise subject to exception from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the RIVER AUTHORITY.

ARTICLE 11. OTHER PROVISIONS.

IN WITNESS WHEREOF, duly authorized representatives of the parties hereto have signed this Agreement. The original copy has been delivered to RIVER AUTHORITY and a copy sent to CONTRACTOR and PROJECT MANAGER. All portions of the Contract Documents have been signed or identified by RIVER AUTHORITY and CONTRACTOR or by PROJECT MANAGER on their behalf.

This Agreement will be effective on ____________, 2019.

SAN ANTONIO RIVER AUTHORITY:

By: ____________________________  Attest: ____________________________
    SUZANNE B. SCOTT
    General Manager

Approved as to form:

By: ____________________________
    ALLISON ELDER
    Director of Legal Services

CONTRACTOR:

By: ____________________________  Attest: ____________________________
    ____________________________
    Secretary

SAN ANTONIO RIVER AUTHORITY
ADDRESS FOR GIVING NOTICES:

100 E. Guenther St.  ____________________________
San Antonio, Texas  78204

CONTRACTOR NAME
ADDRESS FOR GIVING NOTICES:

________________________________________

License No. ____________________________

Agent for service of process:

Name: ____________________________
I, ____________________, the undersigned representative of ________________________ (hereafter referred to as company), being an adult over the age of eighteen (18) years of age, verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract the above-named Company, business or individual with the San Antonio River Authority.

Pursuant to Section 2270.001, Texas Government Code:

1. “Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

2. “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

___________________________________
Name of Company Representative (Print)

___________________________________
Signature of Company Representative

____________________
Date
SENATE BILL 252 – GC 2252 CERTIFICATION

I, _________________________, the undersigned representative of ____________________________

(Company or business name) being an adult over the age of eighteen (18) years of age, pursuant to Texas
Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named
above is not listed on the website of the Comptroller of the State of Texas concerning the listing of
companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify
that should the above-named company enter into a contract that is on said listing of companies on the
website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist
Organization, I will immediately notify the San Antonio River Authority Contract Officer.

___________________________________
Name of Company Representative (Print)

___________________________________
Signature of Company Representative

____________________
Date
STATE OF TEXAS §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

That we, ____________________________, as Principal, and ____________________________, as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the RIVER AUTHORITY, a political subdivision of the State of Texas domiciled in Bexar County, Texas, in the sum of DOLLARS ($__________) for the payment of which sum will and truly to be made in and unto said RIVER AUTHORITY, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns and successors, jointly and severally;

THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said ____________________________, hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said RIVER AUTHORITY for the construction and completion for said RIVER AUTHORITY of certain structures, work and improvements generally described as the ____________________________ and for the performance and observance of diverse other matters and things in connection with said work; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation;

NOW, THEREFORE, if Contractor, the principal party of this obligation, shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work and improvements then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the Principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had herein for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liabilities of the sureties of this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of

AB-8
the RIVER AUTHORITY any right or remedy provided by the contract or specifications or by any law or ordinance.

IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this ______ day of ______________, A.D., 2019.

Contractor and Principals

By _________________________________

Title _______________________________

Sureties

By _________________________________

Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the ____________ day of ____________________, A.D., 2019.

SAN ANTONIO RIVER AUTHORITY

By _________________________________

General Manager
STATE OF TEXAS §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

1. That we, ________________________, as Principal, and ____________________________, as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the RIVER AUTHORITY, a political subdivision of the State of Texas domiciled in Bexar County, Texas, in the sum of DOLLARS ($__________) for the payment of which sum will and truly to be made in and unto said RIVER AUTHORITY, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns and successors, jointly and severally;

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said ________________________ , hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said RIVER AUTHORITY for the construction and completion for said RIVER AUTHORITY of certain structures, work and improvements generally described as the ___________________ for the performance and observance of diverse other matters and things in connection with said work, and interalia, therein entered into covenants and agreements to promptly pay all persons supplying labor, materials, and services in the prosecution of the work provided for in said contract; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation;

3. NOW, THEREFORE, if Contractor, the principal party of this obligation, shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, work and improvements then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous obligation against the Principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had herein for each and every breach of this bond until the full amount thereof shall have been exhausted; and the liabilities of the sureties of this bond shall not
be in any manner released or diminished by any changes in the work which may be authorized or directed by the RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of the RIVER AUTHORITY, any right or remedy provided by the contract or specifications or by any law or ordinance.

4. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this _________ day of ________________, A.D., 2019.

   Contractor and Principals

   By ______________________________

   Title ______________________________

   Sureties

   By ______________________________

   Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the ____________ day of ________________, A.D., 2019.

   SAN ANTONIO RIVER AUTHORITY

   By ______________________________

   General Manager
STATE OF TEXAS §
COUNTY OF BEXAR §

KNOW ALL MEN BY THESE PRESENTS:

1. That we, ________________________, as Principal, and ________________________, as Sureties, do hereby acknowledge ourselves to be held and firmly bound unto the RIVER AUTHORITY, a political subdivision of the State of Texas domiciled in Bexar County, Texas, in the sum of DOLLARS ($_______) for the payment of which sum will and truly to be made in and unto said RIVER AUTHORITY, we do hereby bind and obligate ourselves, our heirs, executors, administrators, assigns and successors, jointly and severally;

2. THE CONDITIONS OF THIS BOND, HOWEVER, ARE SUCH THAT WHEREAS, the said ________________________, hereinafter called Contractor or Principal, has made and does this day make and enter into a certain contract in writing with said RIVER AUTHORITY for the construction and completion for said RIVER AUTHORITY of certain structures, work and improvements generally described as _____________________ and for the performance and observance of diverse other matters and things in connection with said work, and interalia, therein entered into certain covenants and agreements for the guaranty of the sound condition of said structures, work and improvements included under said contract; all as more fully described in said contract and its included instruments which are expressly made a part of this obligation;

3. NOW, THEREFORE, if Contractor, the principal party of this obligation, shall faithfully construct and complete said structures, work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said contract and all included instruments according to their intent and purpose insofar as the same relate to the guaranty of the sound condition of said structures, work or improvements or any part thereof, or are applicable to any of the work required therefore or anything incident thereto, then and thereupon this obligation shall be and become null and void, but otherwise to remain in full force and effect; and it is hereby further understood and agreed that this bond shall be a continuous against obligation the Principal and each member of said principal party hereto, and each and all sureties hereon, and that successive recoveries may be had herein for each and every breach of this bond until the full amount thereof
shall have been exhausted; and the liabilities of the sureties of this bond shall not be in any manner released or diminished by any changes in the work which may be authorized or directed by the RIVER AUTHORITY, nor by the exercise or failure to exercise by or on behalf of the RIVER AUTHORITY any right or remedy provided by the contract or specifications or by any law or ordinance.

4. IN TESTIMONY WHEREOF, witness our hands and the seal of any incorporated surety hereon this ______ day of ________________, A.D., 2019.

Contractor and Principals

By _________________________________________
Title ________________________________________
Sureties

By _________________________________________
Agent

5. The foregoing bond is APPROVED AND ACCEPTED this the ____________ day of ________________, A.D., 2019.

SAN ANTONIO RIVER AUTHORITY

By _________________________________________
General Manager
SAN ANTONIO RIVER AUTHORITY
OUTLINE OF INSURANCE REQUIRED

(Actual certificate to be issued by Contractor's Insurance Company)

CONTRACTOR shall maintain, at its own cost and expense, such insurance as will protect CONTRACTOR from all claims for damages to persons and to property that may arise from any operations under this Contract, or any of its subcontracts. The following are the types of insurance policies and the minimum limits of insurance coverage that shall be maintained by CONTRACTOR during the entire term of the Contract:

<table>
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<tr>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>EFFECTIVE DATE</th>
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<tbody>
<tr>
<td>Workers’ Compensation and Employer's Liability Insurance</td>
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A. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers’ compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the CONTRACTOR work on the project has been completed and accepted by the RIVER AUTHORITY.

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

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

C. The CONTRACTOR must provide a certificate of coverage to the RIVER AUTHORITY prior to being awarded the contract.
D. If the coverage period shown on the CONTRACTORS current certificate of coverage ends during the duration of the project, the CONTRACTOR must, prior to the end of the coverage period, file a new certificate of coverage with the RIVER AUTHORITY showing that coverage has been extended.

E. The CONTRACTOR shall obtain from each period providing services on the project, and provide to the RIVER AUTHORITY:
1. a certificate of coverage, prior to that person beginning work on the project, so the RIVER AUTHORITY will have a file certificate of coverage showing coverage for all persons providing services on the project; and
2. no later than seven days after receipt by the CONTRACTOR, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The CONTRACTOR shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The CONTRACTOR shall notify the RIVER AUTHORITY in writing by certified mail or personal delivery, within 10 days after the CONTRACTOR knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

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

I. The CONTRACTOR shall contractually require each person with whom it contracts to provide services on a project to:
1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
2. provide to the CONTRACTOR, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
3. provide the CONTRACTOR, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
4. obtain from each other person with whom it contracts, and provide to the CONTRACTOR:
   a. a certificate of coverage, prior to the other person beginning work on the project; and
   b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period if the coverage period shown on the current certificate of coverage ends during the duration of the project;
5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
6. notify the RIVER AUTHORITY in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
7. contractually require each person with whom it contracts, to perform as required by paragraphs 1 - 7, with the certificates of coverage to the provided to the person for whom they are providing services.
J. By signing this contract or providing or causing to be provided a certificate of coverage, the CONTRACTOR is representing to the RIVER AUTHORITY that all employees of the CONTRACTOR who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the CONTRACTOR to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The CONTRACTOR’S failure to comply with any of these provisions is a breach of contract by the CONTRACTOR that entitles the RIVER AUTHORITY to declare the contract void if the CONTRACTOR does not remedy the breach within ten days after receipt of notice of breach from the RIVER AUTHORITY.

(In accordance with all applicable State and Federal laws and endorsed specifically to include the following:

1. Employer's liability, including occupational disease, subject to a limit of liability of not less than $500,000
2. Waiver of subrogation against the RIVER AUTHORITY.

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<tr>
<td>Comprehensive General Liability Insurance</td>
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(With limits of liability for bodily injury of not less than $500,000 any one occurrence, and for property damage of not less than $250,000 any one occurrence, and $1,000,000 aggregate. Such insurance shall include the following:

1. CONTRACTOR’S protective liability, covering liability for work sublet.
2. Contractual liability, insuring the indemnity agreements contained in this Contract.
3. Coverage for damage due to collapse of or structural injury to any building or structure due to excavation, tunneling, pile driving, cofferdam or caisson work or dredging; to moving, shoring, underpinning, raising, or demolition of any building or structure, or removal or rebuilding of any structural support thereof; to blasting or explosions; or to wires, conduits, pipes, mains, sewers, tanks, tunnels or any other property below the surface of the ground.
4. Waiver of subrogation against the RIVER AUTHORITY (SARA.).

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<tr>
<td>Comprehensive Automobile Liability Insurance</td>
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(With limits of liability for bodily injury of not less than $500,000 combined, and for property damage of not less than $250,000 any one occurrence. Such coverage shall include owned, hired, and non-owned vehicles. Policy shall be endorsed as follows:

1. Waiver of subrogation against the RIVER AUTHORITY (SARA)
2. RIVER AUTHORITY (SARA) shall be shown as additional insured.)

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<tbody>
<tr>
<td>Builders Risk Insurance</td>
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(CONTRACTOR shall procure at his expense an "All Risk" Builders Risk policy for the full value of this Contract to protect the work, and shall include the materials and supplies stored on and off the job site or in transit, and shall remain in force until final completion of the work and acceptance by the RIVER AUTHORITY. Policy to be endorsed as follows:

1. Waiver of subrogation against the RIVER AUTHORITY (SARA)
2. RIVER AUTHORITY (SARA) shall be shown as additional insured and claims, if any, to be paid to RIVER AUTHORITY as trustee for the insured.)

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(Any other insurance coverage as outlined in the Supplementary Conditions OR the Notice of Award of these Contract Documents)

All insurance shall contain a provision that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days' prior written notice has been given to RIVER AUTHORITY and PROJECT MANAGER. All such insurance shall remain in effect until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with Article 12.12 of the General Conditions. In addition, CONTRACTOR shall maintain such completed operations insurance for at least two (2) years after final payment and furnish RIVER AUTHORITY with evidence of continuation of such insurance at final payment and one (1) year thereafter.

Prior to commencing any work, CONTRACTOR shall furnish to RIVER AUTHORITY at the address shown below Certificates of Insurance under all such policies, certifying compliance with the minimum coverage outlined above. All policies shall also be endorsed to provide that in the event of cancellation or reduction of coverage during the policy period, 30 days' advance written notice of such cancellation or reduction will be mailed to the San Antonio River Authority, Contract Officer, 100 E. Guenther Street, San Antonio, Texas, 78204.

Insurance shall be carried with financially responsible insurance companies, licensed in the State of Texas, with an A.M. Best Rating of A (-) VI or better, if RIVER AUTHORITY has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR in accordance with Articles 5.3 and 5.4 of the General Conditions on the basis of its not complying with the Contract Documents, RIVER AUTHORITY will notify CONTRACTOR in writing thereof. CONTRACTOR will provide to RIVER AUTHORITY such additional information in respect of insurance provided by him as RIVER AUTHORITY may reasonably request.
STATE AND LOCAL SALES TAX EXEMPTION CERTIFICATE

SAN ANTONIO RIVER AUTHORITY

PROJECT TITLE: _____________________

This contract is to be performed for an exempt organization as defined by Texas Tax Code § 151.309 and the undersigned hereby claims an exemption from payment of taxes under the said section and Texas Tax Code § 321.208.

The San Antonio River Authority is a political subdivision of the State of Texas, which is the reason for this claim of exemption from the Sales Tax. The San Antonio River Authority tax-exempt number is 74-6011311.

The Contractor performing this contract may purchase all materials and supplies consumed in the performance of this contract by issuing to his retailer an exempt certificate in lieu of the tax, said exemption certificate complying with State Comptroller's Ruling No. 95-9.07. Any such exemption certificate issued by the Contractor in lieu of the tax shall be subject to the provisions of the State Comptroller's Ruling No. 95-0.09 as amended to be effective October 2, 1968.

The Contractor will be liable for payment of the Limited Sales and Use Tax if the Contractor uses the goods and services in some other manner for some other use than the reason listed above, and shall pay the tax based on the price paid for the goods and services.

Executed this the ______ day of ______________________, 2019.

SAN ANTONIO RIVER AUTHORITY

By    _________________________________________

WILLIAM J. KIBE
Contract Officer
San Antonio River Authority
100 E Guenther Street
San Antonio, Texas   78204
Intent to Award

Date: Month Day, 2019

Ref: Request for Bid: _____________________

Contractor:

This is to advise you of our intent to award you a contract for the _____________________, RFB # 00128, in accordance with your bid received on Month day, 2019. The amount of your contract is a not to exceed $XXX,XXX.

The contract was presented and approved by the San Antonio River Authority Board on December 19, 2018.

Sincerely,

William J. Kibe
William J. Kibe
Contract Officer
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<td>Article 23 - Accidents</td>
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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

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

AASHTO: American Association of State Highway and Transportation Officials.

Addenda: Written or graphic instruments issued prior to the opening of Bids that clarify, correct, or change the bidding documents or the Contract Documents.

Agreement: The written agreement between RIVER AUTHORITY and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

Application for Payment: The form accepted by PROJECT MANAGER which is to be used by CONTRACTOR in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

ASTM: American Society of Testing Materials

AWS: American Welding Society.

Bid: The offer or proposal of the Bidder submitted in duplicate on the prescribed form setting forth the prices for the Work to be performed, as described in the plans and specifications

Bidder: Any individual, partnership, corporation, etc., submitting a bid.

Bid Guaranty: A cashiers or certified check in the amount of five (5%) percent of the total bid, payable to the RIVER AUTHORITY, or an acceptable bid bond for the same, as a guarantee that the bidder will enter into a contract and furnish all required bonds within a specific time.

Bonds: Bid, performance, payment and maintenance bonds and other instruments of security.

Change Order: A written order to CONTRACTOR signed by RIVER AUTHORITY authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after the effective date of the Agreement.

Contract: The agreement between the RIVER AUTHORITY and the CONTRACTOR covering the furnishing of material and performance of the work. The Contract will include the Plans, Specifications, Contract Bonds, and Change Orders.

Contract Documents: The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications, the Drawings/Plans as the same are more specifically identified in the Agreement, together with all Modifications issued after the execution of the Agreement.
Contract Price: The moneys payable by RIVER AUTHORITY to CONTRACTOR under the Contract Documents as stated in the Agreement.

Contract Time: The number of days (computed as provided in Article 16.2) or the date stated in the Agreement for the completion of the Work.

CONTRACTOR: The person, firm, or corporation with whom RIVER AUTHORITY has entered into the Agreement.

Day (Calendar): A day of twenty-four hours measured from midnight to the following midnight.

Day (Working): A working day of eleven hours as measured from seven o'clock a.m. to six o'clock p.m. on weekdays, excluding federal holidays.

Defective: An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to PROJECT MANAGER recommendation of final payment.

Drawings: The documents which show the character and scope of the Work to be performed and which have been prepared or approved by PROJECT MANAGER and are referred to in the Contract Documents.

Effective Date of the Agreement: The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed by the last of the two parties to sign and deliver.

ENGINEER: The person, firm, or corporation named as such in the Agreement.

Field Order: A written order issued by PROJECT MANAGER which orders minor changes in the Work in accordance with Article 9.2 but which does not involve a change in the Contract Price or the Contract Time.

Field Representative: Any person designated by general manager or chief Project Manager to oversee construction of project.

General Conditions: Detailed instructions to the CONTRACTOR setting forth their responsibility and the RIVER AUTHORITY'S responsibility for proper execution of the work.

General Requirements: Sections of Division 1 of the Specifications.

Laboratory: Any testing location that may be designated or approved by the Project Manager.

Local Authorities: Local municipalities, including but not necessarily limited to, Bexar County and the City of San Antonio. Also including local fire, police, water departments, and other utilities.

Major Item: "Major Item" shall be construed to be any individual bid item incurred in the bid that has a total cost equal to or greater than five percent (5%) of the total contract cost, computed based on the bid quantities and the contract unit price.

Modification: (a) a written amendment of the Contract Documents signed by both parties, (b) a Change Order, or (c) a Field Order. A modification may only be issued after the effective date of the Agreement.
Notice of Award: The written confirmation of award by RIVER AUTHORITY to the successful Bidder, stating the amount of the award, the award date and when the contract will be executed.

Notice to Proceed: A written notice given by RIVER AUTHORITY to CONTRACTOR and PROJECT MANAGER, fixing the date on which the Contract Time will commence and on which CONTRACTOR shall start to perform their obligation under the Contract Documents.

OSHA: The Occupational Safety and Health Administration.

RIVER AUTHORITY: The San Antonio River Authority, a political subdivision of the State of Texas. The public body or authority, corporation, association, partnership, or individual with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

Plans: The drawings or true reproductions thereof, which show the location, character, dimensions, and details of the work and which a part of the contract are.

Project: The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

PROJECT MANAGER: The person, firm, or corporation named as such in the Agreement.

Resident Project Representative/Inspector: The authorized representative of PROJECT MANAGER who is assigned to the site or any part thereof.

SAWS: San Antonio Water System. Water Works Board of Trustees of the City of San Antonio.

Separated Contract: A contract in which the agreed contract price is divided into the cost of materials and tangible equipment and skill and labor.

Sequence of Construction: The logical and proper order in which the work shall be accomplished, by stages and phases, by the CONTRACTOR, as outlined in the Supplementary Conditions and/or shown on the plans, unless ordered to do otherwise by a properly executed change order.

Shop Drawings: All drawings, diagrams, illustrations, schedules, reports and other data which are specifically prepared by CONTRACTOR, a subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

Special Provisions: Detailed instructions to the CONTRACTOR of a special nature that take precedence over Standard Construction Specifications.

Specifications: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto. Where phrases "directed by," "ordered by" or "to the satisfaction of", "the Project Manager" or "the Inspector" occur, it is to be understood that the directions, order, or instructions to which they relate are within the limitations of, and authorized by the Contract. Where reference is made to specifications of A.S.T.M., AASHTO, Texas State Department of Highways and
Public Transportation Standard Specifications, etc., it shall be construed to mean the latest standard or tentative standard in effect on the date of bid.

**Subcontractor:** An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other subcontractor for the performance of a part of the Work at the site. Can also refer to a sub consultant as part of a consulting contract. (The S in subcontractor is not capitalized)

**Substantial Completion:** The Work (or a specified part thereof) has progressed to the point where, in the opinion of PROJECT MANAGER as evidenced by his definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it was intended; or if there be no such certificate issued, when final payment is due in accordance with Article 13.13. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

**Superintendent:** The representative of the CONTRACTOR authorized to receive and fulfill instructions from the Inspector and who shall supervise and direct the construction.

**Supplementary Conditions:** Detailed instructions to the CONTRACTOR setting forth his additional responsibilities of a special nature particular to an individual project not covered elsewhere.

**TCEQ:** Texas Commission for Environmental Quality formerly the TNRCC - Texas Natural Resource Conservation Commission.

**Test Method Tex. No. 113E:** Texas Department of Transportation standard test number as outlined in the TxDOT Manual.

**Wage Rates:** The general prevailing wage rate, as established by the Davis-Bacon General Wage Decision (latest revision), a copy of which is included as the Wage Determination Decision section of these specifications.

**Work:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

**ARTICLE 2 - PRELIMINARY MATTERS**

**Delivery of Bonds:**

2.1 When RIVER AUTHORITY delivers the executed Agreement to CONTRACTOR, CONTRACTOR shall provide to RIVER AUTHORITY such Bonds as CONTRACTOR may be required to furnish in accordance with Exhibits B, C, and D if not already provided.

**Copies of Documents:**

2.2 RIVER AUTHORITY shall furnish to CONTRACTOR, one (1) hard copy and one (1) digital copy (unless otherwise specified in the Supplementary Conditions and/or the General Requirements) of the Contract Documents as are reasonably necessary for the execution of the Work. Hard copies will be furnished, upon request, at the cost of reproduction.
Commencement of Contract Time; Notice to Proceed:

2.3 The Contract Time will commence the effective date of the Agreement, or, if a Notice to Proceed is given, on the Commencement Date indicated in the Notice to Proceed; but in no event shall the Contract Time commence to run later than the one hundred twentieth (120th) day after the day of the RIVER AUTHORITY board approval. A Notice to Proceed will normally be given at any time within thirty-days (30) after the effective date of the Agreement.

Starting the Project:

2.4 CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract Time commences to run.

Before Starting Construction:

2.5 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to PROJECT MANAGER any conflict, error or discrepancy which CONTRACTOR may discover; however, CONTRACTOR shall not be liable to RIVER AUTHORITY or PROJECT MANAGER for failure to report any conflict, error or discrepancy in the Drawings or Specifications, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

2.6 If requested, within fourteen (14) days after the effective date of the Agreement (unless otherwise specified in the General Requirements/General Provisions), CONTRACTOR shall submit to PROJECT MANAGER for review and acceptance an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, a preliminary schedule of Shop Drawing submissions, and a preliminary schedule of values of the Work.

2.7 Before any Work at the site is started, CONTRACTOR shall deliver to RIVER AUTHORITY, with a copy to PROJECT MANAGER, certificates (and other evidence of insurance requested by RIVER AUTHORITY), which CONTRACTOR is required to purchase and maintain in accordance with Exhibit E of the agreement.

Preconstruction Conference:

2.8 Within thirty days after the effective date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference will be held for review and acceptance of the schedules referred to in Article 2.6, to establish procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work.

2.9 The CONTRACTOR is and at all times shall remain an independent contractor, solely responsible for the manner and method of completing the work under this contract, with full power and authority to select the means, method and manner of performing such work, so long as such methods do not adversely affect the completed improvements, the RIVER AUTHORITY being interested in the result obtained and conformity of such completed improvements to the plans, specifications, and contract.
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND REUSE

Intent:

3.1 The Contract Documents comprise the entire Agreement between RIVER AUTHORITY and CONTRACTOR concerning the Work. They may be altered only by a Modification.

3.2 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall report it to PROJECT MANAGER in writing at once and before proceeding with the Work affected thereby; however, CONTRACTOR shall not be liable to RIVER AUTHORITY or PROJECT MANAGER for failure to report any conflict, error or discrepancy in the Specifications or Drawings unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

3.3 It is the intent of the Specifications and Drawings to describe a complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work that may reasonably be inferred from the Specifications or Drawings, as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words, which have a well-known technical or trade meaning, are used to describe Work, materials or equipment, such words shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual or code in effect at the time of opening of Bids (or, on the effective date of the Agreement if there were no Bids), except as may be otherwise specifically stated.

3.4 In case of conflict, error or discrepancy in the Contract Documents, priority of interpretation shall be in the following order: Addenda (if applicable), Signed Agreement, Performance and Payment Bonds, Special Bonds (if any), Bid, Supplementary Conditions, Notice to CONTRACTOR, Measurement and Payment (if included in Contract Documents), Technical Specifications, Plans and General Conditions.

3.5 The Contract Documents will be governed by the law of the state of Texas.

Reuse of Documents:

3.6 Neither CONTRACTOR nor any subcontractor, manufacturer, fabricator, supplier or distributor shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of PROJECT MANAGER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of RIVER AUTHORITY and PROJECT MANAGER and specific written verification or adaptation by PROJECT MANAGER.
ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands:

4.1 RIVER AUTHORITY shall secure, as indicated in the Contract Documents, rights of way, easements, and/or lands to be occupied by the finished construction, with only such additional construction easements as shown for use of the CONTRACTOR in carrying out his work. The CONTRACTOR shall take proper measures to protect all property within all construction easements which might be injured by any process of construction; and in case of any injury or damage, he shall restore at his own expense the damaged property to a condition similar or equal to that existing before such injury or damage was done, or he shall make good such injury or damage in an acceptable manner. If CONTRACTOR believes that any delay in RIVER AUTHORITY furnishing these lands or easements entitles him to an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Article 11. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions - Investigations and Reports:

4.2 Reference is made to the Supplementary Conditions for identification of those reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work that have been relied upon by PROJECT MANAGER in preparation of the Drawings and Specifications. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents. If reports were not required by the PROJECT MANAGER for preparation of the Drawings and Specifications, no reference is made in the Supplementary Conditions.

4.3 Unless otherwise specified, all loss or damage to the CONTRACTOR arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the CONTRACTOR at his own cost and expense.

Reference Points:

4.4 RIVER AUTHORITY shall provide Engineering surveys for construction to establish only reference points that in his judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the General Requirements), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of RIVER AUTHORITY. CONTRACTOR shall provide the services of a Registered Professional Engineer (Texas Licensed) or a Registered Professional Land Surveyor (Texas Licensed). Said professional will direct contract surveying with all associated costs bore by the CONTRACTOR at no additional cost to the RIVER AUTHORITY. CONTRACTOR shall report to PROJECT MANAGER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for replacement or relocation of such reference points by professionally qualified personnel such as a Registered Professional Engineer (Texas licensed) or Registered Professional Land Surveyor (Texas licensed). The RIVER AUTHORITY will from time to time verify the layout of the Work and if found in error, the CONTRACTOR will bear all costs to the RIVER AUTHORITY for the re-verification and correction of errors in layout of the Work.
ARTICLE 5 - CONTRACTOR RESPONSIBILITIES

Supervision and Superintendence:

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

5.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to RIVER AUTHORITY and PROJECT MANAGER except under extraordinary circumstances. The superintendent will be CONTRACTOR representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials, and Equipment:

5.3 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site.

Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all Work at the site shall be performed during a working day as defined, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any federal holiday without RIVER AUTHORITY written consent given after prior written notice to PROJECT MANAGER.

5.4 CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.

5.5 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by PROJECT MANAGER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment.

5.6 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier or distributor, except as otherwise provided in the Contract Documents.

Equivalent Materials and Equipment:

5.7 Whenever materials or equipment are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular manufacturer, fabricator, supplier, or distributor, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted or equipment is identified on the "Major Equipment Schedule" of the Bid, materials or equipment of other manufacturers, fabricators, suppliers or distributors may be accepted by PROJECT
MANAGER if sufficient information is submitted by CONTRACTOR to allow PROJECT MANAGER to determine that the material or equipment proposed is equivalent to that named. For equipment identified in the "Major Equipment Schedule" the procedure for presenting and evaluating substitute equipment is established in Section 7 of the Instructions to Bidders. The procedure for review by PROJECT MANAGER of other equivalent materials and equipment will be as set forth in Articles 5.7.1 and 5.7.2 below as supplemented in the General Requirements.

5.7.1 Requests for review of substitute items of material and equipment will not be accepted by PROJECT MANAGER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment CONTRACTOR shall make written application to PROJECT MANAGER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. The application will state whether or not acceptance of the substitute for use in the Work will require a change in the Drawings or Specifications to adapt the design to the substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified shall be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other CONTRACTOR affected by the resulting change, all of which shall be considered by PROJECT MANAGER in evaluating the proposed substitute. PROJECT MANAGER may require CONTRACTOR to furnish at CONTRACTOR expense additional data about the proposed substitute. PROJECT MANAGER will be the sole judge of acceptability, and no substitute will be ordered or installed without PROJECT MANAGER prior written acceptance. RIVER AUTHORITY may require CONTRACTOR to furnish at CONTRACTOR expense a special performance guaranty or other surety with respect to any substitute.

5.7.2 CONTRACTOR will record time required by PROJECT MANAGER and PROJECT MANAGER Consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Drawings or Specifications occasioned thereby. Whether or not PROJECT MANAGER accepts a proposed substitute, CONTRACTOR shall reimburse RIVER AUTHORITY for the charges of PROJECT MANAGER and PROJECT MANAGER Consultants for evaluating any proposed substitute.

Concerning subcontractor:

5.8 CONTRACTOR shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom RIVER AUTHORITY or PROJECT MANAGER may have reasonable objection. A subcontractor or other person or organization identified in writing to RIVER AUTHORITY and PROJECT MANAGER by CONTRACTOR prior to the Notice of Award and not objected to in writing by RIVER AUTHORITY or PROJECT MANAGER prior to the Notice of Award will be deemed acceptable to RIVER AUTHORITY and PROJECT MANAGER. Acceptance of any subcontractor, other person, or organization by RIVER AUTHORITY or PROJECT MANAGER shall not constitute a waiver of any right of RIVER AUTHORITY or PROJECT MANAGER to reject defective Work. If RIVER AUTHORITY or PROJECT MANAGER after due investigation has reasonable objection to any subcontractor, other person or organization proposed by CONTRACTOR after the Notice of Award, the CONTRACTOR will be
required to submit an acceptable substitute. The Contract Price will not be increased as a result of such substitution. CONTRACTOR shall not be required to employ any subcontractor, other person, or organization against whom CONTRACTOR has reasonable objection.

5.9 CONTRACTOR shall be fully responsible for all acts and omissions of his subcontractor and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between RIVER AUTHORITY or PROJECT MANAGER and any subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of RIVER AUTHORITY or PROJECT MANAGER to pay or to see to the payment of any moneys due any subcontractor or other person or organization, except as may otherwise be required by law. RIVER AUTHORITY or PROJECT MANAGER may furnish to any subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific Work done.

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

5.11 All Work performed for CONTRACTOR by a subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the subcontractor, which specifically binds the subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of RIVER AUTHORITY and PROJECT MANAGER.

Patent Fees and Royalties:

5.12 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use of the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device, which is the subject of patent rights or copyrights, held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of RIVER AUTHORITY or PROJECT MANAGER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by RIVER AUTHORITY in the Contract Documents. CONTRACTOR shall INDEMNIFY AND HOLD HARMLESS RIVER AUTHORITY and PROJECT MANAGER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits:

5.13 Unless otherwise provided in the Supplementary Conditions or General Requirements, CONTRACTOR shall obtain and pay for all construction permits and licenses. RIVER AUTHORITY shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the execution of the Work, which are applicable at the time of opening of Bids. CONTRACTOR
shall pay all charges of utility service companies for connections to the Work, and RIVER AUTHORITY shall pay all charges of such companies for capital costs related thereto.

Laws and Regulations:

5.14 CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If CONTRACTOR observes that the Specifications or Drawings are at variance therewith, CONTRACTOR shall give PROJECT MANAGER prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such laws, ordinances, rules and regulations, and without such notice to PROJECT MANAGER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR’s primary responsibility to make certain that the Specifications and Drawings are in accordance with such laws, ordinances, rules and regulations.

Taxes:

5.15 CONTRACTOR shall pay all taxes and insurance required by State and Federal Laws and must comply with applicable regulations of the State Comptroller regarding temporary sales tax exemption certificates.

5.15.1 The RIVER AUTHORITY of this project is exempt from the state sales tax (including local sales tax, if any) and will furnish the CONTRACTOR with a tax exemption certificate. The CONTRACTOR shall take all necessary action to establish tax exemption so that he and his subcontractor may obtain this exemption on the Construction contract for the RIVER AUTHORITY’S benefit.

5.15.2 The Contract separates the cost of materials and tangible equipment from skill, labor and other associated costs of construction. This is in accordance with the Texas Tax Code to allow tax exemption on the Contract price for materials. Certain construction equipment that is owned or rented by the CONTRACTOR may be subject to state and local sales tax.

Use of Premises:

5.16 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

5.17 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by RIVER AUTHORITY. CONTRACTOR shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents. The CONTRACTOR shall be responsible for disposing of all waste materials including excavation, old concrete, old asphalt or any other material, which is required to be removed from the project. No waste material shall be deposited in any natural drain, creek, river, or other watercourse. The CONTRACTOR shall, as directed by the Inspector, immediately remove at his own expense any fill that is blocking drainage that has resulted from the CONTRACTOR’S operations.
5.18 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Record Documents:

5.19 CONTRACTOR shall keep one record copy of all Specifications, Drawings, Addenda, Modifications, Shop Drawings, and samples at the site, in good order and annotated to show all changes made during the construction process. These shall be available to PROJECT MANAGER for examination and shall be delivered to PROJECT MANAGER for RIVER AUTHORITY upon completion of the Work.

Safety and Protection:

5.20 CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

5.20.1 all employees on the Work and other persons who may be affected thereby;

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

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

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and utilities when prosecution of the Work may affect them. All damage, injury or loss to any property referred to in Article 5.20.2 or 5.20.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR. CONTRACTOR duties and responsibilities for the safety and protection of the Work shall continue until all the Work is completed and PROJECT MANAGER has issued a notice to RIVER AUTHORITY and CONTRACTOR in accordance with Article 13.13 that the Work is acceptable.

5.21 CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR superintendent unless otherwise designated in writing by CONTRACTOR to RIVER AUTHORITY.

Protection of Environmental Resources:

5.22 Protection of Adjacent Lands: Trees, shrubs, vines, grasses, croplands, land forms and other adjacent land features indicated and defined on the plans to be preserved shall be clearly identified by marking, fencing, or wrapping with boards, or any other approved techniques. Areas in which
the CONTRACTOR'S activities will be permitted shall be delineated on the ground by marking devices, all subject to approval by the Resident Project Representative/Inspector, prior to commencement of the CONTRACTOR'S operations. No construction activities will be commenced until such marking and/or protection has been completed and approved by the Resident Project Representative/Inspector. The CONTRACTOR shall take positive measures to make sure that his personnel understand the purpose of the markings and do not operate outside the designated areas.

5.23 Work Area Limits: Prior to any construction, the CONTRACTOR shall mark the areas that are not required to accomplish all work to be performed under this Contract. Isolated areas within the general work area, which are to be saved and protected, shall also be marked or fenced. Monuments and markers shall be protected before construction operations commence.

5.24 Preservation and Recovery of Historical, Archeological and Cultural Resources: Existing historical, archeological, and cultural resources within the CONTRACTOR'S work area will be so designated by the Resident Project Representative/Inspector and precautions taken to preserve all such resources, as they existed at the time they were pointed out to the CONTRACTOR. The CONTRACTOR shall install all protective devices such as off limits markings, fencing, barricades, or other devices deemed necessary by the Resident Project Representative/Inspector for these resources so designated on the plans and shall be responsible for their preservation during this contract. If during construction activities the CONTRACTOR observes unusual items that might have historical or archeological value, such observations shall be reported as soon as possible to the Resident Project Representative/Inspector. If the CONTRACTOR is delayed or if additional work is required by a discovery, the Contract will be subject to equitable adjustment under one of the appropriate clauses of the General Provisions.

Emergencies:

5.25 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from PROJECT MANAGER or RIVER AUTHORITY, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give PROJECT MANAGER prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

Shop Drawings and Samples:

5.26 After checking and verifying all field measurements, CONTRACTOR shall submit to PROJECT MANAGER for review and approval, in accordance with the accepted schedule of Shop Drawing submissions (see Article 2.2), one (1) hard copy and one (1) digital copy (unless otherwise specified in the General Requirements) of all Shop Drawings, which shall have been checked by and stamped with the approval of CONTRACTOR and identified as PROJECT MANAGER may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and like information to enable PROJECT MANAGER to review the information as required.

5.27 CONTRACTOR shall also submit to PROJECT MANAGER for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.
5.28 At the time of each submission, CONTRACTOR shall in writing call PROJECT MANAGER attention to any deviations that the Shop Drawings or samples may have from the requirements of the Contract Documents.

5.29 PROJECT MANAGER will review and approve with reasonable promptness Shop Drawings and samples, but PROJECT MANAGER review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make any corrections required by PROJECT MANAGER and shall return the required number of corrected copies of Shop Drawings and resubmit new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by PROJECT MANAGER on previous submittals. CONTRACTOR stamp of approval on any Shop Drawing or sample shall constitute a representation to RIVER AUTHORITY and PROJECT MANAGER that CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data or assumes full responsibility for doing so, and that CONTRACTOR has reviewed or coordinated each Shop Drawing or sample with the requirements of the Work and the Contract Documents.

5.30 Where a shop drawing or sample is required by the Specifications, no related Work shall be commenced until the submittal has been reviewed and approved by PROJECT MANAGER.

5.31 PROJECT MANAGER review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any deviations from the Contract Documents unless CONTRACTOR has in writing called PROJECT MANAGER attention to such deviation at the time of submission and PROJECT MANAGER has given written concurrence and approval to the specific deviation, nor shall any concurrence or approval by PROJECT MANAGER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

Continuing the Work:

5.32 CONTRACTOR shall carry on the Work and maintain the progress schedule during all disputes or disagreements with RIVER AUTHORITY. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as CONTRACTOR and RIVER AUTHORITY may otherwise agree in writing.

Indemnification:

5.33 DURING THE PERFORMANCE OF THE WORK WITHIN THE CONTEMPLATION OF THIS CONTRACT AND UNTIL FINAL COMPLETION AND ACCEPTANCE THEREOF, CONTRACTOR SHALL EXERCISE THE UTMOST CARE TO AVOID ACCIDENT OR INJURY TO PERSONS OR PROPERTY. HE SHALL PLACE AND MAINTAIN ALL NECESSARY BARRIERS AND SAFEGUARDS, INCLUDING WATCHMEN, IF NECESSARY, ABOUT THE WORK SITE FOR THE PREVENTION OF ACCIDENTS AND AT NIGHT SHALL MAINTAIN ADEQUATE LIGHTS AND OTHER WARNING DEVICES, AND GENERALLY SHALL TAKE ALL PRECAUTIONS REQUISITE TO THE PROTECTION OF THE PUBLIC AND PROPERTIES ADJACENT TO THE WORK SITE. CONTRACTOR SHALL AND WILL INDEMNIFY AND SAVE HARMLESS RIVER AUTHORITY FROM AND AGAINST ANY AND ALL ACTIONS AND CLAIMS, AND
AGAINST ALL COSTS, DAMAGES AND EXPENSES TO WHICH RIVER AUTHORITY MAY BE PUT BY REASON OF ANY INJURY OR ALLEGED INJURY TO PERSON OR PROPERTY, REGARDLESS OF WHETHER SUCH CLAIMS OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON THE ALLEGED NEGLIGENCE OF THE SAN ANTONIO RIVER AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES, RESULTING OR ALLEGED TO RESULT FROM OR TO BE OCCASIONED BY THE ACTS OR OMISSIONS OF THE CONTRACTOR, WHETHER NEGLIGENT OR OTHERWISE, IN THE PERFORMANCE, CONDUCT OR MAINTENANCE OF THE WORK, OR IN GUARDING SAME, OR FROM ANY IMPROPER METHODS, TOOLS, IMPLEMENTS OR MATERIALS EMPLOYED THEREIN, OR ON ACCOUNT OF ANY SUCH ACTS OR OMISSIONS OF CONTRACTOR AGENTS, SERVANTS, EMPLOYEES, ASSIGNEES OR SUBCONTRACTOR (INCLUDING THE AGENTS, SERVANTS AND EMPLOYEES OF SUCH SUBCONTRACTOR); AND CONTRACTOR OR HIS INSURER SHALL WELL AND TRULY MAKE PAYMENT OF ANY AND ALL SUMS RECOVERED AGAINST RIVER AUTHORITY IN ANY SUIT OR SUITS ON ACCOUNT OF SUCH ALLEGED INJURY OR DAMAGE TO WHICH RIVER AUTHORITY MAY BE MADE A PARTY, TOGETHER WITH ALL COSTS, DAMAGES AND EXPENSES BORNE BY RIVER AUTHORITY IN CONNECTION WITH SUCH SUITS ALL IN A MANNER AS TO SAVE RIVER AUTHORITY HARMLESS FROM ANY EXPENSE CONNECTED WITH SUCH ACTIONS AND CLAIMS.

RIVER AUTHORITY IS FURTHER AUTHORIZED, TO DEDUCT OR RETAIN FROM ANY ESTIMATE OR ESTIMATES OR AMOUNTS RETAINED HEREUNDER, SUCH SUMS AS MAY BE CLAIMED FOR ANY INJURY OR DAMAGE DESCRIBED ABOVE UNLESS AND UNTIL CONTRACTOR SHALL GIVE A FURTHER AND SPECIAL BOND OR DEPOSIT ADEQUATE TO COVER SUCH CONTINGENT LIABILITY AS DETERMINED BY THE RIVER AUTHORITY OR OTHERWISE PRESENT EVIDENCE OF FULL INDEMNIFICATION TO THE RIVER AUTHORITY IN CONNECTION WITH SUCH CLAIMS OR ACTIONS.

THE RECORD RIVER AUTHORITY OF FEE SIMPLE TITLE TO THE LAND UPON WHICH THE WORK IS TO BE PERFORMED IS HEREINAFTER CALLED LAND RIVER AUTHORITY. CONTRACTOR SHALL AND WILL INDEMNIFY AND SAVE HARMLESS LAND RIVER AUTHORITY FROM AND AGAINST ANY AND ALL ACTIONS AND CLAIMS, AND AGAINST ALL COSTS, DAMAGES AND EXPENSES TO WHICH LAND RIVER AUTHORITY MAY BE PUT BY REASON OF ANY INJURY OR ALLEGED INJURY TO PERSON OR PROPERTY, REGARDLESS OF WHETHER SUCH CLAIMS OR ACTIONS ARE FOUNDED IN WHOLE OR IN PART UPON THE ALLEGED NEGLIGENCE OF THE SAN ANTONIO RIVER AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES, RESULTING OR ALLEGED TO RESULT FROM OR TO BE OCCASIONED BY THE ACTS OR OMISSIONS OF THE CONTRACTOR, WHETHER NEGLIGENT OR OTHERWISE, IN THE PERFORMANCE, CONDUCT OR MAINTENANCE OF THE WORK, OR IN GUARDING SAME, OR FROM ANY IMPROPER METHODS, TOOLS, IMPLEMENTS OR MATERIALS EMPLOYED THEREIN, OR ON ACCOUNT OF ANY SUCH ACTS OR OMISSIONS OF CONTRACTOR AGENTS, SERVANTS, EMPLOYEES, ASSIGNEES OR SUBCONTRACTOR (INCLUDING THE AGENTS, SERVANTS AND EMPLOYEES OF SUCH SUBCONTRACTOR); AND CONTRACTOR OR HIS INSURER SHALL WELL AND TRULY MAKE PAYMENT OF ANY AND ALL SUMS RECOVERED AGAINST LAND RIVER AUTHORITY IN ANY SUIT OR SUITS ON ACCOUNT OF SUCH ALLEGED INJURY OR DAMAGE TO WHICH LAND RIVER AUTHORITY MAY BE MADE A PARTY, TOGETHER WITH ALL COSTS, DAMAGES AND EXPENSES BORNE BY LAND RIVER AUTHORITY IN CONNECTION WITH SUCH SUITS.
ALL IN A MANNER AS TO SAVE LAND RIVER AUTHORITY HARMLESS FROM ANY EXPENSE CONNECTED WITH SUCH ACTIONS AND CLAIMS.

Patents, Etc.:

CONTRACTOR agrees that he will at all times pay all fees, royalties or license charges on all patented, registered or copyrighted machines, materials, methods or processes used in the construction of said work and supplied as a part of the finished work, or appurtenant thereof; and that he will ever hold RIVER AUTHORITY free and harmless from any and all claims on account of the use of any machines, materials, methods or processes.

5.34 In any and all claims against RIVER AUTHORITY or PROJECT MANAGER or any of their agents or employees by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Article 5.33 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any subcontractor under workers’ or workmen’s compensation acts, disability benefit acts or other employee benefit acts.

5.35 The obligations of CONTRACTOR under Article 5.33 shall not extend to the liability of PROJECT MANAGER, his agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications.

ARTICLE 6 - WORK BY OTHERS

6.1 RIVER AUTHORITY may perform additional work related to the Project by himself, or have additional work performed by utility service companies, or let other direct contracts therefore which shall contain General Conditions similar to these. CONTRACTOR shall afford the utility service companies and the other contractors who are parties to such direct contracts (or RIVER AUTHORITY, if RIVER AUTHORITY is performing the additional work with RIVER AUTHORITY employees) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs.

6.2 If any part of CONTRACTOR Work depends on proper execution or results upon the work of any such other contractor or utility service company (or RIVER AUTHORITY), CONTRACTOR shall inspect and promptly report to PROJECT MANAGER in writing any patent or apparent defects or deficiencies in such work that render it unsuitable for such proper execution and results. CONTRACTOR failure to report shall constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR Work except for latent or non-apparent defects and deficiencies in other work.

6.3 CONTRACTOR shall do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their Work and will only cut or alter their work with the written consent of PROJECT MANAGER and the others whose work will be affected.

6.4 If the performance of additional work by other contractor or utility service companies or RIVER AUTHORITY was not noted in the Contract Documents, written notice thereof shall be given to CONTRACTOR prior to starting any such additional work. If CONTRACTOR believes that the
performance of such additional work by RIVER AUTHORITY or others involves additional expense to CONTRACTOR or requires an extension of the Contract Time, CONTRACTOR may make a claim therefore as provided in Articles 10 and 11.

**ARTICLE 7 - RIVER AUTHORITY RESPONSIBILITIES**

7.1 In case of termination of the employment of PROJECT MANAGER, RIVER AUTHORITY shall appoint a Project Manager whose status under the Contract Documents shall be that of the former PROJECT MANAGER.

7.2 RIVER AUTHORITY shall furnish the data required of RIVER AUTHORITY under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Articles 13.4 and 13.13.

7.3 RIVER AUTHORITY duties with respect to providing lands and easements and providing Engineering surveys to establish reference points are set forth in Articles 4.1 and 4.4. Article 4.2 refers to RIVER AUTHORITY identifying and making available to CONTRACTOR copies of reports of investigations and tests of subsurface and latent physical conditions at the site, if they exist, that could affect the performance of the Work and which have been relied upon by PROJECT MANAGER in preparing the Drawings and Specifications.

7.4 In connection with RIVER AUTHORITY rights to request changes in the Work in accordance with Article 9, RIVER AUTHORITY (especially in certain instances as provided in Article 9.4) is obligated to execute Change Orders.

7.5 RIVER AUTHORITY responsibility with respect to certain inspections, tests, and approvals is set forth in Article 13, inclusive.

7.6 In connection with RIVER AUTHORITY’S right to stop work or suspend work, see Articles 12.10 and 14.1. Article 14.2 deals with RIVER AUTHORITY right to terminate services of CONTRACTOR under certain circumstances.

**ARTICLE 8 - PROJECT MANAGER STATUS DURING CONSTRUCTION**

RIVER AUTHORITY Representative:

8.1 PROJECT MANAGER will be RIVER AUTHORITY representative during the construction period. The duties and responsibilities and the limitations of authority of PROJECT MANAGER during construction are set forth in the Contract Documents and shall not be extended without written consent of RIVER AUTHORITY and PROJECT MANAGER.

Visits to Site:

8.2 PROJECT MANAGER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. PROJECT MANAGER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The PROJECT MANAGER efforts will be directed toward providing the RIVER AUTHORITY a greater degree of confidence that the completed Work will conform to the Contract Documents. Based on such visits and on-site observations as an experienced and qualified design professional, PROJECT MANAGER will keep RIVER AUTHORITY informed of the
progress of the Work and will endeavor to guard RIVER AUTHORITY against defects and deficiencies in the Work.

Clarifications and Interpretations:

8.3 PROJECT MANAGER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as PROJECT MANAGER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or Contract Time, CONTRACTOR may make a claim therefore as provided in Article 10 or Article 11.

Rejecting Defective Work:

8.4 PROJECT MANAGER will have authority to disapprove or reject Work, which is defective, and will have authority to require special inspection or testing of the Work as provided in Articles 12.8 and 12.9, whether or not the Work is fabricated, installed, or completed.

Shop Drawings, Change Orders, and Payments:

8.5 In connection with PROJECT MANAGER responsibility for Shop Drawings and samples, see Articles 5.23 through 5.28 inclusive.

8.6 In connection with PROJECT MANAGER responsibility as to Change Orders, see Articles 9, 10 and 11.

8.7 In connection with PROJECT MANAGER responsibility with respect to Applications for Payment, etc., see Article 13.

Project Representation:

8.8 If RIVER AUTHORITY and PROJECT MANAGER agree, PROJECT MANAGER will furnish a Resident Project Representative to assist PROJECT MANAGER in observing the performance of the Work. The duties, responsibilities, and limitations of authority of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions. If RIVER AUTHORITY designates another agent to represent him at the site who is not PROJECT MANAGER agent or employee, the duties, responsibilities, and limitations of authority of such other person will be as provided in the Supplementary Conditions.

Decisions on Disagreements:

8.9 PROJECT MANAGER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work there under. Claims, disputes and other matters relating to the acceptability of the Work, the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work, changes in the Work and changes of Contract time, shall be referred initially to PROJECT MANAGER in writing with a request for a formal decision in accordance with this paragraph, which PROJECT MANAGER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be delivered by the claimant to PROJECT MANAGER and the other party to the Agreement within fifteen (15) days of the occurrence of the event giving rise thereto, and written supporting data will be submitted to PROJECT MANAGER and the other party within forty-five
(45) days of such occurrence unless PROJECT MANAGER allows an additional period of time to ascertain more accurate data. In his capacity as interpreter and judge PROJECT MANAGER will not show partiality to RIVER AUTHORITY or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

8.10 The rendering of a decision by PROJECT MANAGER pursuant to Article 8.9 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in Article 13.16) will be a condition precedent to any exercise by RIVER AUTHORITY or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or at law in respect of any such claim, dispute or other matter.

Limitations on PROJECT MANAGER Responsibilities:

8.11 Neither PROJECT MANAGER authority to act under this Article 8 or elsewhere in the Contract Documents nor any decision made by PROJECT MANAGER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of PROJECT MANAGER to CONTRACTOR, any subcontractor, any manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the Work.

8.12 Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used, to describe requirements, direction, review or judgment of PROJECT MANAGER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is specific statement indicating otherwise). The use of any such term or adjective never indicates that PROJECT MANAGER shall have authority to supervise or direct performance of the Work or authority to undertake responsibility contrary to the provisions of Articles 8.13 or 8.14.

8.13 PROJECT MANAGER will not be responsible for CONTRACTOR means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and PROJECT MANAGER will not be responsible for CONTRACTOR failure to perform the Work in accordance with the Contract Documents.

8.14 PROJECT MANAGER will not be responsible for the negligent acts or omissions of CONTRACTOR or of any subcontractor, or of the agents or employees of any CONTRACTOR or subcontractor, or of any other persons at the site or otherwise performing any of the Work.

ARTICLE 9 - CHANGES IN THE WORK

9.1 Without invalidating the Agreement and accompanying Bonds, RIVER AUTHORITY may, at any time or from time to time, order additions, deletions or revisions in the work; these will be authorized by Change Orders. Upon receipt of a Change Order, CONTRACTOR shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time an equitable adjustment will be made as provided in Article 10 or Article 11 based on a claim made by either party.

9.2 PROJECT MANAGER may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract
9.3 Additional Work performed without authorization of a Change Order will not entitle CONTRACTOR to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in Article 6.22 and except as provided in Articles 9.2 and 12.9.

9.4 RIVER AUTHORITY shall execute appropriate Change Orders in accordance with Articles 10 and 11 of the General Conditions as prepared by PROJECT MANAGER covering changes in the Work, which are required by RIVER AUTHORITY.

9.5 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the surety, it will be CONTRACTOR responsibility to notify the surety, and the amount of each applicable Bond shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to RIVER AUTHORITY.

9.6 If such changes or alterations diminish the quantity of work to be done, such changes or alterations shall not constitute the basis for damages or anticipated profits on the work that may be deleted from the contract. It is the intent of these Contract Documents that payment for all work performed and all materials furnished shall be for the actual work performed and the actual quantity of materials furnished.

ARTICLE 10 - CHANGE OF CONTRACT PRICE

10.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

10.2 The Contract Price may only be changed by a Change Order executed by a duly authorized representative of the CONTRACTOR and RIVER AUTHORITY. Any claim for an increase in the Contract Price shall be based on written notice delivered to RIVER AUTHORITY and PROJECT MANAGER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless PROJECT MANAGER allows an additional period to ascertain accurate cost data. All claims for adjustment in the Contract Price shall be determined by PROJECT MANAGER if RIVER AUTHORITY and CONTRACTOR cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

10.3 The value of any Work covered by a Change Order or of any claim or an increase or decrease in the Contract Price shall be determined in one of the following ways:

10.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of Article 10.9).

10.3.2 By mutual acceptance of a lump sum. A lump sum amount must include sufficient documentation to enable the PROJECT MANAGER to verify the cost of the Work involved. Projected costs for the work should be in accordance with Articles 10.4 and
10.5. Overhead and profit must be separately identified and be in accordance with Article 10.6.

10.3.3 On the basis of the Cost of the Work (determined as provided in Articles 10.4 and 10.5) plus a CONTRACTOR fee for overhead and profit (determined as provided in Article 10.6).

Cost of the Work:

10.4 The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by RIVER AUTHORITY, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Article 10.5:

10.4.1 Payroll costs for employees in the direct employment of the CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by RIVER AUTHORITY and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned based on their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise and payroll taxes, workers’ or workmen’s compensation, health, and retirement benefits, bonuses, sick leave, vacation and federal holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Sunday, or on federal holidays shall be included in the above to the extent authorized by RIVER AUTHORITY.

10.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless RIVER AUTHORITY deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to RIVER AUTHORITY. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to RIVER AUTHORITY and CONTRACTOR shall make provisions so that they may be obtained.

10.4.3 Payments made by CONTRACTOR to the subcontractor for Work performed by subcontractor. If required by RIVER AUTHORITY, CONTRACTOR shall obtain competitive bids from subcontractor acceptable to CONTRACTOR and shall deliver such bids to RIVER AUTHORITY who will then determine, with the advice of PROJECT MANAGER, which bids will be accepted. If a Subcontract provides that the subcontractor is to be paid based on Cost of the Work plus a fee, the subcontractor Cost of the Work shall be determined in the same manner as CONTRACTOR Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

10.4.4 Costs of special consultants (including, but not limited to, Project Managers, architects, testing laboratories, surveyors, lawyers and accountants) employed for services specifically related to the Work.

10.4.5 Supplemental costs including the following:
10.4.5.1 The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR employees incurred in discharge of duties connected with the Work.

10.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

10.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by RIVER AUTHORITY with the advice of PROJECT MANAGER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

10.4.5.4 Sales, use or similar taxes, if any, related to the Work, and for which CONTRACTOR is liable, imposed by any governmental authority.

10.4.5.5 The cost of utilities, fuel, and sanitary facilities at the site.

10.4.5.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage, and similar petty cash items in connection with the Work.

10.4.5.7 Cost of premiums for additional Bonds and insurance required because of changes in the Work.

10.5 The term Cost of the Work shall not include any of the following:

10.5.1 Payroll costs and other compensation of CONTRACTOR officers, executives, principals (of partnership and sole proprietorships), general managers, Project Managers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Article 10.4.1 - all of which are to be considered administrative costs covered by the CONTRACTOR Fee.

10.5.2 Expenses of CONTRACTOR principal and branch offices other than CONTRACTOR office at the site.

10.5.3 Any part of CONTRACTOR capital expenses, including interest on CONTRACTOR capital employed for the Work and charges against CONTRACTOR for delinquent payments.

10.5.4 Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for additional Bonds and insurance required because of changes in the Work).
10.5.5 Costs due to the negligence of CONTRACTOR, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Article 10.4.

CONTRACTOR Fee:

10.6 The CONTRACTOR Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 a mutually acceptable fixed fee; or if none can be agreed upon,

10.6.2 a fee based on the following percentages of the various portions of the Cost of the Work:

10.6.2.1 for costs incurred under Articles 10.4.1 and 10.4.2, the CONTRACTOR Fee shall be ten percent,

10.6.2.2 for costs incurred under Article 10.4.3, the CONTRACTOR Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to the subcontractor as a fee for overhead and profit shall be ten percent, and

10.6.2.3 no fee shall be payable based on costs itemized under Articles 10.4.4, 10.4.5 and 10.5.

10.7 The amount of credit to be allowed by CONTRACTOR to RIVER AUTHORITY for any such change, which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured based on the net increase, if any.

Adjustment of Unit Prices:

10.8 Whenever the cost of any Work is to be determined pursuant to Articles 10.4 and 10.5, CONTRACTOR will submit in form acceptable to PROJECT MANAGER an itemized cost breakdown together with supporting data.

10.9 Where the quantity of Work with respect to any item that is covered by a unit price differs as described below from the quantity of such Work indicated in the Contract Documents, an appropriate Change Order shall be issued on recommendation of PROJECT MANAGER to adjust the unit price.

10.9.1 ESTIMATED QUANTITIES: The agreement, including all items of the Contract Documents, is intended to show clearly all work to be done and material to be furnished hereunder. Where the estimated quantities are shown for the various classes of work to be done and material to be furnished under this contract, they are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the bids.
offered for the work. It is understood and agreed that the actual amount of work to be done and material to be furnished under this contract may differ somewhat from these estimates, and that where the basis for payment under this contract is the unit price method, payment shall be for the actual amount of acceptable work done and the materials furnished, which are not in excess of the calculated quantities from the correct dimensions shown on the Plans or as ordered in writing by the PROJECT MANAGER.

10.9.2 UNIT PRICE METHOD: Where payment is based on the unit price method, the CONTRACTOR agrees that he will make no claim for damages, anticipated profits or otherwise on account of any differences which may be found between the quantities of work actually done, the material actually furnished under this contract and the estimated quantities contemplated and contained in the bid; provided, however, that in case the actual quantity of any major item should become as much as twenty percent (20%) above or below the estimated or contemplated quantity for such items, then either party to this Agreement, upon demand, shall be entitled to a revised consideration for said work that differs from the estimated quantity.

10.9.3 REVISED CONSIDERATION: Any revised consideration is to be determined by agreement between the parties, otherwise by the terms of this Agreement, as provided under Articles 9 and 10.

Cash Allowances:

10.10 It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such subcontractor, manufacturers, fabricators, suppliers or distributors and for such sums within the limit of the allowances as may be acceptable to PROJECT MANAGER. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. CONTRACTOR agrees that the original Contract Price includes such sums, as CONTRACTOR deems proper for costs and profit because of cash allowances. No demand for additional cost or profit in connection therewith will be valid.

ARTICLE 11 - CHANGE OF CONTRACT TIME

11.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to RIVER AUTHORITY and PROJECT MANAGER within fifteen days of the occurrence of the event-giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five (45) days of such occurrence unless PROJECT MANAGER allows an additional period to ascertain additional accurate data. PROJECT MANAGER shall determine all claims for adjustment in the Contract Time if RIVER AUTHORITY and CONTRACTOR cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

11.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefore as provided in Article 11.1. Such delays shall include, but not be limited to, acts or neglect by RIVER AUTHORITY or others performing additional Work as contemplated by Article 6, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

The CONTRACTOR shall be granted time extensions to the Contract for a period longer than the number of days indicated by month in the table below if rainfall on a given day (measured at a rain
gauge site as determined by the Project Manager) is in excess of 1.0 inch and/or site conditions will not permit work on day(s) following a rain in excess of 1.0 inch. Inclement weather and flooding shall not be counted for delays unless Work is scheduled in advance as verified by the PROJECT MANAGER and a legitimate effort is made by the CONTRACTOR to perform that Work.

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The CONTRACTOR shall furnish all data and analysis to the PROJECT MANAGER to substantiate a claim for Contract time extension on a month-to-month basis with the CONTRACTOR monthly progress payment request.

The CONTRACTOR shall not be entitled to any additional monetary consideration for granted time extensions or reimbursement for damages or hindrances because of heavy rainfall or flooding.

11.3 All time limits stated in the Contract Documents are of the essence of the Agreement.

ARTICLE 12 - MEASUREMENT AND PAYMENT; WARRANTY AND GUARANTY; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

Measurement and Payment:

12.1 Quantities and Measurements: No extra or customary measurements of any kind will be allowed, but the actual measured and/or computed length, area, solid contents, number, and weight only shall be considered, unless otherwise specifically provided. Quantities of work done in excess of calculated quantities from correct Plan or Change Order dimensions shall not be measured for payment.

Warranty and Guaranty:

12.2 CONTRACTOR warrants and guaranties to RIVER AUTHORITY and PROJECT MANAGER that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Article 12.

Access to Work:

12.3 PROJECT MANAGER and PROJECT MANAGER representatives, other representatives of RIVER AUTHORITY, testing agencies and governmental agencies with jurisdictional interest will have access to the Work at reasonable times for their observation, inspection and testing. CONTRACTOR shall provide proper and safe conditions for such access.
Tests and Inspections:

12.4 CONTRACTOR shall give PROJECT MANAGER timely notice of readiness of the Work for all required inspections, tests, or approvals.

12.5 If any law, ordinance, rule, regulation, code, or order of any public body having jurisdiction requires any Work (or part thereof) to specifically be inspected, tested, or approved, CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith, and furnish PROJECT MANAGER the required certificates of inspection, testing, or approval. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with RIVER AUTHORITY or PROJECT MANAGER acceptance of a manufacturer, fabricator, supplier or distributor of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to CONTRACTOR purchase thereof for incorporation in the Work. The cost of all other inspections, tests, and approvals required by the Contract Documents shall be paid by RIVER AUTHORITY (unless otherwise specified).

12.6 All inspections, tests, or approvals other than those required by law, ordinance, rule, regulation, code, or order of any public body having jurisdiction shall be performed by organizations acceptable to the PROJECT MANAGER.

12.7 If any Work that is to be inspected, tested, or approved is covered without written concurrence of PROJECT MANAGER, it must, if requested by PROJECT MANAGER, be uncovered for observation. Such uncovering shall be at CONTRACTOR expense unless CONTRACTOR has given PROJECT MANAGER timely notice of CONTRACTOR intention to cover such Work and PROJECT MANAGER has not acted with reasonable promptness in response to such notice.

12.8 Neither observations by PROJECT MANAGER nor inspections, tests or approvals by others shall relieve CONTRACTOR from his obligations to perform the Work in accordance with the Contract Documents.

Uncovering Work:

12.9 If any Work is covered contrary to the written request of PROJECT MANAGER, it must, if requested by PROJECT MANAGER, be uncovered for PROJECT MANAGER observation and replaced at CONTRACTOR expense.

12.10 If PROJECT MANAGER considers it necessary or advisable that covered Work be observed by PROJECT MANAGER or inspected or tested by others, CONTRACTOR, at PROJECT MANAGER request, shall uncover, expose or otherwise make available for observation, inspection or testing as PROJECT MANAGER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, CONTRACTOR shall bear all the expenses of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction if he makes a claim therefore as provided in Articles 10 and 11.
RIVER AUTHORITY May Stop the Work:

12.11 If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, RIVER AUTHORITY may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of RIVER AUTHORITY to stop the Work shall not give rise to any duty on the part of RIVER AUTHORITY to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work:

12.12 If required by PROJECT MANAGER, CONTRACTOR shall promptly, without cost to RIVER AUTHORITY and as specified by PROJECT MANAGER, either correct any defective Work, whether or not fabricated, installed or completed, or, if the PROJECT MANAGER has rejected the Work, remove it from the site and replace it with non-defective Work.

One-Year Correction Period:

12.13 If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guaranty required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective CONTRACTOR shall promptly, without cost to RIVER AUTHORITY and in accordance with RIVER AUTHORITY written instructions, either correct such defective Work, or, if it has been rejected by RIVER AUTHORITY, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, RIVER AUTHORITY may have the defective Work corrected or the rejected Work removed and all costs of replacement, including compensation for additional professional services, shall be paid by CONTRACTOR.

Acceptance of Defective Work:

12.14 If the RIVER AUTHORITY and PROJECT MANAGER, instead of requiring correction or removal and replacement of defective Work (prior to PROJECT MANAGER recommendation of final payment) prefer to accept it, the RIVER AUTHORITY may do so. In such case, if acceptance occurs prior to PROJECT MANAGER recommendation of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after such recommendation, an appropriate amount shall be paid by CONTRACTOR to RIVER AUTHORITY.

RIVER AUTHORITY May Correct Defective Work:

12.15 If CONTRACTOR fails within a reasonable time after written notice of PROJECT MANAGER to proceed and correct defective Work or to remove and replace rejected Work as required by PROJECT MANAGER in accordance with Article 12.12, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents (including any requirements of the progress schedule), RIVER AUTHORITY may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising his rights under this paragraph, RIVER AUTHORITY shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, RIVER AUTHORITY may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR services related thereto, take possession of CONTRACTOR tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which
RIVER AUTHORITY has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow RIVER AUTHORITY, RIVER AUTHORITY representatives, agents and employees such access to the site as may be necessary to enable RIVER AUTHORITY to exercise his rights under this paragraph. All direct and indirect costs of RIVER AUTHORITY in exercising such rights shall be charged against CONTRACTOR in an amount verified by PROJECT MANAGER, and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and all costs or repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR defective Work.

CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by RIVER AUTHORITY or RIVER AUTHORITY rights hereunder.

ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

Schedules:

13.1 At least ten (10) days prior to submitting the first Application for a progress payment, CONTRACTOR shall (except as otherwise specified in the General Requirements) submit to PROJECT MANAGER a progress schedule, a final schedule of Shop Drawing submission and where applicable a schedule of values of the Work. These schedules shall be satisfactory in form and substance to PROJECT MANAGER. The schedule of values shall include quantities and unit prices aggregating the Contract Price, and shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Upon acceptance of the schedule of values by PROJECT MANAGER, it shall be incorporated into a form of Application for Payment acceptable to PROJECT MANAGER.

Application for Progress Payment:

13.2 On or before the seventh day of each month (but not more often than once a month), CONTRACTOR shall submit to PROJECT MANAGER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed for the previous month, updated progress schedule, updated CONTRACTOR red lines (as built) and accompanied by such supporting documentation as is required by the Contract Documents and also as PROJECT MANAGER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location, as agreed to in writing by the PROJECT MANAGER, the Application for Payment shall also be accompanied by such data, satisfactory to RIVER AUTHORITY, as will establish RIVER AUTHORITY title to the material and equipment and protect RIVER AUTHORITY interest therein, including applicable insurance. All costs associated with the PROJECT MANAGER verification that materials and equipment are suitably stored must be borne by the CONTRACTOR. Materials such as base, aggregate, bedding material, reinforcing steel, etc. that may be readily incorporated into construction will not be considered for payment as materials on hand. Each subsequent Application for Payment shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied to discharge in full all of CONTRACTOR obligations reflected in prior Applications for Payment. Where the CONTRACTOR is withholding from the payment due to an assigned subcontractor for labor, materials or equipment, which is either complete or partially complete, the CONTRACTOR must specifically indicate in his affidavit the name of the subcontractor and the reasons why said amount
is being withheld. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTOR Warranty of Title:

13.3 CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to RIVER AUTHORITY at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens"). The CONTRACTOR must continue to provide appropriate Bonds and insurance as indicated in Article 5 for the Work, materials, and equipment where title has passed to the RIVER AUTHORITY, until the project is substantially complete in accordance with Article 13.13 of the General Conditions. The CONTRACTOR is also responsible for security, operation, safety, maintenance, and utilities for completed portions of work until the project is substantially complete. This will in no way waive the CONTRACTOR responsibilities as outlined in Article 12.13 concerning the one (1) year correction period.

Review of Applications for Progress Payment:

13.4 PROJECT MANAGER will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to RIVER AUTHORITY or return the Application to CONTRACTOR indicating in writing PROJECT MANAGER reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. RIVER AUTHORITY shall pay PROJECT MANAGER approved Applications for Payment received by the PROJECT MANAGER on or before the seventh day of each month, to CONTRACTOR, the amount recommended by PROJECT MANAGER within thirty (30) days of receiving recommendation from PROJECT MANAGER or shortly thereafter, less retainage, if any, as so set forth in the Contract Document denominated Agreement.

13.5 PROJECT MANAGER recommendation of any payment requested in an Application for Payment will constitute a representation by PROJECT MANAGER to RIVER AUTHORITY, based on PROJECT MANAGER on-site observations of the Work in progress as an experienced and qualified design professional and on PROJECT MANAGER review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of PROJECT MANAGER knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in the recommendation) and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment PROJECT MANAGER will not thereby be deemed to have represented that any examination has been made to ascertain how or for what purpose CONTRACTOR has used the moneys paid or to be paid to CONTRACTOR on account of the Contract Price, or that title to any Work materials or equipment has passed to RIVER AUTHORITY free and clear of any Liens.

13.6 PROJECT MANAGER recommendation of final payment will constitute an additional representation by PROJECT MANAGER to RIVER AUTHORITY that the conditions precedent to CONTRACTOR being entitled to final payment as set forth in Article 13.13 have been fulfilled.

13.7 PROJECT MANAGER may refuse to recommend the whole or any part of any payment if, in his opinion, it would be incorrect to make such representation to RIVER AUTHORITY. He may also
refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify and such payment previously recommended to such extent as may be necessary in PROJECT MANAGER opinion to protect RIVER AUTHORITY from loss because:

13.7.1 the Work is defective, or completed Work has been damaged requiring correction or replacement,

13.7.2 written claims have been made against RIVER AUTHORITY or Liens have been filed in connection with the Work,

13.7.3 the Contract Price has been reduced because of Modifications,

13.7.4 RIVER AUTHORITY has been required to correct defective Work or complete the Work in accordance with Article 12.14,

13.7.5 of CONTRACTOR unsatisfactory prosecution of the Work in accordance with the Contract Documents, or

13.7.6 CONTRACTOR failure to make payment to subcontractor, or for labor, materials, or equipment.

Substantial Completion:

13.8 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall, in writing to RIVER AUTHORITY and PROJECT MANAGER, certify that the entire Work is substantially complete and request that PROJECT MANAGER issue a certificate of Substantial Completion. Within a reasonable time thereafter, RIVER AUTHORITY, CONTRACTOR, and PROJECT MANAGER shall inspect the Work to determine the status of completion. If PROJECT MANAGER does not consider the Work substantially complete, PROJECT MANAGER will prepare and deliver to RIVER AUTHORITY a tentative certificate of Substantial Completion, which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. RIVER AUTHORITY shall have seven days after receipt of the tentative certificate during which he may make written objection to PROJECT MANAGER as to any provisions of the certificate or attached list. If, after considering such objections, PROJECT MANAGER concludes that the Work is not substantially complete, PROJECT MANAGER will within fourteen days after submission of the tentative certificate to RIVER AUTHORITY notify CONTRACTOR in writing, stating his reasons therefore. If, after consideration of RIVER AUTHORITY objections, PROJECT MANAGER considers the Work substantially complete, PROJECT MANAGER will within said fourteen days execute and deliver to RIVER AUTHORITY and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificates as he believes justified after consideration of any objections from RIVER AUTHORITY. At the time of delivery of the tentative certificate of Substantial Completion PROJECT MANAGER will deliver to RIVER AUTHORITY and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between RIVER AUTHORITY and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities and insurance. Unless RIVER AUTHORITY and CONTRACTOR agree otherwise in writing and so inform PROJECT MANAGER prior to his issuing the definitive certificate of Substantial Completion PROJECT MANAGER previously mentioned
recommendation will be binding on RIVER AUTHORITY and CONTRACTOR until final payment.

13.9 RIVER AUTHORITY shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but RIVER AUTHORITY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Partial Utilization:

13.10 Use by RIVER AUTHORITY of completed portions of the Work may be accomplished prior to Substantial Completion of all the Work subject to the following:

13.10.1 RIVER AUTHORITY at any time may request CONTRACTOR in writing to permit RIVER AUTHORITY to use any part of the Work, which RIVER AUTHORITY believes to be substantially complete, and which may be so used without significant interference with construction of the other parts of the Work. If CONTRACTOR agrees, CONTRACTOR will certify to RIVER AUTHORITY and PROJECT MANAGER that said part of the Work is substantially complete and request PROJECT MANAGER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time thereafter RIVER AUTHORITY, CONTRACTOR, and PROJECT MANAGER shall inspect that part of the Work to determine its status of completion. If PROJECT MANAGER does not consider that part of the Work to be substantially complete, PROJECT MANAGER will notify RIVER AUTHORITY and CONTRACTOR in writing giving his reasons therefor. If PROJECT MANAGER considers that part of the Work to be substantially complete, PROJECT MANAGER will execute and deliver to RIVER AUTHORITY and CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, attaching thereto a tentative list of items to be completed or corrected before final payment. Prior to issuing a certificate of Substantial Completion as to part of the Work PROJECT MANAGER will deliver to RIVER AUTHORITY and CONTRACTOR a written recommendation as to the division of responsibilities pending final payment between RIVER AUTHORITY and CONTRACTOR with respect to security, operation, safety, maintenance, utilities and insurance for that part of the Work which shall become binding upon RIVER AUTHORITY and CONTRACTOR at the time of issuing the definitive certificate of Substantial Completion as to that part of the Work unless RIVER AUTHORITY and CONTRACTOR shall have otherwise agreed in writing and so informed PROJECT MANAGER. RIVER AUTHORITY shall have the right to exclude CONTRACTOR from any part of the Work, which PROJECT MANAGER has so certified to be substantially complete, but RIVER AUTHORITY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

13.10.2 In lieu of the issuance of a certificate of Substantial Completion as to part of the Work, RIVER AUTHORITY may take over operation of a facility constituting part of the Work whether or not it is substantially complete if such facility is functionally and separately usable; provided that prior to any such takeover, RIVER AUTHORITY and CONTRACTOR have agreed as to the division of responsibilities between RIVER AUTHORITY and CONTRACTOR for security, operation, safety, maintenance, correction period, heat, utilities and insurance with respect to such facility.
13.10.3 No occupancy of part of the Work or taking over of operations of a facility will be accomplished prior to compliance with the requirements of RIVER AUTHORITY Outline of Insurance Required in respect of property insurance.

Final Inspection:

13.11 Upon written notice from CONTRACTOR that the Work is complete, PROJECT MANAGER will make a final inspection with RIVER AUTHORITY and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment:

13.12 After CONTRACTOR has completed all such corrections to the satisfaction of PROJECT MANAGER and delivered all maintenance and operating instructions, schedules, guaranties, Bonds, certificates of inspection, marked-up record documents and other documents - all as required by the Contract Documents, and after PROJECT MANAGER has indicated that the Work is acceptable (subject to the provisions of Article 13.16), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as PROJECT MANAGER may reasonably require, together with complete and legally effective releases or waivers (satisfactory to RIVER AUTHORITY) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by RIVER AUTHORITY, CONTRACTOR may furnish receipts or releases in full; an affidavit from CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which RIVER AUTHORITY or his property might in any way be responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment. If any subcontractor, manufacturer, fabricator, supplier, or distributor fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to RIVER AUTHORITY to indemnify RIVER AUTHORITY against any Lien.

Final Payment:

13.13 If, on the basis of PROJECT MANAGER observation of the Work during construction and final inspection, and PROJECT MANAGER review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, PROJECT MANAGER is satisfied that the Work has been completed and CONTRACTOR has fulfilled all of his obligations under the Contract Documents, PROJECT MANAGER will, within ten days after receipt of the final Application for Payment, indicate in writing his recommendation of payment and present the Application to RIVER AUTHORITY for payment. Thereupon PROJECT MANAGER will give written notice to RIVER AUTHORITY and CONTRACTOR that the Work is acceptable subject to the provisions of Article 13.16. Otherwise, PROJECT MANAGER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. If the Application and accompanying documentation are appropriate as to form and substance, RIVER AUTHORITY shall, within thirty days after receipt thereof pay CONTRACTOR the amount recommended by PROJECT MANAGER, such amount taking into consideration retainages, if any, as so set forth in the Contract Document denominated agreement.
13.14 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed thereof and if PROJECT MANAGER so confirms, RIVER AUTHORITY shall, upon receipt of CONTRACTOR final Application for Payment and recommendation of PROJECT MANAGER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted.

CONTRACTOR Continuing Obligation:

13.15 CONTRACTOR obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by PROJECT MANAGER, nor the issuance of a certificate of Substantial Completion, nor any payment by RIVER AUTHORITY to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by RIVER AUTHORITY, nor any act of acceptance by RIVER AUTHORITY nor any failure to do so, nor the issuance of a notice of acceptability by PROJECT MANAGER pursuant to Article 13.13, nor any correction of defective Work by RIVER AUTHORITY shall constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR obligation to perform the Work in accordance with the Contract Documents.

Waiver of Claims:

13.16 The making and acceptance of final payment shall constitute a release to the RIVER AUTHORITY and every officer and agent thereof from all claims and liability hereunder for anything done or furnished for or relating to the Work or for any act or neglect of the RIVER AUTHORITY or of any person relating to or affecting the Work.

Final Completion:

13.17 Only upon the PROJECT MANAGER recommendation, will the RIVER AUTHORITY issue a Certificate of Final Completion. The CONTRACTOR must have completed all outstanding construction and corrective maintenance construction as provided by Article 13.3, "CONTRACTOR Warranty of Title." The date of Final Completion of a Project or specified part of a Project is the date when, construction having been complete and maintained in accordance with the Contract Documents, the CONTRACTOR is released from all responsibility and obligation for further maintenance of the Project and complete ownership of the Project passes to the RIVER AUTHORITY.

ARTICLE 14 - SUSPENSION OF WORK AND TERMINATION

RIVER AUTHORITY May Suspend Work:

14.1 RIVER AUTHORITY may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and PROJECT MANAGER that shall fix the date on which Work shall be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR will be allowed to apply for an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if he makes a claim therefore as provided in Articles 10 and 11. However, if the RIVER AUTHORITY stops the Work for just cause because the CONTRACTOR is not complying with the plans and specifications or the intent thereof, or any provision of this Contract, then CONTRACTOR shall have no claim for damages, hindrances, or delays.
RIVER AUTHORITY May Terminate:

14.2 Upon the occurrence of any one or more of the following events:

14.2.1 if CONTRACTOR is adjudged as bankrupt or insolvent,
14.2.2 if CONTRACTOR makes a general assignment for the benefit of creditors,
14.2.3 if a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR property,
14.2.4 if CONTRACTOR files a petition to take advantage of any debtors act, or to reorganize under the bankruptcy or similar laws,
14.2.5 if CONTRACTOR repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment,
14.2.6 if CONTRACTOR repeatedly fails to supply a sufficient skilled work force capable of completing the Work within the Time allotted for construction,
14.2.7 if CONTRACTOR disregards the consequences of failure to complete the Work within the Time allotted for construction and fails to supply a sufficient skilled work force to expeditiously complete the Work where Contract Time has expired,
14.2.8 if CONTRACTOR repeatedly fails to make prompt payments to subcontractor or for labor, materials or equipment,
14.2.9 if CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction,
14.2.10 if CONTRACTOR disregards the authority of PROJECT MANAGER,
14.2.11 if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents, or
14.2.12 if CONTRACTOR fails to submit final application for payment in accordance with these Contract Documents.

RIVER AUTHORITY may for the reasons listed in 14.2.1 through 14.2.12 inclusive, after giving CONTRACTOR and his surety seven (7) days' written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR tools, appliances, construction site or for which equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the RIVER AUTHORITY has paid CONTRACTOR but which are stored elsewhere, and finish the Work as RIVER AUTHORITY may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to RIVER AUTHORITY. Such costs incurred by RIVER AUTHORITY shall be
verified by PROJECT MANAGER and incorporated in a Change Order, but in finishing, the Work RIVER AUTHORITY shall not be required to obtain the lowest figure for the Work performed.

14.3 Where CONTRACTOR services have been so terminated by RIVER AUTHORITY, the termination shall not affect any rights of RIVER AUTHORITY against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by RIVER AUTHORITY will not release CONTRACTOR for liability.

14.4 Upon seven (7) days' written notice to CONTRACTOR and PROJECT MANAGER, RIVER AUTHORITY, may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses.

CONTRACTOR May Stop Work or Terminate:

14.5 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by RIVER AUTHORITY or under an order of court or other public authority, or PROJECT MANAGER fails to act on any Application for Payment within sixty (60) days after it is submitted, or RIVER AUTHORITY fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon thirty (30) days' written notice to RIVER AUTHORITY and PROJECT MANAGER, terminate the Agreement and recover from RIVER AUTHORITY payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if PROJECT MANAGER has failed to act on an Application for Payment or RIVER AUTHORITY has failed to make any payment as previously mentioned, CONTRACTOR may upon thirty (30) days' notice to RIVER AUTHORITY and PROJECT MANAGER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of his obligations under Article 5.29 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with RIVER AUTHORITY.

ARTICLE 15 - MEDIATION

RIVER AUTHORITY and CONTRACTOR will negotiate in good faith in an effort to resolve any dispute that may arise between them. All disputes will be submitted to mediation before proceeding with other legal remedies. In the event mediation is necessary, RIVER AUTHORITY and CONTRACTOR shall choose a mutually agreeable mediator and share the cost of mediation equally. In the event the mediation is not successful, RIVER AUTHORITY or CONTRACTOR may proceed with other legal remedies.

ARTICLE 16 - MISCELLANEOUS

Giving Notice:

16.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

Computation of Time:

16.2 When any period of time is referred to in the Contract Documents by days, it shall be considered as calendar days, and computed to exclude the first and include the last day of such period. If the
last day of any such period falls on Saturday, Sunday or on a federal holiday by the law of the United States of America, such day shall be omitted from the computation.

Date Certain Contract:

16.3 After beginning Work as outlined in Article 2.3, the CONTRACTOR shall complete the Work within the time provided for in Article 3.1 of the Agreement, during which period of time CONTRACTOR binds and obligates itself to employ a sufficient work force to diligently pursue completion of said structures, Work, and improvements. The CONTRACTOR shall deliver same over to the RIVER AUTHORITY in a completed, undamaged, and clean condition within the time allotted for construction as indicated in Article 3.1 of the Agreement. No additional time for completion will be allowed unless granted in writing by the RIVER AUTHORITY.

Liquidated Damages:

16.4 If CONTRACTOR shall fail to complete any part, portion or phase of the Work within the time herein specified or otherwise allowed therefore, he shall be liable for the amount set forth in Article 14 of the Supplementary Conditions for the period of such delay. Said amount to be directly paid by CONTRACTOR to RIVER AUTHORITY or to be deducted by the RIVER AUTHORITY on the monthly pay estimate with required adjustments made on the final estimate and settlement, not as a penalty, but as liquidated damages due to RIVER AUTHORITY for expense, loss and inconvenience resulting from failure to complete said part, portion or phase of the Work within the time allowed, such time of completion being an essential element and consideration, as a result of such delay.

The amount of all such damage shall be fixed and determined by the written certificate of the PROJECT MANAGER whose judgment shall be final. An additional amount, as specified in the Supplementary Conditions, shall be assessed for inspection fees and administrative costs.

General:

16.5 Should RIVER AUTHORITY or CONTRACTOR suffer injury or damage to his person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

16.6 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR by Articles 5.33, 12.2, 12.13, 12.14, 13.3, and 14.2 and all of the rights and remedies available to RIVER AUTHORITY and PROJECT MANAGER there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by law or contract, by special warranty or guaranty or by other provisions of the Contract Documents, and the provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties, and guaranties made in the Contract Documents shall survive final payment and termination or completion of this Agreement.

16.7 The CONTRACTOR agrees not to engage in discriminatory employment practices against any employee or applicant for employment; and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color,
religion, national origin, sex, age, handicap or political belief or affiliation. Specifically, the CONTRACTOR agrees to abide by all applicable provisions of the Nondiscrimination Clause and the Small and Minority Business Enterprise Clause as contained in the City of San Antonio's current Affirmative Action Plan on file in the City's Department of Equal Employment Opportunity and the City Clerks Office. In the event non-compliance occurs, the CONTRACTOR, upon written notification by the RIVER AUTHORITY, will commence compliance procedures within thirty (30) days.

16.8 The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract and that it has not for the purpose of soliciting or securing this Contract, paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Contract. For breach of this warranty, the RIVER AUTHORITY shall have the right to terminate this Contract in accordance with Article 14 herein.

ARTICLE 17 - SURETY ASSIGNMENT, RESPONSIBILITIES, LIQUIDATED DAMAGES AND TERMINATION UPON CONTRACTOR DEFAULT/TERMINATION

Surety Assignment to Complete Work:

17.1 When directed in writing by the RIVER AUTHORITY where the CONTRACTOR has defaulted and its services have otherwise been terminated for cause, the CONTRACTOR surety may be assigned to take over and complete the work.

Surety Responsibilities:

17.2 Pursuant to the provisions of Article 17.1 and of the Performance Bond the CONTRACTOR surety may be assigned to take over and complete the Work. When so assigned the CONTRACTOR surety shall assume all responsibilities of the CONTRACTOR as set forth in the Contract Documents and shall faithfully construct and complete said structures, Work and improvements, and shall observe, perform and comply with all the terms, conditions, stipulations, undertakings and provisions of said Contract and all included instruments according to their intent and purpose insofar as the same relate to or are incident to the construction and completion of said structures, Work and improvements.

RIVER AUTHORITY Right to Terminate:

17.3 The CONTRACTOR surety assumes all responsibilities of the CONTRACTOR as indicated in the Contract Documents when assigned to complete the Work. As such, the RIVER AUTHORITY has the right to terminate upon the occurrence of one or more of the events identified in Article 14.2 of the General Conditions or if the CONTRACTOR surety fails to take responsible charge of the Work and productive construction activity is not evident at the project site within six weeks of the time when the CONTRACTOR services had been terminated. RIVER AUTHORITY may for the reasons indicated, after giving the CONTRACTOR surety seven days' written notice, terminate the services of CONTRACTOR surety, exclude CONTRACTOR surety from the site and take possession of the Work and of all CONTRACTOR and/or its surety tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR and/or its surety (without liability to CONTRACTOR and/or its surety for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which RIVER AUTHORITY has paid CONTRACTOR and/or its surety but which are stored
elsewhere, and finish the Work as RIVER AUTHORITY may deem expedient. In such case, CONTRACTOR and/or its surety shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to CONTRACTOR and/or its surety. If such costs to complete the Work exceed such unpaid balance, CONTRACTOR surety shall pay the difference to RIVER AUTHORITY. Such costs incurred by RIVER AUTHORITY shall be verified by PROJECT MANAGER and incorporated in a Change Order, but in finishing the Work RIVER AUTHORITY shall not be required to obtain the lowest cost figure for the Work performed.

ARTICLE 18 – EQUAL EMPLOYMENT OPPORTUNITY

The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employees and that employees are treated during employment, without regard to their race color, religion, sex, or national origin.

In the event of the CONTRACTOR noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated, or suspended in whole or in part, and the CONTRACTOR may be debarred from further contracts with the RIVER AUTHORITY.

ARTICLE 19 - WAGE RATES

19.1 All employees directly employed on the work shall be paid not less than the established prevailing wage scale for work of similar character in this locality and shall keep accurate wage records accessible in accordance with Chapter 62 of the Texas Labor Code. The CONTRACTOR will submit a copy of all weekly payrolls to the Contract Officer. These payrolls will contain the name, address, and social security number of each laborer or mechanic at the site of the work, his correct classification, rates of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. The payroll shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, and that the wage rates contained therein are not less than the applicable wage determination contained in these specifications, and that the classifications conform with the work each laborer or mechanic forms. The CONTRACTOR shall be responsible for the submission of copies of all subcontractor.

19.2 Before monthly payments shall be made to the CONTRACTOR by the RIVER AUTHORITY, all payroll transcripts for that payment period, along with other such detailed information requested by the Project Manager, must be received by the Project Manager. No progress payments shall be made until the job payroll copies and requested information have been received.

19.3 The payrolls shall be reviewed by the Project Manager and the CONTRACTOR shall be notified of any discrepancies noted. Any discrepancy in the payroll shall be cause for withholding further payments to the CONTRACTOR until such discrepancies are properly corrected.

19.4 Wage Determination Decision: Included and considered as part of the Contract is a Schedule of Occupation Classifications and minimum hourly wage rate as required. This section is copied onto green colored pages and begins on Page W-1.

19.5 Overtime Pay: For the purposes of this Contract, a normal workweek is considered forty (40) hours per week. Any time a laborer or mechanic works in excess of forty (40) hours per week, that
employee shall be paid no less than the rate of one and one half (1-1/2) times the employee's regular hourly rate. Overtime pay shall be paid also for work on recognized federal holidays.

ARTICLE 20 - DISADVANTAGED BUSINESS ENTERPRISE

SARA has adopted the TXDOT DBE program for this project. The contract provisions in the attached Exhibit 6, TXDOT Special Provisions SP000-394L shall be applicable to the final executed contract. No exceptions shall be granted. Should there be any conflicts, the provisions in TXDOT Special Provisions SP000-394L shall prevail.

SARA has adopted the following Disadvantaged Business Enterprise (DBE) goal for this project is 6%.

Bidders are to identify if they are a DBE contractor and provide proof of certification with their bid. Selection is based upon the amount bid and qualifications, however, if all qualifications are equal between submitting bidders, then preference may be given to the qualified and certified DBE firm.

ARTICLE 21 - PROTECTION AGAINST ACCIDENT TO RIVER AUTHORITY, ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES AND THE PUBLIC

The CONTRACTOR shall save and hold harmless the RIVER AUTHORITY, its officers, agents, employees and representatives, from any and all claims, suits and damages of every kind, for injury to, or death of, any person, or persons and for damage to, or loss of property, arising out of, or attributed, directly or indirectly, to the operations of this project and the performance of this contract. For this purpose, any subcontractor or subcontractor shall be considered agents of the CONTRACTOR.

ARTICLE 22 – GUARANTY AGAINST DEFECTIVE WORK

The CONTRACTOR SHALL INDEMNIFY THE RIVER AUTHORITY against any repairs that may become necessary to any part of the work performed under the Contract arising from defective workmanship or materials used therein for a period of one (1) year from the date of Substantial Completion of the project. The guarantee period for workmanship, materials and equipment for the project shall begin from the date indicated on the "Substantial Completion Certificate" issued by the Project Manager.

ARTICLE 23 - ACCIDENTS

The CONTRACTOR shall provide, at the site, such equipment and medical facilities as are necessary to supply first aid service to anyone who may be injured in connection with the work. The CONTRACTOR must promptly report in writing to the PROJECT MANAGER all accidents whatsoever arising out of, or in connection with, the performance of the work whether on or adjacent to the site which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death, serious injury, or serious damage is caused, the accident then shall be reported immediately by telephone or messenger.
# SUPPLEMENTARY CONDITIONS

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ARTICLE 1 – USE OF PRIMARY ARTERIES

The CONTRACTOR shall confine his haul routes to primary arteries. Damage to streets caused by the CONTRACTOR equipment shall be repaired upon direction and in the manner prescribed by the Inspector or the Project Manager at the CONTRACTOR expense.

ARTICLE 2 – DUST CONTROL

The CONTRACTOR shall employ dust control in the project area as well as on all streets used to access construction area, haul routes and detours.

ARTICLE 3 – USE OF EXPLOSIVES

The use of explosives will not be permitted on this project.

ARTICLE 4 – UTILITY CONNECTIONS

4.1 Water: The responsibility shall be upon the CONTRACTOR to provide and maintain, at his own expense, an adequate supply of water for his use for construction and domestic consumption. Any connections and piping that the CONTRACTOR deems necessary shall be installed at his expense and at locations approved by local authorities and the RIVER AUTHORITY. Before final acceptance, all temporary connections and piping installed by the CONTRACTOR shall be removed in a manner satisfactory to the Inspector. All resident inspection or water replacement, adjustment, and attendant work will be performed by an authorized representative of the controlling utility who will, in turn, be responsible directly to the Project Manager as designated in Article 1 - Definitions of the General Conditions of Agreement.

4.2 Electricity: All electric service required by the CONTRACTOR shall be furnished at his own expense. All necessary meters, switches, connections, and wiring shall be installed at his expense and at locations approved by the Project Manager. Before final acceptance, all meters, switches, connections, and wiring installed by the CONTRACTOR shall be removed in a manner satisfactory to the Inspector.

ARTICLE 5 – MATERIALS

All salvageable material shall become the property of the RIVER AUTHORITY and shall be stored as directed by the Inspector at the CONTRACTOR’S expense

ARTICLE 6 – COORDINATION WITH OTHERS

Other CONTRACTOR may be doing work in the same area simultaneously with this project. The CONTRACTOR shall coordinate his proposed construction with that of the other contractor.

ARTICLE 7 – ACCESS TO SITE

The CONTRACTOR shall secure permission for access to the work site in all areas including RIVER AUTHORITY easements. This access must be approved by the RIVER AUTHORITY and where the CONTRACTOR cannot legally obtain access to a work site, he must submit a written request to be released from the responsibility for the performance of work at said site.
ARTICLE 8 – STORAGE SITE

The CONTRACTOR must secure a storage area of a size adequate to accommodate equipment, vehicles, and materials for the period of performance of the agreement. The storage site must be approved by the RIVER AUTHORITY.

ARTICLE 9 – BARRICADES, WARNING SIGNS, LIGHTS AND TRAFFIC CONTROL

At street crossings and at other points of hazard, or as directed by the Resident Project Representative/Inspector, the CONTRACTOR shall provide and maintain suitable signs, barricades and warning lights as are necessary to direct traffic around work in progress and insure the safety of the public. It shall be the CONTRACTOR responsibility to obtain all traffic permits and detour traffic plans, as needed.

The CONTRACTOR shall provide adequate flagmen, barricades and detour and warning signs and lights for the project, or portion of the project within which operations are being prosecuted. All excavations and/or stockpiles of materials shall be adequately barricaded and lighted.

All barricades, detour and warning signs and lights for this project shall be constructed and placed in accordance with the "Texas Manual on Uniform Traffic Control Devices for Streets and Highways (latest version)," as published by TxDOT, and approved by the Resident Project Representative/Inspector.

ARTICLE 10 – DETOUR ROUTES

The CONTRACTOR shall not begin construction of the project or close or partially close any streets until adequate barricades and detour signs in accordance with the detour route have been provided. It is the sole responsibility of the CONTRACTOR to obtain and pay for all permits required for street closures and detours. The CONTRACTOR shall notify the Resident Project Representative/Inspector twenty-four (24) hours in advance of closing or partially closing any street to through traffic. However, notice to SARA/Resident Project Representative/Inspector does not constitute permit approval. All permits and traffic detour plans must be reviewed and approved by Bexar County Public Works. Local traffic shall be permitted to use the streets under construction where feasible.

ARTICLE 11 – FENCING

Any and all fencing, including electric fence, whether or not identified on the Plans, must be maintained at all times. Where the nature of the work requires fence to be removed the CONTRACTOR, at his expense, shall replace said fencing as detailed in the Plans and/or as approved by the Resident Project Representative/Inspector. The CONTRACTOR must maintain fencing required to confine livestock at all times.

Access through Fencing: Appropriate gaps for project access must be maintained by the CONTRACTOR to assure livestock control at the CONTRACTOR’S expense.

Bore Pit Fencing: Use of tubular portable gate panels 4’ minimum height shall be the minimum requirement for perimeter of bore pit at all times.

Pedestrian Control Fencing: Temporary Fencing shall be placed in all areas of open trenches to prevent pedestrians from crossing open trenches.
ARTICLE 12 – GEOTECHNICAL INFORMATION

The RIVER AUTHORITY may have geotechnical information, which may include subsurface data, logs of soil borings, and recommendations from geotechnical consultants. Any information obtained is solely for use by the RIVER AUTHORITY and/or its design Engineers in the design of the project and are not part of the Contract. Any geotechnical information provided is for information only. The RIVER AUTHORITY and its design Engineers do not guarantee the accuracy or validity of the data, nor do they assume any responsibility for any interpretations or conclusions the CONTRACTOR may draw from the data.

The CONTRACTOR shall provide to the "CONTRACTOR’S Qualified Project Manager“ all information needed to design the "Trench Safety System”. The CONTRACTOR may, at his option, perform additional subsurface investigations at his own expense.

ARTICLE 13 – PERMITS

CONTRACTOR to provide all permits for this project. CONTRACTOR to provide Storm Water Pollution Prevention Plan and RIVER AUTHORITY will review for approval.

ARTICLE 14 – LIQUIDATED DAMAGES FOR FAILURE TO TIMELY COMPLETE

Pursuant to Article 3.2 of the Agreement, RIVER AUTHORITY may withhold, permanently, from the CONTRACTOR total compensation, the sum of $0,000.00 per calendar day (not to exceed one percent of the total compensation per month) that expires after the time specified in Article 3.1 of the Agreement, until either Substantial Completion in accordance with Article 13.8 of the General Conditions; or Final Completion in accordance with Article 13.17 of the General Conditions.

Substantial Completion; Delay Liquidated Damages. CONTRACTOR shall achieve Substantial Completion for the Project by the applicable scheduled date of Substantial Completion set forth in Article 3.1 of the AGREEMENT. For failure to timely achieve Substantial Completion, Delay Liquidated Damages in the amount indicated above shall accrue from the Scheduled Date of Substantial Completion, as the same may be extended for Excusable Delay, for each day that CONTRACTOR has not achieved Substantial Completion, continuing until the earlier of (i) the actual achievement of the Substantial Completion, or (ii) commencement of the accrual of liquidated damages for failure to timely achieve Final Completion, or (iii) termination of this Agreement for default. RIVER AUTHORITY may deduct and offset from and against any amounts due CONTRACTOR a sum equal to the amount of any Delay Liquidated Damages due RIVER AUTHORITY through the date that Substantial Completion is achieved. If Substantial Completion occurs on or prior to the Scheduled Date of Substantial Completion, RIVER AUTHORITY shall not withhold and the CONTRACTOR shall have no obligation to forego Delay Liquidated Damages under this Section with respect to Substantial Completion of the PROJECT.

Final Completion; Delay Liquidated Damages. CONTRACTOR shall achieve Final Completion of the Project by the applicable scheduled date of Final Completion set forth in ARTICLE 3.1, above. For failure to timely achieve Final Completion, Delay Liquidated Damages in the amount indicated above shall accrue from the Scheduled Date of Final Completion, as the same may be extended for Excusable Delay, for each day that CONTRACTOR has not achieved Final Completion, continuing until the earlier of (i) the actual achievement of the Final Completion, or (ii) termination of this Agreement for default. RIVER AUTHORITY may deduct and offset from and against any amounts due CONTRACTOR a sum equal to the amount of any Delay Liquidated Damages due RIVER AUTHORITY through the date that Final Completion is achieved. If Final Completion occurs on or prior to the Scheduled Date of Final Completion, RIVER AUTHORITY shall not withhold and the CONTRACTOR shall have no obligation to forego Delay Liquidated Damages under this Section with respect to Final Completion of the PROJECT.
WAGE RATES

General Decision Number: TX190007 01/04/2019  TX7

Superseded General Decision Number: TX20180016

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClenon and Williamson Counties) and HIGHWAY Construction Projects

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number     Publication Date
0             01/04/2019

*  SUTX2011-006 08/03/2011

Rates Fringes

CEMENT MASON/CONCRETE FINISHER (Paving and Structures)....................$ 12.56

ELECTRICIAN.........................$ 26.35

FORM BUILDER/FORM SETTER Paving & Curb.................$ 12.94 Structures.................$ 12.87
LABORER
- Asphalt Raker: $12.12
- Flagger: $9.45
- Laborer, Common: $10.50
- Laborer, Utility: $12.27
- Pipelayer: $12.79
- Work Zone Barricade Servicer: $11.85

PAINTER (Structures): $18.34

POWER EQUIPMENT OPERATOR:
- Agricultural Tractor: $12.69
- Asphalt Distributor: $15.55
- Asphalt Paving Machine: $14.36
- Boom Truck: $18.36
- Broom or Sweeper: $11.04
- Concrete Pavement Finishing Machine: $15.48
- Crane, Hydraulic 80 tons or less: $18.36
- Crane, Lattice Boom 80 tons or less: $15.87
- Crane, Lattice Boom over 80 tons: $19.38
- Crawler Tractor: $15.67
- Directional Drilling Locator: $11.67
- Directional Drilling Operator: $17.24
- Excavator 50,000 lbs or Less: $12.88
- Excavator over 50,000 lbs: $17.71
- Foundation Drill, Truck Mounted: $16.93
- Front End Loader, 3 CY or Less: $13.04
- Front End Loader, Over 3 CY: $13.21
- Loader/Backhoe: $14.12
- Mechanic: $17.10
- Milling Machine: $14.18
- Motor Grader, Fine Grade: $18.51
- Motor Grader, Rough: $14.63
- Pavement Marking Machine: $19.17
- Reclaimer/Pulverizer: $12.88
- Roller, Asphalt: $12.78
- Roller, Other: $10.50
- Scraper: $12.27
- Spreader Box: $14.04
- Trenching Machine, Heavy: $18.48

Servicer: $14.51

Steel Worker
- Reinforcing: $14.00
- Structural: $19.29
TRAFFIC SIGNAL INSTALLER
   Traffic Signal/Light Pole Worker.....................$ 16.00

TRUCK DRIVER
   Lowboy-Float.....................$ 15.66
   Off Road Hauler....................$ 11.88
   Single Axle.......................$ 11.79
   Single or Tandem Axle Dump Truck..........................$ 11.68
   Tandem Axle Tractor w/Semi Trailer.....................$ 12.81
   WELDER........................................$ 15.97

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey.
Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which
the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

================================================================
END OF GENERAL DECISION

W - 5
MEASUREMENT AND PAYMENT

GENERAL DESCRIPTION:

Subsidiary Items. All items not specifically called for in the Specifications or shown on the Plans, but required to complete the project as intended, shall be considered subsidiary to other items of this Contract and shall not be paid for separately.

Payment for Materials on Hand: Payment for materials on hand may be made for certain equipment and other materials and specialties. Fill material, concrete reinforcement steel, or other materials which are readily incorporated in the work, shall not be included in materials on hand. Payment for materials on hand shall only be items for which the RIVER AUTHORITY received a copy of the manufacturer's or supplier's invoice and verification that the equipment or materials are on the job site, or an approved bonded site, properly protected, and stored.

BID:

The Bid is a part of the Contract Documents and lists each item of work for which payment will be made. No payment will be made for any items other than those listed in the Bid. For unit price contracts, the CONTRACTOR will be paid for the actual quantity placed in accordance with the plans and as measured in the field by the Project Manager. For lump sum contracts, the CONTRACTOR will be paid for the percent completion in accordance with the plans and as determined in the field by the Project Manager.

This project is being bid as a "separate contract" in accordance with an amendment to Section 151.311 of the Texas tax code in order for the CONTRACTOR to claim a tax exemption on the contract price of materials.

Required items of work and incidentals necessary for the satisfactory completion of the project which are not specifically listed in the Bid, and which are not specified in this section to be measured are to be included in one of the items listed in the Bid and all costs thereof, including CONTRACTOR overhead costs and profit, shall be considered and included in the prices bid for the various Bid items. The CONTRACTOR shall prepare his Bid accordingly.

"Work" by definition herein includes furnishing all parts, labor, equipment, tools and materials and performing all operations required to complete the items satisfactorily, in place, as specified and as indicated on the Plans.

MEASUREMENT:

Measurement of an item of work will be by the units indicated in the Bid. Measurement will be made at the Contract price per unit indicated in the bid, or based on percentage of work completed as determined by the Project Manager, with total measurement of the Contract being computed by extending unit prices multiplied by actual field quantities, as appropriate to reflect actual work included in the project.
PAYMENT:

Payment will be made for items of work as indicated in the bid and for which measurement has been specified in this section of the specifications. No separate payment will be made for any work for which measurement has not been specified, and such work shall be considered as incidental to and included in the various bid item prices. CONTRACTOR to provide Project Manager a schedule of values for major items of the project.

Payment will be made at the Contract price per unit indicated in the bid, or based on percentage of work completed as determined by the Project Manager, with total final price of the Contract being computed by extending unit prices multiplied by actual field quantities, as appropriate to reflect actual work included in the project. Such price and payment shall constitute full compensation to the CONTRACTOR for furnishing all parts, labor, equipment, tools, and materials and for performing all operations required to furnish to the RIVER AUTHORITY the entire project complete in place, as specified and as indicated on the plans.
REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General

II. Nondiscrimination

III. Nonsegregated Facilities

IV. Davis-Bacon and Related Act Provisions

V. Contract Work Hours and Safety Standards Act Provisions

VI. Subletting or Assigning the Contract

VII. Safety: Accident Prevention

VIII. False Statements Concerning Highway Projects

IX. Implementation of Clean Air Act and Federal Water Pollution Control Act

X. Compliance with Governmentwide Suspension and Debarment Requirements

XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under
this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment.

Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are
applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor
will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policy nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt.

Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

   a. All laborers and mechanics employed or working upon the site of the or the operations shall be paid at a rate not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

   Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates confirmed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

   b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

      (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

      (ii) The classification is utilized in the area by the construction industry; and

      (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

   (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

   (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or
will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages and fringe benefits required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof) of the types described in section 1(b)(2)(B) of the Davis-Bacon Act, daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeymen wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor or the employees or their representatives.

10. **Certification of eligibility.**

    a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

    b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


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**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.
VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

   a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term includes fixed payments for the costs of hiring lease labor from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

   (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
   (2) the prime contractor remains responsible for the quality of the work of the leased employees;
   (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
   (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

   b. "Specialty Items" shall be construed to be limited to work requiring highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project.

18 U.S.C. 1020 reads as follows:
"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more — as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification — First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epis.gov/), which is compiled by the General Services Administration.
i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

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

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epis.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the
department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

   a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.
ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

   a. To the extent that qualified persons regularly residing in the area are not available.

   b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

   c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.
Special Provision to Item 000
Disadvantaged Business Enterprise in Federal-Aid Contracts

1. DESCRIPTION

The purpose of this Special Provision is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT-assisted Contracts and creating a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can compete fairly for DOT-assisted Contracts.

2. DISADVANTAGED BUSINESS ENTERPRISE IN FEDERAL-AID CONTRACTS

2.1. Policy. It is the policy of the DOT and the Texas Department of Transportation (Department) that DBEs, as defined in 49 CFR Part 26, Subpart A, and the Department's DBE Program, will have the opportunity to participate in the performance of Contracts financed in whole or in part with federal funds. The DBE requirements of 49 CFR Part 26, and the Department's DBE Program, apply to this Contract as follows.

The Contractor will solicit DBEs through reasonable and available means, as defined in 49 CFR Part 26, Appendix A, and the Department's DBE Program, or show a good faith effort to meet the DBE goal for this Contract.

The Contractor, subrecipient, or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate.

The requirements of this Special Provision must be physically included in any subcontract.

By signing the Contract proposal, the Bidder is certifying that the DBE goal as stated in the proposal will be met by obtaining commitments from eligible DBEs or that the Bidder will provide acceptable evidence of good faith effort to meet the commitment.

2.2. Definitions.

2.2.1. Administrative Reconsideration. A process by which the low bidder may request reconsideration when the Department determines the good faith effort (GFE) requirements have not been met.

2.2.2. Commercially Useful Function (CUF). A CUF occurs when a DBE has the responsibility for the execution of the work and carrying out such responsibilities by actually performing, managing, and supervising the work.

2.2.3. Disadvantaged Business Enterprise (DBE). A for-profit small business certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26, that is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of a publicly owned business, in which is at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own it.

2.2.4. DBE Joint Venture. An association of a DBE firm and one or more other firms to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the Contract and whose
share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

2.2.5. **DOT.** The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

2.2.6. **Federal-Aid Contract.** Any Contract between the Owner and a Contractor that is paid for in whole or in part with DOT financial assistance.

2.2.7. **Good Faith Effort.** All necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. Good faith efforts are evaluated prior to award and throughout performance of the Contract. For guidance on good faith efforts, see 49 CFR Part 26, Appendix A.

2.2.8. **North American Industry Classification System (NAICS).** A designation that best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau website: [http://www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/).

2.2.9. **Race-Conscious.** A measure or program that is focused specifically on assisting only DBEs, including women-owned businesses.

2.2.10. **Race-Neutral DBE Participation.** Any participation by a DBE through customary competitive procurement procedures.

2.2.11. **Texas Unified Certification Program (TUCP) Directory.** An online directory listing all DBEs currently certified by the TUCP. The Directory identifies DBE firms whose participation on a Contract may be counted toward achievement of the assigned DBE Contract goal.

2.3. **Contractor’s Responsibilities.**

2.3.1. **DBE Liaison Officer.** Designate a DBE liaison officer who will administer the Contractor’s DBE program and who will be responsible for maintenance of records of efforts and contacts made to subcontract with DBEs.

2.3.2. **Compliance Tracking System (CTS).** This Contract is subject to Contract compliance tracking. Contractors and DBEs are required to provide any noted and requested Contract compliance-related data to the Owner. This includes, but is not limited to, commitments, payments, substitutions, and good faith efforts. Contractors and DBEs are responsible for responding by any noted response date or due date to any instructions or request for information by the Owner.

2.3.3. **Apparent Low Bidder.** The apparent low bidder must submit DBE commitments to satisfy the DBE goal or submit good faith effort Form 2603 and supporting documentation demonstrating why the goal could not be achieved, in whole or part, no later than 5 calendar days after bid opening. The means of transmittal and the risk of timely receipt of the information will be the bidder’s responsibility and no extension of the 5-calendar-day timeframe will be allowed for any reason.

2.3.4. **DBE Contractor.** A DBE Contractor may receive credit toward the DBE goal for work performed by its own forces and work subcontracted to DBEs. In the event a DBE subcontracts to a non-DBE, that information must be reported monthly.

2.3.5. **DBE Committal.** Only those DBEs certified by the TUCP are eligible to be used for goal attainment. The Directory can be accessed at the following Internet address: [https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp?TN=txdot&XID=2340](https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp?TN=txdot&XID=2340).
EXHIBIT 6
TXDOT SPECIAL PROVISIONS - SP 000-394L

A DBE must be certified on the day the commitment is considered and at time of subcontract execution. It is the Contractor’s responsibility to ensure firms identified for participation are approved certified DBE firms.

The Bidder is responsible to ensure that all submittals are checked for accuracy. Any and all omissions, deletions, and/or errors that may affect the end result of the commitment package are the sole liabilities of the bidder.

Commitments in excess of the goal are considered race-neutral commitments.

2.3.6. Good Faith Effort Requirements. A Contractor who cannot meet the Contract goal, in whole or in part, must make adequate good faith efforts to obtain DBE participation as so stated and defined in 49 CFR Part 26, Appendix A.

2.3.6.1. Administrative Reconsideration. If the Owner determines that the apparent low bidder has failed to satisfy the good faith efforts requirement, the Owner will notify the Bidder of the failure and will give the Bidder an opportunity for administrative reconsideration.

The Bidder must request an administrative reconsideration of that determination within 3 days of the date of receipt of the notice. The request must be submitted directly to the Owner.

If a reconsideration request is timely received, the reconsideration decision will be made by the Owner’s DBE liaison officer or, if the DBE liaison officer took part in the original determination that the Bidder failed to satisfy the good faith effort requirements, an Owner employee who holds a senior leadership position and reports directly to the executive officer, and who did not take part in the original determination will act as an administrative hearing officer. The Bidder may provide written documentation or argument concerning whether the assigned DBE contract goal was met or whether adequate good faith efforts were made to meet the Contract goal.

The DBE liaison or other Owner employee making the reconsideration determination may request a meeting with the Bidder to discuss whether the goal commitments were met or whether adequate good faith efforts were made to obtain the commitments to meet the Contract goal.

The meeting must be held within 7 days of the date of the request submitted under this section. If the Bidder is unavailable to meet during the 7-day period, the reconsideration decision will be made on the written information provided by the Bidder.

The Owner will provide to the Bidder a written decision that explains the basis for finding that the Bidder did not meet the Contract goal or did not make adequate good faith efforts to meet the Contract goal, within 7 days of the date of the notice issued in this section.

The reconsideration decision is final and not subject to administrative appeal.

2.3.7. Determination of DBE Participation. The work performed by the DBE must be reasonably construed to be included in the work area and NAICS work code identified by the Contractor in the approved commitment.

Participation by a DBE on a Contract will not be counted toward DBE goals until the amount of the participation has been paid to the DBE.

Payments made to a DBE that was not on the original commitment may be counted toward the Contract goal if that DBE was certified as a DBE before the execution of the subcontract and has performed a Commercially Useful Function.

The total amount paid to the DBE for work performed with its own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subcontractor is itself a DBE.
DEE Goal credit for the DEE subcontractors leasing of equipment or purchasing of supplies from the Contractor or its affiliates is not allowed. Project materials or supplies acquired from an affiliate of the Contractor cannot directly or indirectly (second or lower tier subcontractor) be used for DEE goal credit.

If a DEE firm is declared ineligible due to DEE decertification after the execution of the DEE’s subcontract, the DEE firm may complete the work and the DEE firm’s participation will be counted toward the Contract goal. If the DEE firm is decertified before the DEE firm has signed a subcontract, the Contractor is obligated to replace the ineligible DEE firm or demonstrate that it has made good faith efforts to do so.

The Contractor may count 100% of its expenditure to a DEE manufacturer. According to 49 CFR 26.55(e)(1)(i), a DEE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

The Contractor may count only 60% of its expenditure to a DEE regular dealer. According to 49 CFR 26.55(e)(2)(i), a DEE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment must be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. A long-term lease with a third-party transportation company is not eligible for 60% goal credit.

With respect to materials or supplies purchased from a DEE that is neither a manufacturer nor a regular dealer, the Contractor may count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site.

A Contractor may count toward its DEE goal a portion of the total value of the Contract amount paid to a DEE joint venture equal to the distinct, clearly defined portion of the work of the Contract performed by the DEE.

2.3.8. Commercially Useful Function. It is the Contractor’s obligation to ensure that each DEE used on federal-assisted contracts performs a commercially useful function on the Contract.

The Owner will monitor performance during the Contract to ensure each DEE is performing a CUF.

Under the terms established in 49 CFR 26.55, a DEE performs a CUF when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

With respect to material and supplies used on the Contract, a DEE must be responsible for negotiating price, determining quality and quantity, ordering the material, installing the material, if applicable, and paying for the material itself.

With respect to trucking, the DEE trucking firm must own and operate at least one fully licensed, insured, and operational truck used on the Contract. The DEE may lease trucks from another DEE firm, including an owner-operator who is certified as a DEE. The DEE who leases trucks from another DEE receives credit for the total value of the transportation services the lessee DEE provides on the Contract. The DEE may also lease trucks from a non-DEE firm, including from an owner-operator. The DEE that leases trucks equipped with drivers from a non-DEE is entitled to credit for the total value of transportation services provided by non-DEE leased trucks equipped with drivers not to exceed the value of transportation services on the Contract provided by DEE-owned trucks or leased trucks with DEE employee drivers. Additional participation by non-DEE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
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A DBE does not perform a CUF when its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. The Owner will evaluate similar transactions involving non-DBEs in order to determine whether a DBE is an extra participant.

If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, the Owner will presume that the DBE is not performing a CUF.

If the Owner determines that a DBE is not performing a CUF, no work performed by such DBE will count as eligible participation. The denial period of time may occur before or after a determination has been made by the Owner.

In case of the denial of credit for non-performance, the Contractor will be required to provide a substitute DBE to meet the Contract goal or provide an adequate good faith effort when applicable.

2.3.8.1. **Rebuttal of a Finding of No Commercially Useful Function.** Consistent with the provisions of 49 CFR 26.55(c)(4)&(5), before the Owner makes a final finding that no CUF has been performed by a DBE, the Owner will notify the DBE and provide the DBE the opportunity to provide rebuttal information.

CUF determinations are not subject to administrative appeal.

2.3.9. **Joint Check.** The use of joint checks between a Contractor and a DBE is allowed with Owner approval. To obtain approval, the Contractor must submit a completed Form 2178, “DBE Joint Check Approval,” to the Owner.

The Owner will closely monitor the use of joint checks to ensure that such a practice does not erode the independence of the DBE nor inhibit the DBE’s ability to perform a CUF. When joint checks are utilized, DBE credit toward the Contract goal will be allowed only when the subcontractor is performing a CUF in accordance with 49 CFR 26.55(c)(1).

Long-term or open-ended joint checking arrangements may be a basis for further scrutiny and may result in the lack of participation towards the Contract goal requirement if DBE independence cannot be established.

Joint checks will not be allowed simply for the convenience of the Contractor.

If the proper procedures are not followed or the Owner determines that the arrangements result in a lack of independence for the DBE involved, no credit for the DBE’s participation as it relates to the material cost will be used toward the Contract goal requirement, and the Contractor will need to make up the difference elsewhere on the project.

2.3.10. **DBE Termination and Substitution.** No DBE named in the commitment submitted under Section 2.3.5. will be terminated for convenience, in whole or part, without the Owner’s approval. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Unless consent is provided, the Contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Contractor, prior to submitting its request to terminate, must first give written notice to the DBE of its intent to terminate and the reason for the termination. The Contractor will copy the Owner on the Notice of Intent to terminate.
EXHIBIT 6  
TXDOT SPECIAL PROVISIONS - SP 000-394L

The DBE has 5 calendar days to respond to the Contractor’s notice and will advise the Contractor and the Owner of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime Contractor’s request for termination.

The Owner may provide a shorter response time if required in a particular case as a matter of public necessity.

The Owner will consider both the Contractor’s request and DBE’s stated position prior to approving the request. The Owner may provide a written approval only if it agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate the DBE. If the Owner does not approve the request, the Contractor must continue to use the committed DBE firm in accordance with the Contract. For guidance on what good cause includes, see 49 CFR 26.53.

Good cause does not exist if the Contractor seeks to terminate, reduce, or substitute a DBE it relied upon to obtain the Contract so that the Contractor can self-perform the work for which the DBE firm was engaged.

When a DBE subcontractor is terminated, make good faith efforts to find, as a substitute for the original DBE, another DBE to perform, at least to the extent needed to meet the established Contract goal, the work that the original DBE was to have performed under the Contract.

Submit the completed Form 2228, “DBE Termination Substitution Request,” within seven (7) days, which may be extended for an additional 7 days if necessary at the request of the Contractor. The Owner will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

2.3.11. Reports and Records. By the 15th of each month and after work begins, report payments to meet the DBE goal and for DBE race-neutral participation on projects with or without goals. These payment reports will be required until all DBE subcontracting or material supply activity is completed. Negative payment reports are required when no activity has occurred in a monthly period.

Notify the Owner if payment to any DBE subcontractor is withheld or reduced.

Before receiving final payment from the Owner, the Contractor must indicate a final payment on the compliance tracking system. The final payment is a summary of all payments made to the DBEs on the project.

All records must be retained for a period of 3 years following completion of the Contract work, and must be available at reasonable times and places for inspection by authorized representatives of the Owner, Texas Department of Transportation or the DOT. Provide copies of subcontracts or agreements and other documentation upon request.

2.3.12. Failure to Comply. If the Owner determines the Contractor has failed to demonstrate good faith efforts to meet the assigned goal, the Contractor will be given an opportunity for reconsideration by the Owner.

A Contractor’s failure to comply with the requirements of this Special Provision will constitute a material breach of this Contract. In such a case, the Owner reserves the right to terminate the Contract; to deduct the amount of DBE goal not accomplished by DBEs from the money due or to become due the Contractor; or to secure a refund, not as a penalty but as liquidated damages, to the Owner or such other remedy or remedies as the Owner deems appropriate.

2.3.13. Investigations. The Owner may conduct reviews or investigations of participants as necessary. All participants, including, but not limited to, DBEs and complainants using DBE Subcontractors to meet the Contract goal, are required to cooperate fully and promptly with compliance reviews, investigations, and other requests for information.
EXHIBIT 6
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2.3.14. **Falsification and Misrepresentation.** If the Owner determines that a Contractor or subcontractor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Owner to be unallowable, or if the Contractor engages in repeated violations, falsification, or misrepresentation, the Owner may:

- refuse to count any fraudulent or misrepresented DBE participation;
- withhold progress payments to the Contractor commensurate with the violation;
- refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
- seek any other available contractual remedy.
Quality Assurance Program for Design-Bid-Build Projects
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SECTION 1 - INTRODUCTION

1.1 Overview
The Texas Department of Transportation (TxDOT) established the Quality Assurance Program (QAP) for Design-Bid-Build (D-B-B) Projects to ensure that materials and workmanship incorporated into highway construction projects are in reasonable conformity with the requirements of the approved plans and specifications, including any approved changes. This program conforms to the criteria in 23 CFR 637 B. It consists of an "Acceptance Program" and "Independent Assurance (IA) Program" based on test results obtained by qualified persons and equipment.

The QAP allows for the use of validated Contractor-performed quality control (QC) test results as part of an acceptance decision. It also allows for the use of test results obtained by commercial laboratories in acceptance decisions. The acceptance of all materials and workmanship is the responsibility of the Engineer.

1.2 Support
For more information regarding the information and procedures in the program, contact the Construction Division’s Materials and Pavements Section (CST/M&P) Administration at 512/506-5808.
SECTION 2 - ACCEPTANCE PROGRAM

2.1 Overview
Materials incorporated into any highway construction project are subject to verification sampling and testing, as well as quality control (QC) sampling and testing when required by the specifications.

2.2 Sampling and Testing Frequency and Location
Verification sampling and testing will be performed at the location and frequency established in the Department’s Guide Schedule of Sampling and Testing for Design-Bid-Build (DBB) Projects (DBB Guide Schedule) or specifications specific to each project.

2.3 Quality Control Sampling and Testing
Contractor-performed QC sampling and testing may be used as part of an acceptance decision when required or allowed by specification.

QC sampling and testing personnel, laboratories, and equipment will be qualified in accordance with Section 6 – Technician Qualification Program and Section 7 – Laboratory Qualification Program and will be evaluated under the Independent Assurance Program, as described in Section 3 of this document.

QC test results will be validated by verification test results obtained from independently taken samples. Qualified TxDOT personnel or their designated agents will perform verification sampling and testing.

2.4 Dispute Resolution
When QC test results are used in the acceptance decision, the CST/M&P central laboratory or an accredited independent laboratory approved by CST/M&P will perform the referee testing. The referee laboratory decision will be final.
SECTION 3 - INDEPENDENT ASSURANCE PROGRAM

3.1 Overview

The Independent Assurance (IA) program evaluates all sampling and testing procedures, personnel, and equipment used as part of an acceptance decision.

The IA program evaluates the qualified sampling and testing personnel and testing equipment and is established using the system approach. The system approach bases frequency of IA activities on time—regardless of the number of tests, quantities of materials, or numbers of projects tested by the individual being evaluated.

3.2 Required Frequencies and Activities

Table 3 gives the frequencies and activities required for evaluating sampling and testing personnel and equipment under the system approach to IA.

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to performing acceptance sampling and testing</td>
<td>Qualification required under Section 6 and Section 7 of this QAP.</td>
</tr>
<tr>
<td>Within 12 months after Observation and Qualification, not to exceed 15 months</td>
<td>Each qualified technician is required to participate in the first available proficiency or split sample for each test method requiring IA. Results must compare to the IA test results to within the established tolerance.</td>
</tr>
<tr>
<td>Within 24 months after Observation and Qualification, not to exceed 27 months</td>
<td>Each qualified technician is required to participate in one proficiency or split sample test for each test method requiring IA. Results must compare to the IA test results to within the established tolerance.</td>
</tr>
<tr>
<td>Within 36 months of Qualification. (Only required for certifications issued by TxDOT or TXAPA with a 3-year cycle)</td>
<td>Qualification is again required under Section 6 and Section 7 of this QAP.</td>
</tr>
<tr>
<td>Within 36 months after Observation and Qualification, not to exceed 39 months. (Only required for ACI, which has a 5-year certification cycle)</td>
<td>Each qualified technician is required to participate in one proficiency or split sample test for each test method requiring IA. Results must compare to the IA test results to within the established tolerance.</td>
</tr>
<tr>
<td>Within 48 months after Observation and Qualification, not to exceed 51 months. (Only required for ACI, which has a 5-year certification cycle)</td>
<td>Each qualified technician is required to participate in one proficiency or split sample test for each test method requiring IA. Results must compare to the IA test results to within the established tolerance.</td>
</tr>
<tr>
<td>Within 60 months of qualification (Only required for certifications issued by ACI with a 5-year cycle)</td>
<td>Qualification is again required under Section 6 and Section 7 of this QAP.</td>
</tr>
</tbody>
</table>
Maintaining technician qualification under the IA system approach requires continuation of the above cycle of qualification and successful split or proficiency sample testing.

### 3.3 Testing Equipment

CST/M&P will qualify district laboratory testing equipment used for acceptance sampling and testing, in accordance with Section 7 – Laboratory Qualification Program. Any non-TxDOT commercial laboratory used for acceptance sampling and testing must be accredited in accordance with Section 7.3 – Laboratory Qualification Responsibility.

CST/M&P may designate the district laboratory to qualify commercial laboratory testing equipment, used for acceptance sampling and testing, in accordance with corresponding calibration test procedures. CST/M&P or TxDOT district laboratory may hire a third-party entity to perform calibration/verification in accordance with corresponding calibration test procedures.

The qualifying authority will qualify testing equipment in accordance with the following guidelines.

- **A.** Frequency for qualifying sampling and testing equipment must not exceed 1 year.
- **B.** Calibration/verification is required whenever the laboratory or equipment is moved.

The qualifying authority will evaluate any equipment used to perform verification and/or QC sampling and testing in making an acceptance decision. This evaluation includes calibration checks and split or proficiency sample tests. The Department test procedures referenced in Section 7.5 – Calibration Standards and Frequencies for Laboratory Equipment give the requirements for, and frequency of, equipment calibrations.

### 3.4 Testing Personnel

CST/M&P will qualify district and commercial laboratory personnel performing IA activities, in accordance with Section 6 – Technician Qualification Program.

CST/M&P may designate a district laboratory to qualify other Department personnel and accredited commercial laboratory personnel performing IA activities. When a district qualifies commercial laboratory personnel, they must notify CST/M&P in writing.

Individuals performing IA activities will be other than those performing verification or QC testing.

IA personnel will evaluate any individual performing verification or QC sampling and testing. This evaluation includes observations and split or proficiency sample testing.
3.5 Comparing Test Results

Comparison of the split sample test results can be used in the event equipment and procedures issues are suspected. Appendix B gives the acceptable tolerance limits for comparing test results from split and proficiency samples.

If the comparisons of the test results do not comply with the tolerances, an engineering review of the test procedures and equipment will be performed immediately to determine the source of the discrepancy.

3.6 Annual Report of IA Program Results

CST/M&P will compose and submit an annual report to the Federal Highway Administration (FHWA) summarizing the results of TxDOT's systems approach IA program. See Appendix C for the annual report form.

This report identifies:

A. Number of sampling and testing personnel evaluated by the systems approach IA testing;
B. Number of IA evaluations found to meet tolerances in Appendix B;
C. Number of IA evaluations found to not meet tolerances in Appendix B; and
D. Summary of any significant system-wide corrective actions taken.
SECTION 4 - MATERIALS CERTIFICATION

4.1 Overview

The TxDOT District Area Engineer or Director of Construction will submit a materials certification letter, conforming in substance to the examples shown in Appendix D or E, as applicable.

For projects with federal oversight, submit the materials certification letter (Appendix D) to the FHWA division administrator, with a copy to CST/M&P.

For non-federal oversight projects, submit the material certification letter (Appendix E) to the TxDOT District Engineer, with a copy to CST/M&P.

Either letter must be submitted at final acceptance of the project.
SECTION 5 - CONFLICT OF INTEREST

5.1 Overview

To avoid an appearance of a conflict of interest, any qualified non-TxDOT laboratory will perform only one of the following functions on the same project:

A. Verification sampling and testing;
B. QC sampling and testing;
C. IA testing; or
D. Referee testing.
SECTION 6 - TECHNICIAN QUALIFICATION PROGRAM

6.1  Purpose

This program provides uniform statewide procedures for technician qualification to ensure that tests required by the specifications are performed according to the prescribed sampling and testing methods.

6.2  Technician Qualification

Sampling and testing personnel will be qualified to perform sampling and testing for the acceptance of materials in the areas of soils, bituminous, aggregate, and concrete materials.

The test methods for which individuals can be qualified are included in the following series of the TxDOT Test Procedures:

- 100-E Series (Soils)
- 200-F Series (Bituminous)
- 400-A Series (Aggregates and Concrete)
- 500-C Series (Asphalt – Tex-500-C and Tex-530-C)

6.3  Who Must Be Qualified?

Any individual who performs sampling and testing on the materials listed in Section 6.2, for acceptance, must be qualified in each test procedure they perform.

NOTE: Reciprocity may be granted to individuals who have been successfully qualified under another state’s program. These situations will be considered on a case-by-case basis and must meet the approval of the Construction Division, Materials and Pavements (CST/M&P) Section Director.

6.4  Who Can Qualify Sampling and Testing Personnel?

The following personnel may qualify an individual to perform the required sampling and testing of materials:

A. CST/M&P personnel;
B. Qualified district materials engineer/laboratory supervisor (except as noted below);
C. Qualified district laboratory personnel who have been authorized by the district materials engineer/laboratory supervisor to qualify others; and
D. Department-approved entities such as the Texas Asphalt Pavement Association (TXAPA) and the American Concrete Institute (ACI). Certifications received from these institutions may be used to satisfy the written exam and observation part of the Technician Qualification Program.
NOTE: Each district laboratory will maintain a minimum of one individual qualified by CST/M&P or its designated agent, for each test procedure performed within the district. In order to perform testing and qualify district personnel for TxDOT concrete test methods, at least one individual from the district laboratory must have the corresponding ACI Field and Strength certifications issued by CST/M&P.

### 6.5 Required Certifications for Commercial Laboratory and Contractor Personnel

Non-TxDOT laboratory personnel performing sampling and testing for TxDOT, or as required by specification, must obtain and keep current the following certifications pertinent to their scope of testing:

- **A.** ACI Concrete Field Testing Technician – Grade I;
- **B.** ACI Concrete Strength Testing Technician;
- **C.** TXAPA HMA Level 1A – Plant Production Specialist;
- **D.** TXAPA HMA Level 1B – Roadway Specialist;
- **E.** TXAPA HMA Level 2 – Mix Design Specialist;
- **F.** TXAPA SB 101 – Property Specialist;
- **G.** TXAPA SB 102 – Field Specialist;
- **H.** TXAPA SB 103 – Materials Analysis Specialist;
- **I.** TXAPA SB 201 – Strength Specialist;
- **J.** TXAPA SB 202 – Compressive Strength Specialist.

For testing procedures not covered by the above certifications, the following personnel may qualify an individual to perform the required sampling and testing of materials:

- **A.** District laboratory personnel who have been authorized by CST/M&P to perform technician qualifications; and
- **B.** CST/M&P personnel.

### 6.6 Qualification Procedure

To qualify, an authorized evaluator must witness an individual successfully perform the specific test and the necessary calculations required to determine specification compliance. Successful performance is defined as demonstrating the ability to properly perform the key elements for each test method. If the individual fails to demonstrate the ability to perform a test, the individual will be allowed one retest per test method at the evaluator’s convenience.

In addition to successful performance of a test method, the individual must pass a written examination (minimum score of 80%) administered by an authorized evaluator. An individual
failing the written examination may request a retest. The retest must be scheduled and administered within 30 days of notification of failure.

Under unique circumstances, the qualification authority may grant a verbal examination upon request. The reason(s) for requesting a verbal examination must be presented and documented prior to the individual being allowed to take the examination. Should the technician fail the retest examination, the technician will not be allowed to test again unless a written notification is received from the technician's employer/supervisor stating that the technician has received additional training. CST/M&P or its representative will determine the adequacy of the additional training. Failure to pass the third written examination will be considered as failing the entire qualification.

Successful qualification is defined as passing both the written and performance examinations.

In addition, the individual must participate in split/proficiency samples administered by the qualifying authority to validate the qualification. CST/M&P determines the qualifying authority for the split/proficiency sample.

Unless otherwise stated, qualification of an individual is valid for not more than 3 years, after which the individual must be re-qualified. Under the IA system approach, annual split/proficiency evaluations will be required as specified in Section 3.2 – Required Frequencies and Activities. Failure to satisfactorily complete annual split or proficiency testing may result in certification revocation.

### 6.7 Provisional Certifications

In the event the required certifications listed in the Section 6.5 cannot be readily obtained due to course availability, schedule conflicts, or other extenuating circumstances, provisional certifications administered by CST/M&P or TxDOT’s district laboratory will be allowed, per the following stipulations:

- A. Provisional certifications must be approved by CST/M&P or TxDOT district laboratory supervisor;
- B. Provisional certifications will be valid for one month after the TXAPA and ACI examination dates; and
- C. The candidate must show evidence of having enrolled in the required ACI or TXAPA course.

### 6.8 Documentation

CST/M&P and the district materials engineer/laboratory supervisor are responsible for maintaining documentation of all individuals qualified under their authority who perform required tests for acceptance of materials. TxDOT’s SiteManager will be the official system of record for qualified/certified TxDOT and commercial laboratory personnel. Issuance of qualification certificates by the TxDOT qualifying authority is not required. A qualification summary listing all tests for which an individual is qualified is available in SiteManager and
may be printed/signed at the district’s discretion. Documentation to be maintained in SiteManager, as an attachment, for all qualified personnel includes:

A. Copies of certificates issued by ACI and TXAPA; or
B. Copies of certificates issued by CST/M&P or TxDOT district laboratory, if issued; and
C. Quality Assurance Test (QAT) report with clear identification of technician’s name, qualifier’s name, score, and date taken; and
D. Original performance examinations for test procedures administered to each technician by the TxDOT qualifying authority, with clear identification of technician’s name, qualifier’s name, qualification status, and date;

Documentation retention will be for the life of the qualification, as detailed in the State of Texas Records Retention Schedule.

Results of annual proficiency testing administered by CST/M&P or TXAPA will be stored in their respective central repositories. Annual split sample evaluations should be stored in SiteManager.

### 6.9 Disqualification

Accusations of misconduct by testing technicians are made to the responsible TxDOT district representative and reported to CST/M&P. Table 2 defines the 3 levels of misconduct: neglect, abuse, and breach of trust.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neglect</td>
<td>Unintentional deviations from testing procedures or specifications</td>
</tr>
<tr>
<td>Abuse</td>
<td>Careless or deliberate deviation from testing procedures or specifications</td>
</tr>
<tr>
<td>Breach of Trust</td>
<td>Violation of the trust placed in the certified technician including, but not limited to, acts such as:</td>
</tr>
<tr>
<td></td>
<td>• Falsification of records;</td>
</tr>
<tr>
<td></td>
<td>• Being aware of improprieties in sampling, testing, and/or production by others and not reporting them to appropriate supervisors involved in the project;</td>
</tr>
<tr>
<td></td>
<td>• Re-sampling and/or retesting without awareness and consent of appropriate supervisors involved in the project; and/or</td>
</tr>
<tr>
<td></td>
<td>• Manipulating compensation and/or production.</td>
</tr>
</tbody>
</table>
CST/M&P will investigate accusations of misconduct with the assistance of the responsible district. CST/M&P may impose penalties ranging from a written reprimand to a permanent revocation of the certification, contingent upon the findings of the investigation.

Any technician found guilty of breach of trust will have his/her certification permanently revoked. Any technician with a revoked certification will be removed from the project and will not be allowed to be employed on any TxDOT project statewide.
SECTION 7 - LABORATORY QUALIFICATION PROGRAM

7.1 Purpose
This program provides uniform statewide procedures to ensure that laboratory facilities and equipment are qualified for the performance of required sampling and testing methods.

7.2 Laboratories to be Qualified
All laboratories performing sampling and testing for TxDOT require qualification. These include, but are not limited to the following:

A. Construction Division, Materials & Pavements (CST/M&P) central laboratory;
B. District laboratories;
C. Area/project laboratories (including field laboratories at hot mix and concrete plants);
D. CST/M&P field laboratories; and
E. Commercial laboratories.

7.3 Laboratory Qualification Responsibility
CST/M&P central laboratory will be accredited under the AASHTO Accreditation Program (AAP).

CST/M&P is responsible for overseeing the statewide laboratory qualification program and for accrediting district laboratories. At the district level, the district laboratory will be the qualifying authority for area office and commercial laboratories, only in the areas for which the district laboratory is accredited. When a district qualifies a commercial laboratory, they must notify CST/M&P in writing and submit a copy of the laboratory qualification certificate. A directory of all TxDOT-qualified laboratories is available at https://www.txdot.gov/inside-txdot/division/construction/laboratory-directory.html.

7.4 Qualification Process
The laboratory qualifying authority will use Form 2682, “Quality System Inspection – Commercial Laboratory,” to document the following:

A. Identify the scope of testing to be performed;
B. Verify that test methods used to perform tests are available and current;
C. Document that the laboratory has the required equipment to perform the tests;
D. Check the calibration/verification records for each piece of equipment, to include:
   1. Description of equipment;
   2. Identification of any traceable standard used;
3. Frequency of calibration;
4. Date of calibration;
5. Date of last calibration;
6. Date of next calibration;
7. Calibrating technician;
8. Procedure used to calibrate/verify equipment; and
9. Detailed results of calibration; and

E. Verify that the laboratory has qualified/certified technicians to perform required testing.

In addition, all equipment may be subject to calibration verification or other inspection by the qualifying authority. Laboratories performing acceptance sampling and testing should use results from TxDOT’s MPL, and perform materials sampling and testing in accordance with TxDOT’s DBB Guide Schedule. Materials that are not monitored or not pre-approved by TxDOT are subject to sampling and testing as part of the acceptance program, except as noted in the DBB Guide Schedule remarks.

NOTE: Project/field laboratories performing Tex-113-E, Tex-117-E, and Tex-242-F tests must be an approved laboratory from TxDOT’s MPL.

Laboratories are qualified every 3 years, at a minimum, although accreditation is an ongoing process. Calibration/verification is required whenever laboratory or equipment is moved. Random audits of laboratory calibration records may be performed at the sole discretion of the qualifying authority.

7.5 Calibration Standards and Frequencies for Laboratory Equipment

The standards for calibration and the frequencies for laboratory equipment calibrations are shown in:

- **Tex-237-F**, “Minimum Standards for Acceptance of a Laboratory for Hot Mix Testing,”
- **Tex-498-A**, “Minimum Standards for Acceptance of a Laboratory for Concrete and Aggregate Testing,” and
- **Tex-900-K Series**, procedures for calibrating, verifying, and certifying equipment and devices.

7.6 Non-Compliance

A laboratory that does not meet all of the above requirements is subject to disqualification. Any equipment in a qualified laboratory failing to meet specified equipment requirements for
a specific test method will not be used for that test method. CST/M&P or the TxDOT district laboratory responsible for the certification/audit will immediately notify all applicable Area Offices of non-conformance for those test methods.

### 7.7 Documentation

The qualifying authority is responsible for verifying that laboratories are qualified to perform sampling and testing. Documentation will be required to be kept by the qualifying authority and the qualified laboratory. Calibration records will be maintained for a minimum of 10 years. Upon satisfactory completion of the laboratory qualification process, the qualifying authority will issue a certificate within 14 days covering the scope of testing in which the laboratory has been qualified, with a copy to CST/M&P.

Laboratory qualification documentation to be maintained by the qualifying authority includes:

- A. Availability and calibration/verification records for each piece of equipment,
- B. Personnel qualified/certified to perform required testing, and
- C. Copy of laboratory qualification certificate issued.

### 7.8 Dispute Resolution

The next higher qualification authority will resolve disputes concerning calibration and verification of equipment. For disputes that cannot be resolved at the district level, CST/M&P will be the final authority.
### Appendix A

**Acronyms and Definitions**

The following terms and definitions are referenced in this document and have the meanings set forth below.

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAP</td>
<td>AASHTO Accreditation Program (AASHTO re:source and CCRL)</td>
</tr>
<tr>
<td>AASHTO</td>
<td>American Association of State Highway Transportation Officials</td>
</tr>
<tr>
<td>ACI</td>
<td>American Concrete Institute</td>
</tr>
<tr>
<td>AQMP</td>
<td>Aggregate Quality Monitoring Program</td>
</tr>
<tr>
<td>CCRL</td>
<td>Concrete and Cement Reference Laboratory</td>
</tr>
<tr>
<td>CE&amp;I</td>
<td>Construction Engineering and Inspection</td>
</tr>
<tr>
<td>CFR</td>
<td>Code of Federal Regulations</td>
</tr>
<tr>
<td>CST/M&amp;P</td>
<td>Construction Division, Materials and Pavements Section</td>
</tr>
<tr>
<td>CMEC</td>
<td>Construction Materials Engineering Council</td>
</tr>
<tr>
<td>FHWA</td>
<td>Federal Highway Administration</td>
</tr>
<tr>
<td>HMA</td>
<td>Hot-Mix Asphalt</td>
</tr>
<tr>
<td>IA</td>
<td>Independent Assurance</td>
</tr>
<tr>
<td>L-A-B</td>
<td>Laboratory Accreditation Bureau</td>
</tr>
<tr>
<td>MPL</td>
<td>Material Producer List</td>
</tr>
<tr>
<td>QAP</td>
<td>Quality Assurance Program</td>
</tr>
<tr>
<td>QAT</td>
<td>Quality Assurance Test</td>
</tr>
<tr>
<td>QC</td>
<td>Quality Control</td>
</tr>
<tr>
<td>TXAPA</td>
<td>Texas Asphalt Pavement Association</td>
</tr>
<tr>
<td>TxDOT</td>
<td>Texas Department of Transportation</td>
</tr>
</tbody>
</table>

**Abuse**—Careless or deliberate deviation from testing procedures or specifications.

**Acceptance Program**—All factors that comprise TxDOT’s program to determine the quality of the product as specified in the contract requirements. These factors include verification sampling, testing, and inspection and may include results of QC sampling and testing.

**Accredited Laboratories**—Laboratories that are recognized by a formal accrediting body as meeting quality system requirements including demonstrated competence to perform standard test procedures.

**Breach of Trust**—Violation of the trust placed in the certified technician including, but not limited to, acts such as: falsification of records; being aware of improprieties in sampling,
testing, and/or production by others and not reporting them to appropriate supervisors involved in the project; re-sampling and/or retesting without awareness and consent of appropriate supervisors involved in the project; and/or manipulating compensation and/or production.

**Certified Technician**—A technician certified by some agency as proficient in performing certain duties.

**Independent Assurance (IA) Program**—Activities that are an unbiased and independent evaluation of all the sampling and testing procedures, equipment and personnel qualifications used in the acceptance program.

**Material Producer List (MPL)**—TxDOT-approved products and materials from various manufacturers and producers are located at: [http://www.txdot.gov/business/resources/producer-list.html](http://www.txdot.gov/business/resources/producer-list.html)

**Neglect**—Unintentional deviations from testing procedures or specifications.

**Proficiency Samples**—Homogenous samples that are distributed and tested by 2 or more laboratories and/or personnel. The test results are compared to assure that the laboratories and/or personnel are obtaining the same results.

**Qualified Laboratories**—Laboratories that are capable as defined by appropriate programs established by TxDOT. As a minimum, the qualification program must include provisions for checking testing equipment, and the laboratory must keep records of calibration checks.

**Qualified Sampling and Testing Personnel**—Personnel who are capable as defined by appropriate programs established by TxDOT.

**Quality Assurance (QA)**—All planned and systematic actions necessary to provide confidence that a product or service will satisfy given requirements for quality.

**Quality Control (QC)**—All Contractor operational techniques and activities performed or conducted to fulfill the Contract requirements.

**TxDOT Standard Specifications**—the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the Texas Department of Transportation, including all revisions thereto applicable on the effective date of the Contract Documents.

**Verification Sampling and Testing**—Sampling and testing performed to verify the quality of the product.
## Appendix B
### Split Sample Tolerance Limits

<table>
<thead>
<tr>
<th>Test Procedure</th>
<th>Description</th>
<th>Tolerance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tex-104-E</td>
<td>Liquid Limit of Soils</td>
<td>15% of mean$^1$</td>
</tr>
<tr>
<td>Tex-105-E</td>
<td>Plastic Limit of Soils</td>
<td>15% of mean$^1$</td>
</tr>
<tr>
<td>Tex-106-E</td>
<td>Plasticity Index of Soils</td>
<td>20% of mean$^1$</td>
</tr>
<tr>
<td>Tex-107-E</td>
<td>Bar Linear Shrinkage of Soils</td>
<td>± 2%</td>
</tr>
<tr>
<td>Tex-110-E</td>
<td>Particle Size Analysis of Soils, Part I</td>
<td>&gt; No. 4 sieve: ± 5% points</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≤ No. 4 sieve: ± 3% points</td>
</tr>
<tr>
<td>Tex-113-E</td>
<td>Moisture-Density Relationship of Base Materials</td>
<td>Density ± 2.0 PCF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Moisture Content ± 0.5%</td>
</tr>
<tr>
<td>Tex-117-E</td>
<td>Triaxial Compression for Disturbed Soils and Base Materials, Part II</td>
<td>Strength ± 15 psi</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Moisture Content ± 0.5%</td>
</tr>
<tr>
<td>Tex-200-F</td>
<td>Asphalitc Concrete Combined Aggregate</td>
<td>&gt; 5/8” sieve: ± 5.0% points (individual % retained)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≤ 5/8” sieve–No. 200: ± 3.0% (individual % retained)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Passing No. 200: ± 1.6% points</td>
</tr>
<tr>
<td>Tex-206-F</td>
<td>Compacting Test Specimens of Bituminous Mixtures</td>
<td>± 1.0% laboratory-molded density in accordance with Tex-207-F</td>
</tr>
<tr>
<td>Tex-207-F</td>
<td>Determining Density of Compacted Bituminous Mixtures</td>
<td>Laboratory-Molded Density: ± 1.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Laboratory-Molded Bulk Specific Gravity: ± 0.020</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In-place air voids (cores): ± 1.0%</td>
</tr>
<tr>
<td>Tex-227-F</td>
<td>Theoretical Maximum Specific Gravity of Bituminous Mixtures</td>
<td>± 0.020</td>
</tr>
<tr>
<td>Tex-236-F</td>
<td>Asphalt Content of Asphalt Paving Mixtures by the Ignition Method</td>
<td>± 0.3%</td>
</tr>
</tbody>
</table>
1. The difference between compared test results must not exceed the indicated percentage of the mean of the compared test results, where the mean is the average of the two test results.

EXAMPLE: Plasticity Index

Tolerance = 20% of the mean

<table>
<thead>
<tr>
<th>Technician test value</th>
<th>18</th>
</tr>
</thead>
<tbody>
<tr>
<td>IA technician test value</td>
<td>22</td>
</tr>
<tr>
<td>Mean</td>
<td>20</td>
</tr>
<tr>
<td>20% difference</td>
<td>4</td>
</tr>
</tbody>
</table>

Both values are within 20% of the mean.

<table>
<thead>
<tr>
<th>Test Procedure</th>
<th>Description</th>
<th>Tolerance</th>
</tr>
</thead>
</table>
| Tex-418-A      | Compressive Strength of Cylindrical Concrete Specimens | 17% of mean\(\bar{x}\) (4 × 8"
|                |                                      | specimen)         |
|                |                                      | 14% of mean\(\bar{x}\) (6 × 12"
|                |                                      | specimen)         |
Thomas L. Smith  
Independent Assurance Program Manager  
Construction (CST) Division  
Texas Department of Transportation  
125 East 11th Street  
Austin, TX 78701

RE: Annual Report of Independent Assurance (IA) Program Results – (Project Name)

Dear Mr. Smith:

In accordance with the requirements set forth in the TxDOT Quality Assurance Program for Design-Bid-Build Projects, the information below summarizes the results of system approach independent assurance (IA) testing conducted by our firm on the (Project Name) project for calendar year (XXXX).

<table>
<thead>
<tr>
<th>Independent Assurance Program Results – (Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>IA Activities</strong></td>
</tr>
<tr>
<td>1. Number of personnel evaluated under system approach</td>
</tr>
<tr>
<td>2. Number of IA evaluations meeting tolerance</td>
</tr>
<tr>
<td>3. Number of IA evaluations not meeting tolerance</td>
</tr>
<tr>
<td>4. <strong>Corrective actions:</strong></td>
</tr>
</tbody>
</table>

cc: Brett Haggerty, P.E.  
Materials and Pavements Section Director  
TxDOT – Construction Division
Appendix D
Materials Certification Example Letter for Projects with Federal Oversight

{Date}

Al Alonzi
FHWA Texas Division Administration
FHWA Texas Division Office
300 East 8th Street
Austin, TX 78701

RE: Materials Certification Letter

Project: SH Contract No.:
CSJ:
HWY:
County:
Federal-Aid Project No.:

Dear Mr. Alonzi:

This letter is to certify:

The results of the tests used in the acceptance program indicate that the materials incorporated in the construction work, and in the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications.

Both the Acceptance and Verification results were evaluated by an independent assurance sampling and testing program, the results of which were submitted to FHWA by the department in the Annual Report of Independent Assurance Program Results and independent of this materials certification.

☐ Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet).
☐ There are no exceptions to the plans and specifications on this project.

Sincerely,
{TxDOT District Area Engineer or Director of Construction}, P.E.
{Title}

cc: Brett Haggerty, P.E.
Materials and Pavements Section Director
TxDOT, Construction Division
Appendix E
Materials Certification Example Letter for Projects with Non-Federal Oversight

(Date)

(TxDOT District Engineer)
(Title)

RE: Materials Certification Letter

Project: SH Contract No.: 
CSJ: 
HWY: 
County: 

Dear Mr. (District Engineer):

This letter is to certify:

The results of the tests used in the acceptance program indicate that the materials incorporated in the construction work, and in the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications.

Both the Acceptance and Verification results were evaluated by an independent assurance sampling and testing program, the results of which were submitted to CST in the Annual Report of Independent Assurance Program Results and independent of this materials certification.

☐ Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet).
☐ There are no exceptions to the plans and specifications on this project.

Sincerely,
(TxDOT District Area Engineer or Director of Construction), P.E.
(Title)

cc: Brett Haggerty, P.E.
Materials and Pavements Section Director
TxDOT, Construction Division.
Appendix F
Archived Versions

The following archived versions of this document are available.

- Effective January 2016–April 2018:
ENCROACHMENT CERTIFICATION

This is to certify that no right-of-way encroachments existed within the limits of this project or all removals of right-of-way encroachments have been completed.

ROW CERTIFICATION

This is to certify that acquisition of right-of-way was not required for this project.

ROW RELOCATION CERTIFICATION

This is to certify that this project did not cause any displacement and the steps relative to relocation advisory assistance and payments under the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program were not required.

UTILITY CERTIFICATION

This is to certify that utility adjustments were not required or have been completed for this project.

RAILROAD CERTIFICATION

The trail segment between station 137+49.59 and station 137+96.05 is within the Union Pacific Railroad (UPRR) Right of way. The UPRR is developing the Approval Certification and Construction and Maintenance Agreement for this section of work. The San Antonio River Authority expects to acquire clearance and receive these documents from UPRR before the anticipated contractor award date of October 7, 2019.

Recommended By: ____________________________ Date: 6/6/2019
Russell A. Persyn, P.E. (PE 94814)
RESPEC – TBPE Firm 17502

Submitted by: ____________________________ Date: 6/11/2019
Richard De La Cruz, P.E.
San Antonio River Authority