



**PROPOSAL \* SPECIFICATIONS \* CONTRACT \* BOND FORMS**

**HUDSPETH COUNTY  
COURTHOUSE LANDSCAPE & SITE IMPROVEMENTS**

**JOANNA E. MACKENZIE  
HUDSPETH COUNTY JUDGE**

<b>PRECINCT 1</b>	<b>PRECINCT 2</b>	<b>PRECINCT 3</b>	<b>PRECINCT 4</b>
<b>RUSSELL MOORE</b>	<b>SERGIO QUIJAS</b>	<b>VACANT</b>	<b>CANUTO MARISCAL</b>

**DEBORAH BLEA  
LANDSCAPE ARCHITECT  
(915) 497-1944**

**ESSER & COMPANY CONSULTING LLC  
702 S. ASHBY DRIVE  
UVALDE, TEXAS 78801  
(830) 486-5849  
MARCH 2026**



**HUDSPETH COUNTY  
COURTHOUSE LANDSCAPE & SITE IMPROVEMENTS  
REBID**

Hudspeth County is currently soliciting Invitation for Bids for **HUDSPETH COUNTY COURTHOUSE LANDSCAPE & SITE IMPROVEMENTS** at the Hudspeth County Courthouse 109 Millican Street, Sierra Blanca, Texas 79851.

**SEALED BIDS** shall be received at the Hudspeth County Judge's Office 109 Millican Street, Sierra Blanca, Texas 79851 no later **2:00 P. M. (MST) April 9, 2026**. It is the responsibility of the contractor to ensure that the **Sealed Bid** is received in a timely manner. **SEALED BIDS must be labeled on the outside on the envelope Hudspeth County Courthouse Landscape & Site Improvements REBID.**

**A Pre-Bid meeting will be conducted virtually March 30, 2026 at 10:00 A.M. (MST)** A link is posted on the county website for the virtual meeting. All Pre-Bid meeting attendees will receive the Q&A and addenda's via e-mail if applicable.

The entire bid packet with technical specifications and drawings are posted on the Hudspeth County official website: <https://www.co.hudspeth.tx.us>

For questions regarding the REBID, contact **Oralia Sariñana, MBA County Administrator / CIHCP Coordinator** [osarinana@co.hudspeth.tx.us](mailto:osarinana@co.hudspeth.tx.us) at (915) 369-2321 or Deborah Blea Landscape Architect at [designscapesconsultants@gmail.com](mailto:designscapesconsultants@gmail.com) (915) 497-1944

Hudspeth County reserves the right to negotiate with any and all agencies and vendors that submit bids. Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises, Women Business Enterprises, Veterans Business Enterprises, and Labor Surplus Area Firms are encouraged to submit proposals. Hudspeth County is an Affirmative Action/Equal Opportunity Employer.

**JOANNA "JOJO" MACKENZIE**  
Hudspeth County Judge  
Hudspeth County, Texas

## **HUDSPETH COUNTY COURTHOUSE LANDSCAPE & SITE IMPROVEMENTS**

**The scope of work for the Hudspeth County Courthouse Landscape & Site Improvements includes minor grading and installing of concrete flatwork, plants, electrical/lighting, site furniture, signs and a new irrigation system.**

# **INSTRUCTION TO BIDDERS FOR CONSTRUCTION**

## **1. Use of Separate Bid Forms**

These contract documents include a complete set of bid and contract forms which are for the convenience of the bidders and are not to be detached from the contract document, completed or executed. Separate bid forms are provided for your use.

## **2. Inspection of Site**

Each bidder should visit the sites of the proposed work and should become acquainted with the existing conditions and facilities, the difficulties and restrictions pertaining to the performance of the contract. The bidder should thoroughly examine and become familiar with the technical specifications. The contractor by the execution of the contract shall in no way be relieved of any obligation under it due to failure to receive or examine any form or legal document or to visit the site or the conditions existing at the site. The County will be justified in rejecting any claim based on lack of inspection of the site prior to the bid.

## **3. Bids**

- a. All bids must be submitted on the forms provided and are subject to all requirements of the Contract Documents.
- b. All bids must be regular in every respect and no interlineation, excisions or special conditions may be made or included by the bidder.
- c. Bid documents, including but not limited to the bid, the bid bond(s), the contractor's certifications, , and the statement of the bidder's qualifications, shall be sealed in an envelope and clearly labeled with the words **"SEALED BIDS HUDSPETH COUNTY COURTHOUSE LANDSCAPE & SITE IMPROVEMENTS .REBID**
- d. The County may consider as irregular any bid on which there is an alteration of or departure from the bid form and, at its option, may reject any irregular bid.
- e. If a contract is awarded, it will be awarded to a responsible bidder on the basis of the weighted scoring criteria.

### **1. Landscaping Construction Experience: 15 points maximum**

- a. **Projects of similar size and value:**
- b. **Quality of work:**
- c. **Conformance to schedule:**
- d. **Warranty performance:**
- e. **Use of local labor**

### **2. Financial Strength: 10 points maximum**

- a. **Provide letter of reference from bank**
- b. **Provide letter of reference from 3 suppliers and/or entities with similar type work**
- c. **Provide information on Performance bond company**

### **3. Schedule: 2 Points maximum**

**Least number of days will receive 2 points, the next fewest days will receive 1 point, and all other proposals will receive 0 points**

### **4. Price: 30 points maximum**

**Lowest cost proposal submitted will receive 30 points, with the next lowest receiving 25 points, and the next lowest receiving 20 points, and all others shall receive 15 points.**

The contract will require the completion of the work in accordance with the contract documents.

4. Bid Modifications Prior to Bid Opening

- a. Any bidder may modify its bid by submitting a modification or supplemental bid at any time prior to the scheduled closing time for receipt of bids, provided such modification or supplemental bid is received by the locality prior to the closing time. The modification or supplemental bid should not reveal the original bid price but should provide only the addition, subtractions or other modifications to the original bid so that the final prices or terms will not be known by the locality until the sealed bid is open.

5. **Bid Bond**

- a. A bid bond in the amount of **5% of the bid issued** by an acceptable surety shall be submitted with each bid [for contracts greater than \$100, 000,]. A certified check or bank draft payable to the locality or negotiable U.S. Government Bonds (as par value) may be submitted in lieu of the Bid Bond.
- b. The bid bond or its comparable will be returned to the bidder as soon as practical after the opening of the bids.

8. **Statement of Bidders Qualifications**

Each bidder shall submit on the form furnished for that purpose a statement of the bidder's qualifications. Hudspeth County shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform its obligations under the contract, and the bidder shall furnish Hudspeth County all such information and data for this purpose as it may request. The right is reserved to reject any bid where an investigation of the available data does not satisfy Hudspeth County that the bidder is qualified to carry out properly the terms of the contract.

9. **Lump Sum Price**

Any LUMP SUM bid price shall include its pro rata share of overhead.

10. Corrections

Erasures or other corrections in the bid must be noted over the signature of the bidder.

11. Time for Receiving Bids

Bids received prior to the advertised hour of opening shall be kept securely sealed. The officer appointed to open the bids shall decide when the specified time has arrived and no bid received thereafter will be considered.

Opening of Bids

Hudspeth County shall, at the time and place fixed for the opening of bids, open each bid and publicly read it aloud, irrespective of any irregularities therein. Bidders and other interested individuals may be present.

13. Withdrawal of Bids

Bidder may withdraw the bid before the time fixed for the opening of bids, by communicating its purpose in writing to Hudspeth County. Upon receipt of such notice, the unopened bid will be returned to the bidder. The bid guaranty of any bidder withdrawing his bid will be returned promptly.

14. Award of Contract/Rejection of Bids

- a. The contract will be awarded to the responsive, responsible Bidder submitting the most advantageous bid. The bidder selected will be notified at the earliest possible date. Hudspeth County reserves the right to reject any or all bids and to waive any informality in bids received where such rejection or waiver is in its interest.
- b. Hudspeth County reserves the right to consider as unqualified to do the work any bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the improvements embraced in this contract.

15. **Execution of Agreement/Performance and Payment Bonds**

- a. Performance Bonds - Requires all prime contractors which enter into a formal contract in excess of \$100,000 with the State, a county, or a municipality; a department, board, or agency of the state, a county, or a municipality; and a school district or a subdivision thereof, to obtain a Performance Bond in the amount of the contract before commencing with work
- b. Payment Bonds- Requires all prime contractors which enter into a formal contract with the State, a county, or a municipality; a department, board, or agency of the state, a county, or a municipality; and a school district or a subdivision thereof, to furnish to the governmental entity a payment bond in the amount of the contract. The payment bond must be filed within 30 days from the date of the Notice of Award:
  - o Municipalities: If the contract is in excess of \$50,000, a payment bond is required.
  - o Counties: If the contract is in excess of \$25,000, a payment bond is required.
- c. The failure of the successful bidder to execute the agreement and supply the required bonds within thirty (30) days from the date of the notice of award-or within such extended period as the locality may grant, shall constitute a default and the locality may, at its option, either award the contract to the next lowest responsible bidder, or re-advertise for bids. In either case, the locality may charge against the bidder the difference between the amount of the bid, and the amount for which a contract is subsequently executed irrespective of whether this difference exceeds the amount of the bid bond. If a more favorable bid is received through re-advertisement, the defaulting bidder shall have no claim against the locality for a refund.

17. **Equal Employment Opportunity**

Attention is called to the requirements for ensuring that employees and applicants for employment are not discriminated against because of race, color, religion, sex, sexual identity, gender identity, or national origin, and other civil rights requirements.

SECTION 00 43 22 : UNIT PRICES FORM : RE-BID

BID SCHEDULE

**BASE BID : RE-BID**

ITEM NO.	TASK	UNIT	QTY.	UNIT PRICE	TOTAL
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1	Mobilization (5% Maximum)	LS	1		
2	Provide & Install Concrete Flatwork : 4" depth, Broom Finish	SF	5,120		
3	Installation of Rock Mulch	SF	50,333		
4	Installation of Screenings	SF	1966		
5	Installation of Boulders	EA	90		
6	Provide & Install Tree: 2" Caliper and/or 24" Box	EA	14		
7	Provide & Install Tree: 15 Gallon	EA	13		
8	Provide & Install Shrub : 5 Gallon	EA	60		
9	Provide & Install Shrub : 1 Gallon	EA	60		
10	Provide & Install Accent Plant : Ocotillo	EA	10		
11	Provide & Install Accent Plant : 5 Gallon	EA	64		
12	Provide & Install Pots with planting soil	EA	2		
13	Provide & Install Building Name Sign on Boulder	LS	1		
14	Provide & Install New Irrigation System : Valves 1 & 2	LS	1		
15	Installation of donated Tree : 2" Caliper and/or 24" Box	EA	1		
16	Installation of donated Tree : 15 Gallon	EA	1		

TOTAL : BASE BID : RE-BID

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SECTION 00 43 23 : **ALTERNATE FORM**

BID SCHEDULE

**ADDITIVE ALTERNATE 1 : RE-BID**

ITEM NO.	TASK	UNIT	QTY.	UNIT PRICE	TOTAL
A1	Provide Minor Site Demolition	LS	1		
A2	Provide Minor Grading	LS	1		
A3	Provide and Install Concrete Flatwork	SF	1966		
A4	Provide and Install Low Voltage Landscape Lighting	LS	1		
A5	Provide and Install Bench	EA	6		
A6	Provide and Install Tree: 2” Caliper and/or 24” Box	EA	31		
A7	Provide and Install Shrub : 5 Gallon	EA	172		
A8	Provide and Install Shrub : 1 Gallon	EA	107		
A9	Provide and Install Interpretive Sign	EA	4		
A10	Flag Pole : Move and reinstall	LS	1		
A11	Provide and Install Irrigation System Additions : Valve 3,	LS	1		
A12	Provide and Install Irrigation System Additions : Valves 4 & 5	LS	1		
A13	Furnish and Install Type “C”, and “D” light fixture with base	LOT	1		
A14	Furnish and Install Type “B”, light fixture on existing base	LOT	1		
A15	Furnish and Install Type “A” light fixture with base	LOT	1		
A16	Furnish and install conduit, wiring, supports, pull boxes, receptacle and trenching for circuits A-1, A-2, A-3 and A-6.	LOT	1		
A17	Connection of new circuits to existing breakers in panel “A” and new lighting controls	LOT	1		

TOTAL : ADDITIVE ALTERNATE 1 : RE-BID

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SECTION 00 43 23 : **ALTERNATE FORM**

BID SCHEDULE

**ADDITIVE ALTERNATE 2 : RE-BID**

ITEM NO.	TASK	UNIT	QTY.	UNIT PRICE	TOTAL
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AA1	Connection of new circuits to existing breakers in panel "A" and new lighting controls	LOT	1		
AA2	Furnishing and installation of two Type "A", light fixtures and associated concrete base and make all connections	LOT	1		
AA3	Furnishing and install Conduit, Wiring, Supports, Pull Boxes, receptacle and trenching for circuits A-4 and A-5	LOT	1		
AA4	Trash Receptacle	EA	2		

TOTAL : ADDITIVE ALTERNATE 2 : RE-BID

\_\_\_\_\_

The undersigned Bidder hereby declares that he has visited the sites of work and has carefully examined the contract documents pertaining to the scope of work covered in the above bid, and that the bid prices contained in the proposal have been carefully checked and are submitted as correct and final.

The Contractor agrees to provide the items on which he has bid, as specified in the specification. The Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the scheduled closing time for receiving bids.

Enclosed with this proposal is a Proposal Bond in the sum of 5% of G.A.B. (5%), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event his proposal is accepted by the Owner within thirty (30) days after the bids are received and the undersigned fails to execute the contract for the Owner within ten (10) days after date said proposal is accepted, otherwise said check or bond shall be returned to the undersigned upon demand.

By signing below the bidder agrees that the owner reserves the right to waive formalities, to reject any or all bids, and to accept the bid most advantageous to the interest of the owner. The right is also reserved to increase or decrease the total proposal amount by 25%, by increasing or decreasing quantities if the total proposal exceeds or is below the funds available. The right is also reserved to eliminate any item(s) in the proposal if the total proposal exceeds the funds available.

Respectfully submitted:

Business:

By: \_\_\_\_\_

\_\_\_\_\_

Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
City, County, State, Zip

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone No. and Fax No.

\_\_\_\_\_  
TAX I. D. Number

**THIS AGREEMENT** made this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (a corporation organized and existing under the laws of the State of \_\_\_\_\_) (a partnership consisting of \_\_\_\_\_) (an individual trading as \_\_\_\_\_) [Note 1] hereinafter called the “Contractor”, and \_\_\_\_\_ hereinafter called the “City/County.”

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

**ARTICLE 1. Statement of Work.** The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for the construction of the Improvements embraced in the Project; namely, \_\_\_\_\_ [Note 2] for the \_\_\_\_\_ Hudspeth County Courthouse Landscaping Improvements Project, all in strict accordance with the contract documents including all addenda thereto, numbered \_\_\_\_\_, dated \_\_\_\_\_ and \_\_\_\_\_, all as prepared by \_\_\_\_\_ acting and in these contract documents preparation, referred to as the “Consultant”.

**Special Notes:**

Note 1. Strike out the terms not applicable.

Note 2. Identify the principal items of Contract such as grading, paving, water mains, sewer lines, treatment facilities, etc.

**ARTICLE 2. The Contract Price.** The County will pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed at the **Lump Sum Prices** stipulated in the Bid for the several respective items of work completed subject to additions and deductions as provided in \_\_\_\_\_ hereof.

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**Alternate Pricing Techniques:** In the event the statutory provisions require the contract price to be a fixed sum, in the absence of an approved form, the following should be substituted for Article 2 above.  
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“**ARTICLE 2. The Contract Price.** The County will pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in Section 109 hereof, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).”

**ARTICLE 3. The Contract.** The executed contract documents shall consist of the following components:

- |                              |                               |
|------------------------------|-------------------------------|
| a. This Agreement (pgs. 1-3) | f. General Conditions, Part I |
| b. Addenda                   | g. Special Conditions         |
| c. Invitation for Bids       | h. Technical Specifications   |
| d. Instructions to Bidders   | e. Signed Copy of Bid         |

**ARTICLE 4. Performance.** Work, in accordance with the Contract dated \_\_\_\_\_, \_\_\_\_\_, shall commence on or before \_\_\_\_\_, \_\_\_\_\_, and Contractor shall complete the WORK within \_\_\_\_\_ consecutive calendar days thereafter. The date of completion of all WORK is therefore \_\_\_\_\_, \_\_\_\_\_.

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

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in *triplicate* (Note 3) original copies on the day and year first above written. (Note 3)

\_\_\_\_\_  
(The Contractor)

By \_\_\_\_\_ [Note 4]

Title \_\_\_\_\_

\_\_\_\_\_  
(City/County)

By \_\_\_\_\_

\_\_\_\_\_  
Title \_\_\_\_\_

**Special Notes:**

*Note 3. The number of copies to be executed by the parties should be stated in the agreement in the space provided. Such additional signed copies shall be prepared as may be required by the surety companies and others.*

*Note 4. Supply a description of the Contractor (e.g., proprietorship, partnership, and corporation).*

**Corporate Certifications**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Contractor herein; that \_\_\_\_\_, who signed this Agreement on behalf of the Contractor, was then \_\_\_\_\_ of said corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate  
Seal

\_\_\_\_\_  
(Corporate Secretary)

## **GENERAL CONDITIONS - PART I FOR CONSTRUCTION**

### 1. Contract and Contract Documents

- (a) The project to be constructed pursuant to this contract will be financed with Hudspeth County Local Assistance and Tribal Consistency Funds (LATCF) and is subject to all applicable State laws and regulations.
- (b) The Specifications and Any Addenda shall form part of this contract and the provisions thereof shall be binding upon the parties as if they were herein fully set forth.

### 2. Definitions

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms here in defined:

- (a) The term "Contract" means the Contract executed between Hudspeth County, hereinafter called the "County" and (Name of Construction Co.), hereinafter called "Contractor", of which these GENERAL CONDITIONS, form a part.
- (b) The term "Project Area" means the area within the specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this contract.
- (c) The term "Hudspeth County Judges Office" means Department in charge, serving the County with services, employed by the County for the purpose of directing or having in charge the work embraced in this Contract.
- (d) The term "Contract Documents" means and shall include the following: Executed Contract, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications.

### 3. Supervision by Contractor

- (a) Except where the Contractor is an individual and personally supervises the work, the Contractor shall provide a competent superintendent, satisfactory to Hudspeth County, on the work at all times during working hours with full authority to act as Contractor's agent. The Contractor shall also provide adequate staff for the proper coordination and expediting of his work.
- (b) The Contractor shall be responsible for all work executed under the Contract. Contractor shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

### 4. Subcontracts

- (a) The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this contract until Contractor has verified the subcontractor is eligible to participate with Hudspeth County.
- (b) No proposed subcontractor shall be disapproved by the County except for cause.
- (c) The Contractor shall be as fully responsible to the County for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them.
- (d) Nothing contained in the Contract shall create any contractual relation between any subcontractor and the County.

### 5. Fitting and Coordination of Work

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or material suppliers engaged upon this Contract.

## 6. Payments to Contractor

### (a) Partial Payments

- 1) The Contractor shall prepare the requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to Hudspeth County for approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment, and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection of Hudspeth County.
- 2) Monthly or partial payments made by the County to the Contractor are advanced for the purpose of assisting the contractor to expedite the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the County. Such payments shall not constitute a waiver of the right of the County to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the County in all details.

### (b) Final Payment

- 1) After final inspection and the acceptance by the County of all work under the Contract, the Contractor shall prepare the requisition for final payment which shall be based upon the careful inspection of each item of work at the applicable prices stipulated in the Contract. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments.
- 2) Before paying the final estimate, Hudspeth County shall require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor. The County may make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments made shall in no way impair the obligations of any surety or sureties furnished under this Contract.
- 3) Any amount due the County under Liquidated Damages shall be deducted from the final payment due the contractor.

### (c) Payments Subject to Submission of Certificates

Each payment to the Contractor by the County shall be made subject to submission by the Contractor of all written certifications required of it and its subcontractors.

### (d) Withholding Payments

The County may withhold any payment due the Contractor as deemed necessary to protect the County, and if so elects, may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the County and will not require the County to determine or adjust any claims or disputes between the Contractor and its subcontractors or material dealers, or to withhold any moneys for their protection unless the County elects to do so. The failure or refusal of the County to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

## 7. Changes in the Work

- (a) The County may make changes in the scope of work required to be performed by the Contractor under the Contract without relieving or releasing the Contractor from any obligations under the Contract or any guarantee given pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.
- (b) Except for the purpose of affording protection against any emergency endangering health, life, limb or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the County authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.
- (c) If applicable lump sum prices are contained in the Contract, the County may order the Contractor to proceed with desired lump sum prices specified in the Contract; provided that in case of a lump sum price contract the net value of all changes does not increase the original total amount of the agreement by more than twenty-five percent (25%) or decrease the original the total amount by eighteen percent (18%).
- (d) Each change order shall include in its final form:
  - 1) A detailed description of the change in the work.
  - 2) The Contractor's proposal (if any) or a confirmed copy thereof.
  - 3) A definite statement as to the resulting change in the contract price and/or time.
  - 4) The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.
  - 5) The procedures as outlined in this Section for a unit price contract also apply in any lump sum contract.

#### 8. Claims for Extra Cost

- (a) If the Contractor claims that any instructions by contract or otherwise involve extra cost or extension of time, he shall, within ten days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the County, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.
- (b) If, on the basis of the available evidence, the County determines that an adjustment of the Contract Price and/or time is justifiable, a change order shall be executed.

#### 9. Termination, Delays, and Liquidated Damages

- (a) Right of the County to Terminate Contract for Convenience

Hudspeth County may at any time and for any reason terminate Contractor's services and work at County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by County; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any

claim or claim of lien against County for any additional compensation or damages in the event of such termination and payment.

(b) Right of the County to Terminate Contract for Cause

In the event that any of the provisions of this contract are violated by the Contractor, or by any subcontractors, the County may serve written notice upon the Contractor and the Surety of its intention to terminate the contract. The notices shall contain the reasons for such intention to terminate the contract, and unless such violation or delay shall cease and satisfactory arrangement of correction be made within ten days, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the County shall immediately serve notice thereof upon the Surety and the Contractor. The Surety shall have the right to take over and perform the contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the County may take over the work and complete the project by bid/contract or by force account at the expense of the Contractor and his Surety shall be liable to the County for any excess cost incurred. In such event the County may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

(c) Liquidated Damages for Delays.

If the work is not completed within the time stipulated in the applicable bid for Lump Sum or Unit Price Contract provided, the Contractor shall pay to the County as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of **\$200.00** for each calendar day of delay, until the work is completed. The Contractor and Contractor's sureties shall be liable to the County for the amount thereof.

(d) Excusable Delays.

- 1) The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to:
- 2) Any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency;
- 3) Any acts of the County;
- 4) Causes not reasonably foreseeable by the parties to this Contract at the time of execution which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, terrorism, war, acts of another Contractor in the performance of some other contract with the County, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions.
- 5) Provided, however, that the Contractor promptly notifies the County within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the County shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract, the delay is properly excusable, the County shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

10. Assignment or Novation

The Contractor shall not assign nor transfer, whether by assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the County. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, Contractors, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

13. Requests for Supplementary Information

It shall be the responsibility of the Contractor to make timely requests of the County for any additional information which should be furnished by the County under the terms of this Contract, and which is required in the planning and execution of the work. Such requests may be submitted from time to time as the need approaches, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Hudspeth County Road Department may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provision of this section.

14. Materials and Workmanship

- (a) Unless otherwise specifically provided for all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to as "equal to" any particular standard, the "Hudspeth County Commissioners Court" shall decide the question of equality.
- (b) The Contractor shall furnish to the County for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval full information concerning all other materials or articles which he proposes to incorporate.
- (c) Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- (d) Materials specified by reference to the number or symbol of a specific standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in the technical specifications shall have full force and effect as though printed therein.
- (e) The County may require the Contractor to dismiss from the work such employee or employees as the County may deem unqualified.
- (f) Domestic Preferences - As appropriate and to the extent consistent with law and to the greatest extent practicable under the award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(3) [Iron and steel products, Manufactured Products, and Construction Materials] used in this project comply with the Build America, Buy America Act (BABA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58.

15. Samples, Certificates and Tests

- (a) The Contractor shall submit all material or equipment samples, certificates, affidavits, etc., as called for in the contract documents or required by Hudspeth County, promptly after award of the contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk,

until the required samples or certificates have been approved in writing by Hudspeth County. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.

- (b) Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the Engineer in making a prompt decision regarding the acceptability of the sample. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.
- (c) Approval of any materials shall be general only and shall not constitute a waiver of the County's right to demand full compliance with Contract requirements. After actual deliveries, the Hudspeth County Commissioners Court will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Hudspeth County Commissioners Court will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.
- (d) Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:
  - 1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by Hudspeth County.
  - 2) The Contractor shall assume all costs of re-testing materials which fail to meet contract requirements;
  - 3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient;
  - 4) The County will pay all other expenses.

#### 16. Permits and Codes

- (a) The Contractor shall give all notices required by and comply with all applicable federal and state laws, ordinances, and codes of the Local Government. All construction work and/or utility installations shall comply with all applicable ordinances, and codes including all written waivers. Before installing any work, the Contractor shall examine the technical specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the County. Where the requirements of the technical specifications fail to comply with such applicable ordinances or codes, the County will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract Price or stipulated unit prices.
- (b) Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the drawings and technical specifications), the Contractor shall remove such work without cost to the County.
- (c) The Contractor shall at his own expense, secure and pay for all permits for street pavement, sidewalks, shed, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, water, gas and sewer permits required by the local regulatory body or any of its agencies.
- (d) The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements contained in this Contract.
- (e) The Contractor will be required to make arrangements for and pay the water, electrical power, or any other utilities required during construction.

- (f) During construction of this project, the Contractor shall use every means possible to control the amount of dust created by construction. Prior to the close of a day's work, the Contractor, if directed by the County, shall moisten the surrounding area to prevent a dusty condition.

17. Care of Work

- (a) The Contractor shall be responsible for all damages to person or property that occur as a result of its fault or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance.
- (b) In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the County is authorized to act to prevent such threatened loss or injury. Contractor shall follow all instructions of County.
- (c) The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and shall be responsible for completely repairing any damage thereto caused by the operations.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as maybe necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the improvements included in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the County from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the County may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

18. Accident Prevention

- (a) No laborer or mechanic employed in the performance of this Contract shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards promulgated by the Department of Labor.
- (b) The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work.
- (c) The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the County with reports concerning these matters.
- (d) The Contractor shall indemnify and hold harmless the County from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this contract.
- (e) The Contractor shall provide trench safety for all excavations more than five feet deep prior to excavation. All OSHA Standards for trench safety must be adhered to by the Contractor.
- (f) The contractor shall at all time conduct work in such a manner as to ensure the least possible inconvenience to vehicular and pedestrian traffic. At the close of the work each day, all streets where possible in the opinion of the County, shall be opened to the public in order that persons living in the area may have access to their homes or businesses by the use of the streets. Barricades, warning signs, and necessary lighting shall be provided to the satisfaction of the County at the expense of the Contractor.

19. Sanitary Facilities

The Contractor shall furnish, install and maintain ample sanitary facilities for laborers. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

20. Use of Premises

- (a) The Contractor shall confine equipment, storage of materials, and construction operations to the contract limits and as prescribed by ordinances or permits, or as may be desired by the County, and shall not unreasonably encumber the site or public rights of way with materials and construction equipment.
- (b) The Contractor shall comply with all reasonable instructions of the County and all existing federal, state and local regulations regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades.

21. Removal of Debris, Cleaning, Etc.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for work, and put the whole site of the work and public rights of way in a neat and clean condition.

22. Inspection

- (a) All materials and workmanship shall be subject to inspection, examination, or test by the County at any and all times during manufacture or construction and at any and all places where such manufacture or construction occurs. The County shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the County may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any Monies which may be due the Contractor, without prejudice to any other rights or remedies of the County.
- (b) The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. All tests by the County will be performed in such manner as not to delay the work unnecessarily and will be made in accordance with the provisions of the technical specifications.
- (c) The Contractor shall notify the County sufficiently in advance of back filling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the County, the Contractor shall uncover for inspection and recover such facilities at Contractor's expense, when so requested by the County.
- (d) Should it be considered necessary or advisable by the County at any time before final acceptance of the entire work to make an examination of work already completed, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any important or essential respect, due to fault of the Contractor or subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, shall be reimbursable and if completion of the work of the entire Contract has been delayed, a suitable extension of time will be approved.
- (e) Inspection of materials and appurtenances to be incorporated in the improvements included in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the technical specifications, shall be final, except as regards to: (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

- (f) Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the County or its agents shall relieve the Contractor or its sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

23. Review by County

The County and its authorized representatives and agents shall have access to and be permitted to observe and review all work, materials, equipment, material invoices, and other relevant data and records pertaining to this Contract, provided, however that all instructions and approval with respect to the work will be given to the Contractor only by the County through its authorized representatives or agents.

24. Final Inspection

When the Improvements included in this Contract are substantially completed, the Contractor shall notify the County in writing that the work will be ready for final inspection on a definite date which shall be stated in the notice. The County will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable.

25. Deduction for Uncorrected Work

If the County deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the County and subject to settlement, in case of dispute, as herein provided.

26. Insurance

The Contractor shall not commence work under this contract until all required insurance under this paragraph has been secured and approved by the County.

- (a) **Worker's Compensation Insurance:** The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance as required by the State of Texas for all of his employees to be engaged in work at the site of the project under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance.
- (b) **Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance.** The Contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance.
- (c) **Proof of Insurance:** The Contractor shall furnish the County with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the County."

27. Warranty of Title

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same, together with all improvements and appurtenances constructed or placed by Contractor, to the County free from any claims, liens, or charges. Neither the Contractor nor any person, firm, or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any law permitting such persons to look to funds due the Contractor. The

provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

28. Warranty of Workmanship and Materials

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements included in this Contract by the County or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of 12 months from the date of final acceptance of the work.

29. Job Offices

- (a) The Contractor and its subcontractors may maintain such office and storage facilities on the site as are necessary for the proper conduct of the work. These shall be located so as to cause no interference to any work to be performed on the site. The County shall be consulted with regard to locations.
- (b) Upon completion of the improvements, or as directed by the County, the Contractor shall remove all such temporary structures and facilities from the site, and leave the site of the work in the condition required by the Contract.

30. Partial Use of Site Improvements

The County may give notice to the Contractor and place in use those sections of the improvements which have been completed, inspected and can be accepted as complying with the technical specifications and if in its opinion, each such section is reasonably safe, fit, and convenient for the use and accommodation for which it was intended, provided:

- (a) The use of such sections of the Improvements shall in no way impede the completion of the remainder of the work by the Contractor.
- (b) The Contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections.

31. Local Program Liaison

For purposes of this Agreement, the Hudspeth County Judge or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Contractor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

32. Access to Information

- (a) The Inspectors General, the Comptroller, U. S. Department of Treasury, and the County, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts, and to closeout the County's (LATCF) Funds. .
- (b) Contractor shall include the substance of this clause in all subcontracts it awards.

33. Records Retention

- (a) The Contractor shall retain all required records for three years after the County makes its final payment and all pending matters are closed.
- (b) Contractor shall include the substance of this clause in all subcontracts it awards.

34. Resolution of Program Non-Compliance and Disallowed Costs

In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or LATCF program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt

of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

35. The Contractor and its subcontractors shall not, by any means, induce any person employed in the construction, completion, or repair of public work, give up any part of the compensation to which he or she is otherwise entitled.

36. Conflicts of interest.

- (a) Governing Body. No member of the governing body of the County and no other officer, employee, or agent of the County, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the award shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Firm shall take appropriate steps to assure compliance.
- (b) Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the award between Contractor and the County, shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Contractor shall take appropriate steps to assure compliance.
- (c) The Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the award and the County or this Contract. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the award between the County or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.

37. Contract Period

The work to be performed under this contract shall commence within the time stipulated by the County in the Notice to Proceed, and shall be fully completed within One- Hundred and Eighty (180) calendar days thereafter.

38. Liquidated Damages

Since the actual damages for any delay in completion of the work under this contract are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the County the sum of Two Hundred and No/100 Dollars (\$200.00) as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated time for completion.

39. Gender Neutral - Gender References

When necessary, unless the context clearly requires otherwise, any gender-specific or gender-neutral term in this Contract (for example, he, she, it, etc.) is to be read as referring to any other gender or to no gender.

**STATEMENT OF BIDDER'S QUALIFICATIONS**

All questions must be answered and the data given must be clear and comprehensive. **This statement must be notarized.** If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

Date: \_\_\_\_\_

Bidder (Legal Name of Firm): \_\_\_\_\_

Date Organized: \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_ :

Date Incorporated \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Number of Years in contracting business under present name \_\_\_\_\_

List all other names under which your business has operated in the last 10 years:

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

**Work Presently Under Contract:**

Contract	Amount \$	Completion Date
----------	-----------	-----------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

Type of work performed by your company: \_\_\_\_\_

Total Staff employed by Firm (Break down by Managers and Trades on separate sheet):

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

Have you ever failed to complete any work awarded to you?  Yes  No

(If yes, please attach summary of details on a separate sheet. Include brief explanation of cause and resolution)

Have you ever defaulted on a contract?  Yes  No

(If yes, please attach summary of details on a separate sheet.)

Has your organization had any disbarments or suspensions that have been imposed in the past five years or that was still in effect during the five year period or is still in effect?  Yes  No

(If yes, list and explain; such list must include disbarments and suspensions of officers, principals, partners, members, and employees of your organization.)

List the projects most recently completed by your firm (include project of similar importance):

Project	Amount \$	Mo/Yr Completed
_____		
_____		
_____		

Major equipment available for this contract: \_\_\_\_\_  
\_\_\_\_\_

Are you in compliance with all applicable EEO requirements?  Yes  No  
(If no, please attach summary of details on a separate sheet.)

**Bank References**

Address: \_\_\_\_\_ Contact Name: \_\_\_\_\_

City & State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Credit available: \$ \_\_\_\_\_

Has the firm or predecessor firm been involved in a bankruptcy or reorganization?  Yes  No  
(If yes, please attach summary of details on a separate sheet.)

List on a sheet attached hereto all judgements, claims, arbitration proceedings, or suits pending or outstanding against bidder over the last five (5) years with amount of claim and brief description.

List on a sheet attached hereto all lawsuits or requested arbitration with regard to construction contracts which bidder has initiated within the last five (5) years and brief explanation of claim and outcome.

Attach resume(s) for the principal member(s) of your organization, including the officers as well as the proposed superintendent for the project.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Company Name

**Notary Statement:**

\_\_\_\_\_, being duly sworn, says that he/she is the \_\_\_\_\_ Position/Title \_\_\_\_\_ of \_\_\_\_\_ (Firm Name), and hereby swears that the answers to the foregoing questions and all statements therein contained are true and correct. He/she hereby authorizes and requests any person, firm, or corporation to furnish any information requested City/County of \_\_\_\_\_ in verification of the recitals comprising this Statement of Bidder's Qualifications.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

My Commission Expires: \_\_\_\_\_,

The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**NONCOLLUSION AFFIDAVIT OF PRIME BIDDER**

State of Texas )

County of \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that:

(1) He/She is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_

\_\_\_\_\_  
Title

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_

BID BOND

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

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the  
Accompanying Bid, dated \_\_\_\_\_, for \_\_\_\_\_

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

IN WITNESS THEREOF, the above parties have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these present  
signed by its undersigned representative, pursuant to authority of its governing body.

(SEAL)

\_\_\_\_\_

(SEAL)

Attest:

By: \_\_\_\_\_

Affix  
Corporate  
Seal

Attest:

By: \_\_\_\_\_

Affix  
Corporate  
Seal

Attest:

By: \_\_\_\_\_

Countersigned

By \_\_\_\_\_

\* Attorney-in-Fact, State of Texas

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as Principal in the bid bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal was then \_\_\_\_\_ of said corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested to, on behalf of said corporation by authority of its governing body.

Corporate  
Seal

Title: \_\_\_\_\_

\* Power-of-attorney for person signing for Surety Company must be attached to bond.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that:

\_\_\_\_\_  
(Name of Contractor or Company)

\_\_\_\_\_  
(Address)

a \_\_\_\_\_, hereinafter called Principal,  
(Corporation / Partnership)

and \_\_\_\_\_  
(Name of Surety Company)

\_\_\_\_\_  
(Address)

hereinafter called Surety, are held and firmly bound unto

\_\_\_\_\_  
(Name of Recipient)

\_\_\_\_\_  
(Recipient's Address)

hereinafter called OWNER, in the penal sum of \$ \_\_\_\_\_

Dollars, \$ \_\_\_\_\_ in lawful money of the United States, for this payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONFIDENTIALITY OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the \_\_\_\_ day of \_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

\_\_\_\_\_  
(Project Name)

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUB-CONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUB-CONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counter-parts, each on of (Number)

which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(Principal Secretary) By \_\_\_\_\_ (s)

(SEAL)

\_\_\_\_\_  
(Witness as to Principal) (Address)

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
(Surety)

\_\_\_\_\_  
(Witness as to Surety) By \_\_\_\_\_  
(Attorney in Fact)

\_\_\_\_\_  
(Address) (Address)

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

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that:

\_\_\_\_\_  
(Name of Contractor or Company)

\_\_\_\_\_  
(Address)

a \_\_\_\_\_ hereinafter called Principal, and

\_\_\_\_\_  
(Name of Surety Company)

\_\_\_\_\_  
(Address)

hereinafter called Surety, are held and firmly bound unto

\_\_\_\_\_  
(Name of Grant Recipient)

\_\_\_\_\_  
(Grant Recipient's Address)

hereinafter called OWNER, in the penal sum of \$ \_\_\_\_\_

Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, successors, and assigns, jointly and severally, firmly in these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER dated the \_\_\_\_\_ day of \_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

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

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties in all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_.

ATTEST: \_\_\_\_\_  
(Principal)  
\_\_\_\_\_  
By \_\_\_\_\_ (s)  
(Principal Secretary)

(SEAL)

\_\_\_\_\_  
(Witness as to Principal)      \_\_\_\_\_  
(Address)      \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
(Surety)  
\_\_\_\_\_  
By \_\_\_\_\_  
(Witness as to Surety)      (Attorney in Fact)  
\_\_\_\_\_  
(Address)      \_\_\_\_\_  
(Address)

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

## ATTORNEY'S REVIEW CERTIFICATION

I, the undersigned, \_\_\_\_\_, the duly authorized and acting legal representative of the \_\_\_\_\_, do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and am of the opinion that each of the agreements may be duly executed by the proper parties, acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties; and that the agreements shall constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Attorney's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Attorney's Name: \_\_\_\_\_

Texas State Bar Number: \_\_\_\_\_