



## **SPECIFICATIONS & CONTRACT DOCUMENTS**

### **PRESTON STREET PAVEMENT IMPROVEMENTS**

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SEGUIN CITY COUNCIL

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**City Engineer**

**Prepared By**  
City of Seguin Purchasing Department  
and  
City of Seguin Engineer/Public Works Department

## **ADVERTISEMENT FOR BIDS**

Sealed proposals addressed to the City Manager of the City of Seguin, Texas will be received at the Seguin City Hall, 205 North River, Seguin, Texas, 78155, until **2:30 P.M., March 15, 2016 (CDST)** for the proposed **Preston Street Pavement Improvements**. Any bid received after closing time will not be considered. The bids will be publicly opened and read aloud at the Seguin City Hall at 3:00 P.M. Bids shall be submitted in a sealed envelope (8 ½" x 11" minimum), clearly marked as follows:

### **SEALED BIDS**

**Pavement Improvements- Preston St.**

**Bid No. TF-2016-25**

**To be opened at 3:00 P.M., Tuesday March 15, 2016**

Principle items of construction will include pavement improvements to Preston Street from East Court to FM 466.

Each bid must be accompanied by a certified or cashier's check, or an approved bidders bond in an amount not less than 5% of the maximum total bid, payable to the City of Seguin, Texas without recourse, as a guarantee that the Bidder will enter into a contract and execute performance and payment bonds on the forms provided, within ten (10) days after the award of contract.

Proposal forms, plans, and specifications may be obtained from the City of Seguin website [www.seguintexas.gov/bid\\_opportunities](http://www.seguintexas.gov/bid_opportunities)

**A pre-bid conference will be held Tuesday, March 8, 2016 at 10:00 AM** in the City Council Chambers located in the Seguin City Hall, 205 North River, Seguin, Texas 78155.

The City of Seguin reserves the right to reject any or all bids and to waive informalities. No bid may be withdrawn within sixty (60) days after the date on which bids are received.

**Douglas G. Faseler, City Manager**  
**CITY OF SEGUIN, TEXAS**

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## **SPECIAL INSTRUCTIONS**

### **1. SCOPE OF PROJECT**

The City of Seguin (herein called the OWNER) invites proposals for a Street Improvement Project. Principal items of construction will include:

**This bid will include pavement improvements to the following:**

**Preston Street from East Court Street to FM 466. Bidder will need to include valve adjustments to finish grade using the specification and detail provided.**

**The improvements to these said street will include but not limited to any and all milling to create longitudinal joints, butt joint and full depth milling to ensure the new surface is flush with the existing curbs, intersection streets, driveway and parking areas within the project limits. Also rising all manholes, valves and sanitary sewer cleanout that are within the pavement to the final elevation of the new pavement surface. All proper traffic control needs to be in place before the start of work every day.**

### **2. PROPOSALS AND METHOD OF BIDDING**

2.1 The proposal consists of various major items of work Bidders will provide prices for each item in the proposal. The prices will be entered in the appropriate spaces in both script and figures. Should the Bidder have costs for any incidental work where a bid item does not occur, the costs of such work will reflected in the unit costs of the bid items in the proposal. No separate payment will be made for any work other than those items occurring in the proposals.

2.2 At the time of proposal submittal, bidders will provide a Contractor Work Plan, which details the approach and scope of the work to be performed. The Contractor Work Plan shall include a proposed schedule for completion of all work to be performed.

2.3 Bidders are hereby notified of the number of calendar days for completion of the project in Article 54 of this section.

2.4 Bidders shall bid on all items of the Bid.

### **3. OBLIGATION OF BIDDER**

At the time of the opening of bids each Bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any Bidder to examine any form, instrument or document shall in no way relieve any Bidder from any obligation with respect to his bid.

#### **4. RECEIPT AND OPENING OF BIDS**

Bids will be received at Seguin City Hall, 205 North River, Seguin, Texas 78155, until **2:30 P.M., March 15, 2016 (CDST)**. Any bid received after closing time will be returned unopened. The bids will be publicly opened and read aloud at the Seguin City Hall at 3:00 p.m. Bids shall be submitted in a sealed envelope (8 ½" x 11" minimum). Clearly marked as follows:

##### **SEALED BIDS**

**Pavement Improvement Project**

**Bid No. TF-2016-25**

**To be opened at 3:00 P.M., Tuesday March 15, 2016**

#### **5. BID SECURITY**

- 5.1 Each bid must be accompanied by cash, certified check of the Bidder or a bid bond, duly executed by the Bidder as principal and having as surety thereto a surety company approved by the Owner, in the amount of 5% of the bid. Such cash, checks or bid bonds will be returned within ninety (90) days after the date of the opening of bids, upon demand of the Bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.
- 5.2 Any cash, check, or bid bond is a guarantee that the Bidder will enter into a Contract and execute performance and payment bonds on the forms provided, within ten (10) days after the award of Contract. Failure to execute these documents within the required time shall be justification for the Owner to consider this a forfeiture of the security by the Bidder to the Owner.

#### **6. QUALIFICATIONS OF BIDDER**

- 6.1 The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request.
- 6.2 The Owner may request a list of recent projects of equal difficulty and size that the low bidder has performed. Bidders hereby agree to supply such a list prior to award upon request to the Owner. Quantity or proportionate share of the project to be performed by subcontractors not on the prime contractor's payroll will be considered by the Owner.
- 6.3 The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the work therein.
- 6.4 Bidders may be required to submit evidence that they have a practical knowledge of the particular Work bid upon, and that they have the financial resources to complete the proposed Work.

6.5 In determining the Bidder's qualifications, the following factors will be considered: work previously completed by the Bidder and whether the Bidder (a) maintains a permanent place of business, (b) has adequate personnel and equipment to do the work properly and expeditiously, (c) has the financial resources to meet all obligations incidental to the Work, and (d) has appropriate technical experience.

6.6 Each Bidder's claim history may be reviewed in the evaluation of the bid. The Bidder may be required to show that he has handled former work so that no just claims are pending against such work. No bid will be accepted from a Bidder who is engaged on any work which would impair his ability to perform or finance his Work.

## **7. TIME OF COMPLETION AND LIQUIDATION DAMAGES**

Bidder must agree to commence on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the construction of the project within the number of calendar days proposed on the last sheet of the proposal, or pay as liquidated damages the sum for each consecutive calendar day thereafter as hereinafter provided in the General Information.

## **8. SECURITY FOR FAITHFUL PERFORMANCE**

Simultaneously with his delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of the Contract and for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract, as specified in the General Conditions included herein. The Surety on such bond or bonds shall be duly authorized surety company satisfactory to the Owner.

## **9. POWER OF ATTORNEY**

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

## **10. LAWS AND REGULATIONS**

The Bidder's attention is directed to the fact that all applicable State laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though written out in full.

## **11. SUBCONTRACTS**

11.1 The Bidder is specifically advised that any person, firm or other party to whom it is proposed to award a Contract under this Contract must be acceptable to the Owner and Engineer.

11.2 The Bidder shall provide a list of all major subcontractors and vendors with his bid. Failure to provide may constitute a rejection of the bid.

## 12. PAYMENTS

On or before the 25<sup>th</sup> day or each month, the Contractor shall prepare and submit to the Engineer an application for payment showing as completely as practicable the total value of the work done by the Contractor up to and including the last day immediately preceding the date of such application and the value of all sound materials delivered on the site of the work that are to be fabricated into work.

The Engineer shall verify Contractor's application, shall either approve or modify the total value of the work done by the Contractor and the value of Materials delivered to the site, and shall submit to Owner such application for payment as approved or modified with Engineer's verification affixed thereto on or before the 5<sup>th</sup> days of the month following the receipt of the application from Contractor.

The Owner shall pay the Contractor on or before the 25th day of the month in which the Owner receives the approved application from the Engineer the total amount of the approved and verified application, less five (5) percent of the amount thereof, which five (5) percent shall be retained until final payment, and further less all previous payments and all further sums that may be retained by the Owner under the terms of this Agreement. It is understood, however, that in case the whole work be near to completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the Contractor, the Owner may, upon written recommendation of the Engineer, pay a reasonable and equitable portion of the retainage to the Contractor, or the Contractor, at the Owner's option, may be relieved of the obligation to fully complete the work and, thereupon, the Contractor shall receive payment of the balance due him under the contract subject only to the conditions stated under "Final Payment." Any such payments of retainage by Owner to Contractor prior to final payment must be agreed to in writing by the surety or sureties on Contractor's payment and performance bonds.

The Contractor shall submit to the Engineer, copies of the material invoices with the application for payment. No payment will be made to the Contractor until the quantities or work submitted have been checked and verified by the Engineer.

## 13. METHOD OF AWARD

13.1 An award will be made to only **one** Contractor. The award may be made for the lowest base bid **or** the lowest base bid including alternate bid item(s), if applicable.

13.2 The Owner reserves the right to waive informalities, to reject any or all bids, and to accept the bid most advantageous to the public interest. 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.

## **14. ENGINEER**

The word “Engineer” as used herein refers to the City Engineer or his designated staff.

## **15. TRAFFIC CONTROL**

The Contractor will be responsible for furnishing and using all barricades, warning lights, signs, etc. necessary to protect his work and maintain traffic flow satisfactory to the Owner and TX DOT. Warning devices shall be as required in the Texas Manual on Uniform Traffic Control Devices. All work scheduling shall be coordinated with the City staff, and be approved by the City staff before work can proceed. **No separate** payment will be made for traffic control. A Traffic Control Plan may possibly be required by TX DOT, including all Traffic Control Permits in scope of project.

## **16. OWNERSHIP OF PROJECT**

Until final acceptance of the total project by the Owner and Engineer, the Contractor shall take full responsibility for the welfare of the partially completed work. Damage to the Contractor’s work from any cause shall be repaired at the Contractor’s expense.

## **17. REPLACEMENT OF MISCELLANEOUS IMPROVEMENTS**

The Contractor shall repair or replace all existing utilities, water mains, fences, concrete walls, sidewalks, concrete curbs and concrete pavement, signs, culverts, asphalt pavement, building walls and attachments and other miscellaneous improvements damaged by the Contractor due to his operations on this project, to a condition equal to or better than their condition before construction, at no additional expense to the Owner. No direct payment will be made for this item.

## **18. MAINTENANCE GUARANTEE**

- 18.1 The Contractor shall maintain and guarantee the work, which he does against defective workmanship and materials for a period of one (1) year from the date of final acceptance of the work by the Owner.
- 18.2 Prior to the expiration of the one (1) year warranty period, the City will conduct a thorough inspection of the improvements to verify the integrity of the project. This inspection will include visual examination of the improvements and may include other inspection techniques to verify the integrity of the improvements.
- 18.3 Where defective workmanship and/or materials are discovered, requiring repairs to be made under this guarantee, all such repair work shall be done by the Contractor at his own expense within five (5) days after written notice of such defect has been given to him by the Owner. Should the Contractor fail to repair such defective workmanship and/or materials within five (5) days after being notified, the Owner may make the necessary repairs and charge the Contractor with the actual cost of all labor and materials required.

18.4 The Contractor shall arrange to have his faithful performance bond run for a period of one (1) year after the date of completion of the construction work to cover his guarantee as set forth above.

## **19. CLEAN-UP**

19.1 The Contractor shall at all times keep the jobsite as free from all material, debris, and rubbish as is practicable and shall remove same from any portion of the job site when it becomes objectionable in the opinion of the Engineer.

19.2 After construction work is completed and before final acceptance of improvements by Owner, Contractor shall remove all debris from site of project, including all existing debris to an approved place of disposal. Temporary structures, forms, equipment, objectionable rocks, concrete and other debris shall be remove in such a manner as to leave the site of work in a neat and presentable condition throughout; and restore in an acceptable manner all property damaged in the progress of this work. No direct payment will be made for clean-up.

19.3 Materials cleared from project shall not be deposited on adjacent public or private property without written permissions of the Owner's thereof filed with Owner's Agent; and any materials so deposited shall be leveled and left in a condition satisfactory to the Owner's Agent.

## **20. EXCAVATION**

Excavation in this Contract shall be unclassified. There is no separate pay item under this Contract for excavation and its cost shall be included in such pay items as are provided in the Contract and proposal.

## **21. AFFIDAVIT OF BILLS PAID**

Upon completion of the project and final acceptance by the Owner and Engineer, the Contractor shall be required to furnish the Owner with an Affidavit certifying that all suppliers and subcontractors have been paid, before final payment will be made by Owner.

## **22. ADDENDA AND INTERPRETATIONS**

22.1 No interpretation of the meaning of the plans, specifications or other prebid documents will be made to any bidder orally. Every request for such interpretations should be in writing addressed to Twila Wood, Purchasing Manager, City of Seguin, PO Box 591, Seguin, Texas 78156-591, or by email to [twood@seguintexas.gov](mailto:twood@seguintexas.gov), and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of bids.

22.2 Any and all such interpretations and supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be emailed to all prospective bidders (at the respective addresses furnished for such purposes), not later than five (5) days prior to the date fixed for the opening of bids. Addenda will be posted on the City's website: [www.seguintexas.gov/bid\\_opportunities](http://www.seguintexas.gov/bid_opportunities) Failure of any bidder to receive any such

addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

### **23. EXISTING UTILITIES**

- 23.1 Existing surface and subsurface structures (gas mains, water mains, sewer mains, storm sewers, telephone cables, sprinkler systems, etc.) are shown on the plan if their location has been determined, but it shall be the responsibility of the Contractor to avoid damaging these existing structures whether or not they are shown on the plans. The Owner and Engineer assume no responsibility for failure to show any or all of those structures on the plans or to show them in their exact location. It is mutually agreed that such failure to show these structures will not be considered sufficient basis for claims for additional compensation for extra work or for increasing the pay quantities in any manner whatsoever. If any structure is damaged by the Contractor it shall be his responsibility to repair the damage at his own expense and restore the structure to its functional use.
- 23.2 Contractor shall locate and determine (verify if depth is shown on plans) elevation of all existing underground utilities. If a utility is found to be in conflict with proposed grades, the Engineer shall be contacted and grades adjusted to avoid conflict. **No separate pay.**

### **24. PRECONSTRUCTION CONFERENCE**

After award and execution of a contract between the Owner and Contractor, a formal preconstruction conference will be held in City Hall prior to commencement of the work. This conference will include review of technical specifications in order to insure clarity as to the type of construction machinery to be used, construction methods to be used, and materials to be used, obligations of both the Contractor and the City forces, personnel, safety, issues/requirements, meetings, control of the project, guaranty/warranty, and the method of inspection and decision-making to be used during this project.

### **25. ORDER OF CONSTRUCTION/WORKING HOURS**

- 25.1 The Contractor shall submit to the Engineer prior to the pre-construction conference a construction schedule, which shall meet the Engineer's approval before construction can begin.
- 25.2 Generally, the Contractor shall perform all construction activities between 8:00a.m. To 5:00p.m., Monday through Friday only. However, the Contractor may be allowed to work weekends and holidays upon the Engineer's written approval. Contractor shall be responsible for paying all costs, fees, etc. related to Owner representatives during hours on weekends, holidays, and outside 8:00 am to 5:00 p.m.
- 25.3** The Contractor shall keep the Owner and the Owner's Engineer informed as to his construction progress. Because of traffic congestion, the contractor may be required to schedule construction in some areas between the hours of \_\_\_TBD\_\_\_ and \_\_\_\_\_ if the City staff or Engineer determines it to be necessary. Contractor will be required to perform work in a fashion that will cause the least amount of inconvenience to the general public.

**25.4** The Contractor will be required to totally complete portions of the project prior to proceeding with other portions. The Contractor shall submit to the Engineer prior to the preconstruction conference a construction schedule which shall meet the Engineer's approval before construction can begin. All work scheduling shall be coordinated with City staff and approved by City staff before work can proceed. The Contractor will be required to have someone on call 24 hours per day during the course of the project.

## **26. LABOR FORCE**

- 26.1 The Contractor may bring his superintendent, foreman, sub-foreman, machine operators, and sufficient key men to round his organization. All other skilled and unskilled labor used on the work when qualified, fit, and available, shall be obtained first from residents within the city where this project is located.
- 26.2 The Contractor shall abide by the Wage and Hour Laws of the State and must not pay less than the rates legally prescribed.
- 26.3 The Contractor shall maintain his superintendent or foreman onsite for the duration of the project. Subcontractor employees shall not be considered the superintendent or foreman on site.

## **27. CONTRACTOR'S RESPONSIBILITY AND LIABILITY FOR PERFORMANCE OF WORK**

- 27.1 Is expressly understood and agreed to be the Contractor that, regardless of the extent of inspection and supervision provided by the Owner and the Engineer, it is the Contractor's responsibility to perform and complete work in accordance with the drawings and specifications, and that the Owner and Engineer have no liability or responsibility whatever to the Contractor for any work performed by the Contractor which is not in accordance with the drawings and specifications regardless of the time when discovered and whether discovered at any time during the course of construction or after acceptance of the work.
- 27.2 The Engineer shall inform the Contractor of any work that is not in accordance with the drawings and specifications when it becomes known to him. If any work is performed which is not in accordance with drawings and specifications and is not discovered until a later time, neither the Owner nor the Engineer shall have any responsibility to the Contractor, or be liable to the Contractor for the correction or removal of unsatisfactory work or of any work subsequently performed or affected by it.
- 27.3 The correction or removal of such unsatisfactory work and the replacement with satisfactory work shall be performed by the Contractor at his own expense, and is understood to be fully included in his contract requirements, without any additional compensation or claims upon the Owner or Engineer.

## **28. NOTIFICATION OF CONSTRUCTION PROGRESS**

28.1 Contractor shall keep the Owner and Engineer informed at all times with respect to the progress of the Services and the results obtained there from. Without limitation of the generality of the immediately preceding sentence, Contractor shall furnish verbal reports to Engineer as requested but no less than on a weekly basis specifying the days spent and Work accomplished by Contractor since the preceding report; and promptly notify Engineer in writing of all accidents, claims (including, without limitation, asserted liens, and other encumbrances), and losses arising out of or in connection with the Services.

28.2 The Contractor shall give the Engineer 48 hours' notice for inspection of any subsurface activity.

28.3 If work is delayed or behind schedule, the Contractor shall submit additional progress reports at such intervals as Engineer may request. Each progress report shall include sufficient description of current and anticipated delaying factors, their effect on the construction schedule, and proposed actions that the Contractor will take to complete the project within the time allotted. If considered necessary, the Engineer will schedule additional meetings to discuss progress with the Contractor.

## **29. CHANGE OF LOCATION**

No change in the alignment is contemplated; however, should a change be necessary, the Owner reserves the right to make such changes; unless it can be clearly shown that such changes would result in an undue hardship on the Contractor, no extra compensation will be allowed the Contractor.

## **30. SEARCHING FOR EXISTING UTILITIES**

Existing sewer mains may be difficult to locate. The approximate location of these facilities has been shown on the plans ("EXISTING UTILITIES" above), and City forces with budget constraints have not produced exact locations. The Contractor will be required to excavate and locate these facilities, and to conduct such investigations as necessary to perform the work contemplated on the plans. The Owner will provide liaison with property owners and the limited information it has concerning existing locations, sizes, materials, etc., but any delays or investigations required of the Contractor shall be deemed incidental to the project. **No separate payment will be made.** No machine time will be provided by the Owner in this regard.

## **31. SALVAGE RIGHTS**

31.1 All materials and appurtenances of any kind, etc., excavated, removed, or produced during the project by the Contractor shall be delivered to the Owner's yard, if desired by Owner. No separate payment will be made.

31.2 If the Owner desires not to keep these materials, they shall be disposed of properly and according to current laws. No separate payment will be made.

31.3 The City of Seguin does not have an active landfill.

## **32. DISPOSAL OF EXCAVATED MATERIALS**

All excavated materials not used in backfilling will be disposed of by the Contractor at a site obtained by the Contractor and approved by the Owner. Disposal of excavated materials shall be in accordance with all rules and regulations of the Texas Commission on Environmental Quality (TCEQ). Any pieces of material such as broken concrete, asphalt, or pipe measuring twelve inches (12”) or larger in any dimension, shall be disposed of by the Contractor at an approved landfill or as directed by the Owner. Spoil areas shall be leveled with a motor grader for future mowing. The Contractor shall include in his bid the cost to dispose of the materials.

### **33. SUBMITTAL DATA**

The Contractor shall furnish submittals for any such parts of the work and equipment as set forth in the specifications and indicated on the plans. The procedures for review of the submittals shall be as follows:

- 33.1 The Contractor shall submit to the Engineer for his review, four (4) prints of drawings, plus whatever number of prints the Contractor desires to be returned to him. The submittal prints shall be accompanied by a letter of transmittal, which shall be of the form supplied by or approved by the Engineer.
- 33.2 When a drawing is satisfactory to the Engineer, the number of prints the Contractor desires returned to him will be stamped or marked, “Approved as Corrected” or “Approved as Submitted”, will be dated and will be returned to the Contractor by letter.
- 33.3 Should a drawing be unsatisfactory to the Engineer, he will stamp thereon “Revise and Resubmit” or “Rejected”, and will return one (1) or more copies thereof to the Contractor with the necessary corrections and changes indicated. The Contractor must make such corrections and changes, and again submit at least four (4) prints of the drawings for approval. The Contractor shall revise and resubmit the working drawings, as required by the Engineer, until satisfactory review thereof is obtained.
- 33.4 The Contractor shall allow sufficient time for preliminary review, correction and re-submission, and final review of all working (shop) drawings. The Contractor should allow not less than fourteen (14) days for each review. Drawings of items critical to job progress, when requested in writing by the Contractor, will be given priority review.

### **34. SANITARY FACILITIES**

The Contractor shall provide chemical toilet facilities for the use of his forces. Adequacy of these facilities will be subject to the approval of the Engineer and maintenance of same must be satisfactory to the Engineer at all times. Contractor shall provide a maintenance schedule to the Owner for approval.

### **35. WITHDRAWAL OF BIDS**

Contractors may withdraw their bid at any time until the specified closing time for acceptance of bids. After the specified time, no bid may be withdrawn for a period of ninety (90) days or until a contract is awarded, whichever occurs first.

### **36. SUB-SURFACE CONDITIONS**

It shall be the responsibility of the Contractor to satisfy himself as to the soil conditions and nature and type of geological formations in and through which this project will be constructed, and to make appropriate allowances in the proposal he submits for doing the work. Such information as may be obtained from the test borings and accompanying notations shown on the plans is merely for the guidance of the Contractor and is not to be construed in any manner as a guarantee by the Owner that such conditions of sub-surface strata are infallible.

### **37. STAKING FOR CONSTRUCTION**

**The Contractor will provide all construction staking services for the project.** The cost of these services will be reflected in the unit price amount bid in the proposal. **No separate payment will be made.**

### **38. BID PROPOSALS**

- 38.1 Bidders are requested to submit bids on all bid items as listed in the proposal, so that an adequate evaluation of the total project can be made.
- 38.2 The Owner reserves the right to reject any or all bids, or to accept the bid or combination of bids that they deem most advantageous to the public interest.
- 38.3 Bidders must submit their bids based on the design as set forth in the plans and specifications. Any bids submitted on the basis of unspecified alternate designs will be immediately rejected and returned to the bidder.
- 38.4 The prices bid in the Proposal shall be full compensation for furnishing all material, labor, equipment, and performing all operations required to complete the project ready for use. All materials, labor, equipment, and work required to complete the project ready for use, must be included in the price bid for the various items provided in the Proposal and no other compensation will be allowed.
- 38.5 Prices in the proposal shall be stated in both script and numerals.

### **39. CONTRACT DRAWINGS AND SPECIFICATIONS**

- 39.1 All items shown on the drawings or included in the specifications shall be furnished, installed, and connected with accessories and appurtenances as shown or indicated on the plans and in the specifications.
- 39.2 Any work or item called for on the drawings and not particularly mentioned in the specifications, or work and items described in the specifications and not shown on the drawings is to be regarded as included under the contract the same as if set forth in the specifications and exhibited on the drawings.

### **40. SETTLEMENT OF INSURANCE CLAIMS**

40.1 Losses insured under policies that include Owner/Engineer as a named insured shall be adjusted with Owner/Engineer and made payable to Owner/Engineer as trustee for the insured's, as their interests may appear.

40.2 Owner/Engineer and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance, except such rights as they may have to insurance proceeds held by owner as trustee. Contractor shall require similar waivers by Subcontractor as provided in General Conditions.

#### **41. SPECIFICATIONS**

The Specifications which govern materials and equipment to be furnished and the work to be performed under this contract are listed in the Table of Contents at the beginning of this volume.

#### **42. PAYMENT**

Contractor can make monthly payment requests with retainage withheld until the project is accepted. Retainage shall be 5%.

#### **43. EXCAVATION, TRENCHING, AND SHORING**

All excavation, trenching, and shoring shall conform to the U.S. Department of Labor, Occupational Safety, and Health Administration Guidelines (Subpart P – Excavation, Trenching, and Shoring). The Contractor will be required to submit an excavation, trenching, and shoring plan to the Engineer for approval prior to construction.

#### **44. BUY AMERICAN**

In accordance with the Buy American provision in Public Law 95-117 (section 215 of Public Law 92-500 as amended) the Contractor agrees that preference will be given to domestic material, by the contractor, subcontractors, material men, and suppliers and owner in the performance of this contract.

#### **45. WAGE SCALE**

All employees of the Contractor on this project shall be paid, at least, the amount shown in the wage decision attached herein.

#### **46. BACKFILL AND PAVEMENT REPAIR**

Separate payment **WILL NOT** be made for repair of gravel, asphaltic or concrete surfaces crossed or damaged by the Contractor's work.

#### **47. NO SEPARATE PAYMENT**

Several notes on the plans indicate work to be performed with "No Separate Payment". Contractor shall include the cost of this work in other bid items provided.

#### **48. SPOIL DISPOSAL**

The Contractor's bid shall include spoil disposal (offsite) for items that cannot be used for on-site fill (asphalt, concrete, wire, etc.) in accordance with applicable TCEQ regulations.

#### **49. INGRESS/EGRESS**

Ingress/Egress to the construction area by the Contractor shall be done only on the construction easements shown on the plans or as approved by the Owner, no exceptions. No separate payment will be provided for these services.

#### **50. COOPERATION AND COORDINATION WITH PUBLIC**

The Contractor shall conduct his work so as to cause the least amount of disruption to the public. Closing of any streets or lanes of traffic will be coordinated with City staff. All citizens along each street will be notified by the Contractor in advance of construction activities.

#### **51. VIDEO OF CONSTRUCTION DATA**

The Contractor shall provide the City with a video tape showing the construction area in detail prior to construction, to include audio to describe location.

#### **52. SCHEDULE**

The Contractor shall submit to the Engineer and Owner a construction schedule on the first day of each month for the duration of the project. Schedule shall include but not be limited to remaining activities, anticipated start/finish time, etc.

#### **53. PUMPING, BAILING AND DRAINING**

The Contractor shall immediately remove all surface or seepage water from ditches and other sources which may accumulate during the excavation and construction work by providing the necessary underdrains or otherwise, and by doing the necessary pumping, bailing or draining. The Contractor shall have available at all times sufficient equipment in proper working order for doing the work herein required. All water removed from excavations shall be disposed of in an approved manner so as to not create unsanitary conditions or to interfere unduly with the use of streets, private driveways or entrances. Pumping, bailing, draining, underdrains, ditches, etc., shall be considered incidental work and will not be paid for as separate items, but their cost shall be included in the contract prices bid in the Proposal for the various units of excavation measure.

#### **54. TIME ALLOWED FOR COMPLETION**

The time allotted for the completion of all items of work shall be 30 calendar days. The Work Order shall consist of a written request by the Engineer for the Contractor to proceed with the construction of the project.

#### **55. BARRICADES AND DANGER SIGNALS**

55.1 Where the work is carried on, in or adjacent to any street, alley, or public place, the Contractor shall, at his own cost and expense, furnish and erect barricades and/or fences,

lights and/or danger signals, and take any other steps necessary for the protection of persons or property.

55.2 Barricades shall be painted with a reflectorized paint or scotchlite tape. From sunset to sunrise, the Contractor shall furnish and maintain lights at each barricade. Barricades shall be erected to endeavor to keep vehicles from being driven on or into any work under construction.

55.3 The Contractor will be held responsible for all damage to the work due to the failure of barricades, signs, lights, and watchmen to protect it, and whenever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by the Contractor, at his cost and expense. The Contractor's responsibility for the maintenance of barricades, signs, and lights and for providing watchmen shall not cease until the project has been accepted by the Engineer.

55.4 The Contractor shall meet all applicable local, state, and federal regulations for barricades and danger signals.

## **56. SAFETY**

56.1 Contractor shall place the highest priority on health and safety, and shall maintain a safe working environment during performance of the Work. The site shall be considered to be drug and alcohol free and such policy will be strictly enforced. All employees shall adhere to these policies while on site. Contractor shall comply, and shall secure compliance by its employees, agents, and lower tier Contractors, with all applicable health, safety, and security laws and regulations, any health regulations including without limitation, federal, state and local laws and regulations, and health and safety plans issued by the Owner's Agent as well as all policies and regulations of the Owner. Compliance with such requirements shall represent the minimum standard required of Contractor. Contractor will be performing Work on the Owner's property.

56.2 At all times, the Contractor shall provide an on-site construction supervisor. The Contractor's construction supervisor shall hold and document safety meetings.

56.3 Contractor agrees to furnish protective devices and clothing as required by applicable laws, regulations, health and safety plans and Engineer rules and regulations, and to ensure that such devices or clothing are properly used by its employees, agents, lower tier Contractors and other invitees of Contractor at the jobsite. Safety protection is required at all times while working onsite including a hardhat, a high visibility, tear-off reflective vest, lace-up leather safety boots with steel shank and steel toes, and safety glasses with permanently affixed side-shields.

## **57. PROJECT MAINTENANCE**

The Contractor shall maintain and keep in good repair the improvements covered by these plans and specifications during the life of his contract. Existing improvements shall at all times be protected by the Contractor during the construction of the work as specified herein. All such improvements shall be left in a condition equal to that prior to start of construction.

## **58. PROPERTY LINES AND MONUMENTS**

The Contractor shall protect all property corner markers, and when any such markers or monuments are in danger of being disturbed, they shall be properly referenced and if disturbed, shall be reset at the expense of the Contractor.

## **59. OFF-SITE STORAGE**

Off-site storage for any materials and equipment not incorporated into the Work but included in the Applications for Payment shall not be allowed.

## **60. NOTICES TO OWNERS AND AUTHORITIES**

Utilities and other concerned agencies shall be notified at least 48 hours prior to excavating near underground utilities or pole lines or in accordance with the regulations of the utilities, Texas Digger's Hotline (811), and concerned agencies.

## **61. UNFAVORABLE CONSTRUCTION CONDITIONS**

During unfavorable weather, wet ground, or other unsuitable conditions, the Contractor shall confine its operations to work which will not be affected adversely by such conditions. No portion of the Work shall be constructed under conditions which would affect adversely the quality or efficiency thereof, unless special means or precautions are taken by the Contractor to perform the Work in a proper and satisfactory manner.

## **62. DEWATERING**

62.1 The Contractor shall at his own expense remove any water that may be encountered during the course of the work by pumping, well pointing, or other approved methods. The water shall be stored in a storage tank provided by the Contractor and disposed of in accordance with all applicable State rules and regulations. Newly placed concrete or grout shall be adequately protected from possible injury resulting from groundwater or from handling and disposal of water.

62.2 All surface drainage or natural waterways shall be controlled by dikes or ditches without damage to adjacent property or structures and without interference with the right of either public or private owners.

62.3 No separate payment will be made for dewatering.

## **63. EXISTING STRUCTURES/EQUIPMENT**

Exact dimensions of existing structures, buildings, equipment roads, utility locations, etc. shown on the plans have not been field verified by the Engineer. Prior to submittal preparation by the Contractor, or construction activities as applicable, all dimensions of these existing items shall be verified by the Contractor in the field. It shall be the Contractor's responsibility to field verify all field dimensions.

**00200**  
**PRESTON STREET PAVEMENT IMPROVEMENTS**  
**BID NO. TF-2016-25**

DATE: \_\_\_\_\_

Gentlemen:

Having carefully examined the Instructions to Bidders, Standard Form of Contract, Specifications, and Plans therein referred to, the undersigned bidder declares that the only person or parties interested in this Bid as Principals are those named herein; that this Bid is made without collusion with any other person, firm or corporation; that the Bidder has carefully examined, and this Bid is made in accordance therewith, locations, conditions and classes of materials of the proposed work; and agrees that the Bidder will provide all the necessary superintendence, labor, machinery, equipment, tools, apparatus and other means of construction, and to complete all the work and furnish all the materials called for in the Contract and Specifications in the manner prescribed therein and according to the requirements of the City Engineer, as therein set forth.

The Bid Form attached lists the items of construction contemplated in the Plans and Specifications. Bid prices must be shown in words and figures for each item listed in the Proposal, and in the event of a discrepancy, the words shall control.

It is understood that the following quantities of work to be done are approximate only, and are intended primarily to serve as a guide for the comparison and tabulation of the bids.

Receipt is hereby acknowledged of the following addenda to the Contract Documents:

Addendum No.1 dated \_\_\_\_\_ Received \_\_\_\_\_

Addendum No.2 dated \_\_\_\_\_ Received \_\_\_\_\_

Addendum No.3 dated \_\_\_\_\_ Received \_\_\_\_\_

Bidder agrees to perform all of the work listed in the proposal and as described in the specifications and shown on the plans, for the following prices:

00210  
**PROPOSAL**

**PRESTON ST. PAVEMENT IMPROVEMENTS  
BID NO. TF-2016-25**

Item No.	Estimated Quantity	Description and Unit Price of Item In Words	Unit Price In Figures	Total Price
1	1,100 LF	Edge Mill – 1 ½” to Zero  For _____  _____ Dollars  And _____ Cents  \$ _____ /LF \$ _____		
2	340 SY	Full Mill – 1 ½”  For _____  _____ Dollars  And _____ Cents  \$ _____ /SY \$ _____		
3	7,021 SY	1 ½” overlay, TxDOT Item 340, Type D Hot Mix Asphalt Concrete (HMAC), to include tack coat  For _____  _____ Dollars  And _____ Cents  \$ _____ /SY \$ _____		

4      10 EA      Adjust Valves to finish grade  
(See detail and Item 512 San Antonio Standard Specification for construction)

For \_\_\_\_\_

\_\_\_\_\_ Dollars

And \_\_\_\_\_ Cents

\$ \_\_\_\_\_ /EA \$ \_\_\_\_\_

**TOTAL PROPOSAL**  
**(Summation of Items 1 through 4)**

\$ \_\_\_\_\_

**The City reserves the right 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 above prices shall include all labor, materials, overhead, profit, insurance, etc. to cover the finished work of the kinds called for.

The work proposed to be done shall be accepted when fully completed and finished in accordance with the plans and specifications to the satisfaction of the City Engineer.

The undersigned Bidder hereby declares that he has visited the site of the work and has carefully examined the contract documents pertaining to the 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 complete the project on which he has bid, as specified and shown on the plans, within 30 consecutive calendar days.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving bids.

Enclosed with this proposal is a Proposal Bond in the sum of 5% of total proposal, 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 ninety (90) 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.

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Address

\_\_\_\_\_

Printed Name

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Title

Phone No. \_\_\_\_\_

\_\_\_\_\_

Date

Fax No. \_\_\_\_\_

Email Address:

\_\_\_\_\_

**BIDDER'S EXCEPTION FORM**  
**Bid #TF-2016-25**

This form must be completed and signed by an authorized representative of the company. Failure to do so may cause total bid to be rejected. If no exceptions are to proposed, indicate by stating "No Exceptions to Specifications" and sign in the appropriate space.

STATEMENT OF BIDDER: WE PROPOSE THE FOLLOWING EXCEPTIONS TO THE SPECIFICATIONS

<u>SECTION</u>	<u>PAGE/ PARAGRAPH #</u>	<u>EXCEPTION</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

NOTE: If additional pages are needed, attach to the back of this page and note "See Page 2-Deviations" on this page.

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

\_\_\_\_\_  
Authorized Signature

00300

**EXPERIENCE RECORD**

Contractor shall list in the spaces provided below, similar projects of equal or greater dollar amount that have been installed and are in operation within the past five (5) years. Separate sheets may be attached.

<b>NO.</b>	<b>LOCATION</b>	<b>DESCRIPTION (Size, Type, Length)</b>	<b>CONTACT PERSON PHONE NUMBER</b>	<b>DATE OF INSTALLATION</b>
1				
2				
3				
4				
5				
6				
7				
8				
10				

00400

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 he desires.

Name of Bidder: \_\_\_\_\_

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

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

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

List Names of Owners, Partners, or Shareholders:

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

**CONTRACTS ON HAND**

Contract	Dollar Amount	Anticipated Completion Date
----------	---------------	-----------------------------

_____		
_____		
_____		
_____		

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

Have you ever failed to complete any work awarded to you? \_\_\_\_\_

Have you ever defaulted on a contract? \_\_\_\_\_

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

Project	Dollar Amount	Mo/Yr Completed
---------	---------------	-----------------

_____		
_____		
_____		

Major equipment available for this contract:

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

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

Bank reference and bank officer: \_\_\_\_\_

The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the \_\_\_\_\_ in verification of the recitals comprising this Statement of Bidder's Qualifications.

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

By: \_\_\_\_\_  
(Signature) (Title)

**STANDARD FORM OF AGREEMENT**

STATE OF TEXAS §

COUNTY OF §

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_, by and between the \_\_\_\_\_, TEXAS, a municipal corporation, of the County of \_\_\_\_\_ and State of \_\_\_\_\_, acting through \_\_\_\_\_ thereunto duly authorized so to do, Party of the First Part, hereinafter termed OWNER, and \_\_\_\_\_ of the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_, Party of the Second Part, hereinafter termed CONTRACTOR.

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, and under the conditions expressed in the bond bearing even date herewith, the said CONTRACTOR hereby agrees with the said OWNER to commence and complete the construction of certain improvements generally described as follows:

Principle items of construction will include pavement improvements to Preston Street from East Court St. to FM 466.

and all extra work in connection therewith, under the terms as stated in the General Conditions of the Agreement and at his (or their) own proper cost and expenses to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the Advertisement for Proposals, General and Special Conditions of Agreement, Plans and other drawings and printed or written explanatory matter thereof, and the Specifications and addenda therefore, together with the CONTRACTOR'S written Proposal, and the Performance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract (hereinafter collectively called the "Contract Documents" or the "Contract").

The CONTRACTOR hereby agrees to commence work within ten (10) days after the date written notice to do so shall have been given to him, and to substantially complete the same by **30 days** subject to such extensions of time as are provided by the General and Specific Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds the price or prices shown in the proposal, which forms a part of this contract, such payments to be subject to the General and Special Conditions of the contract.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day first above written.

\_\_\_\_\_  
Party of the First Part  
(OWNER)

\_\_\_\_\_  
Party of the Second Part  
(CONTRACTOR)

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

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

ATTEST:  
  
\_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

Executed \_\_\_\_ originals.

## BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ Contractor, as Principal,  
and \_\_\_\_\_ as Surety,  
are held and firmly bound unto City of Seguin , Texas, herein called Owner, in the  
sum of \$ \_\_\_\_\_ (Figure)  
\_\_\_\_\_ (Written Form)

(not less than 5 percent of the largest total amount of the bid)

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.

WHEREAS, said Principal has submitted a Bid to said Owner to perform the Work required under the Bidding  
Schedule(s) of the Owner's Contract Documents entitled:

### Pavement Improvements – Preston St

NOW THEREFORE, if said Principal is awarded a contract by said Owner, and, within the time, and in the  
manner required in the Notice Inviting Bids and the Instructions to Bidders, enters into a written Agreement on  
the form of agreement bound with said Contract Documents, furnishes the required Certificates of Insurance,  
and furnishes the required Performance Bond and Payment Bond, then this obligation shall be null and void,  
otherwise it shall remain in full force and effect. In the event suit is brought upon this bond by said Owner and  
Owner prevails, said Surety shall pay all costs incurred by said Owner in such suit, including a reasonable  
attorney's fee to be fixed by the court.

SIGNED AND SEALED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

(Witness)

\_\_\_\_\_  
(Title) (Seal)  
(Surety)

(Witness)

(Title)

**PERFORMANCE BOND**

THE STATE OF TEXAS                    §  
   §                    KNOW ALL BY THESE PRESENTS:  
COUNTY OF \_\_\_\_\_                    §

That we, \_\_\_\_\_, as Principal herein, and [Surety], a corporation organized and existing under the laws of the State of [Surety’s state of incorp], and who is authorized and admitted to issue surety bonds in the State of Texas, Surety herein, are held and firmly bound unto \_\_\_\_\_, located in \_\_\_\_\_ County, Texas, Obligee herein, in the sum of [verbal amount of bond] Dollars (\$[numeric amount of bond]) for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a certain written contract with the Obligee dated the - \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, herein referred to as “the Contract” and incorporated herein and made a part hereof for all purposes, for the Preston Street Pavement Improvements project for the City of Seguin.

NOW, THEREFORE, the condition of this obligation is such, if the said Principal shall faithfully perform the work in accordance with the plans, specifications, and other Contract Documents and shall fully indemnify and hold harmless the Obligee from all costs and damages which Obligee may suffer by reason of Principal’s failure to perform the Work in conformity with the Contract Documents, and reimburse and repay Obligee for all outlay and expense that Obligee may incur in making good such default, then this obligation shall be void; otherwise, to remain in full force and effect. Whenever Contractor shall be declared by Obligee to be in default under the Contract, the Surety shall, upon request of Obligee and within seven (7) calendar days from receipt of Obligee’s notice of Contractor’s default, commence and thereafter complete performance of Contractor’s obligations under the Contract. This Bond covers all contractual obligations of Contractor under the Contract, including, without limitation, the indemnity, warranty and guaranty obligations. The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of any of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any

notices provided in such regard shall not create as to any party a duty related thereto. The penal limit of this bond shall automatically be increased by the amount of any change order, supplemental agreement or amendment which increases the price of the Contract.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of such statute, to the same extent as if it were copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

This bond is filed with the Owner in Guadalupe County, Texas, and the Principal and Surety agree that mandatory venue for any legal action filed upon this bond is in the District Courts of Guadalupe County, Texas.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**The date of bond shall not be prior to date of Contract.**

\_\_\_\_\_  
PRINCIPAL

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

Name: \_\_\_\_\_

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

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

Name: \_\_\_\_\_

Attorney in Fact

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

ATTEST:

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

(S E A L)

\_\_\_\_\_  
Witness as to Principal

ATTEST:

\_\_\_\_\_  
Secretary

(S E A L)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
\_\_\_\_\_  
Telephone Number: \_\_\_\_\_

**An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.**

Approved as to Form:

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

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

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

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

00700  
**PAYMENT BOND**

THE STATE OF TEXAS                    §  
  §                   KNOW ALL BY THESE PRESENTS: COUNTY  
OF \_\_\_\_\_                   §

That we, \_\_\_\_\_, as Principal herein, and (2) \_\_\_\_\_  
\_\_\_\_\_, a corporation organized and existing under the laws of the State  
of (3) \_\_\_\_\_ and who is authorized and admitted to use surety bonds in the State of Texas,  
as surety, are held and firmly bound unto \_\_\_\_\_ located in \_\_\_\_\_ County,  
Texas, Obligee herein, in the amount of [printed amount of bond] Dollars (\$[numeric amount of bond])  
for the payment whereof, the said Principal and Surety bind themselves and their heirs, executors,  
administrators, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Obligee dated the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which contract is hereby referred to herein as “the  
Contract” and is incorporated herein to the same extent as if copied at length, for the following project:  
Preston Street Pavement Improvements project for the City of Seguin.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said  
Principal shall directly or indirectly timely make payment to each and every claimant (as defined in  
Chapter 2253, Texas Government Code, as amended) supplying labor or materials in the prosecution  
of the work under the Contract, then this obligation shall be void; otherwise, to remain in full force and  
effect. *This obligation may be enforced by the Obligee in the event of bankruptcy or default by  
Principal in payments to suppliers of labor or materials in the prosecution of the work under the  
Contract, in either of which events the Surety shall make such payments as Principal has failed to pay  
and as may be required to complete the work under the contract.* The Surety stipulates and agrees that  
no change, extension of time, alteration, omission, addition or other modification to the terms of the  
Contract will affect its obligations on this bond, and it hereby waives notice of any such changes,  
extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to  
related subcontracts, purchase orders or other obligations, and any notices provided in such regard  
shall not create as to any party a duty related thereto.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of said statute, to the same extent as if it were copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

This bond is filed with the Owner in Guadalupe County, Texas, and the Principal and Surety agree that mandatory venue for any legal action filed upon this bond is in the District Courts of Guadalupe County, Texas.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**The date of bond shall not be prior to date of Contract.**

\_\_\_\_\_  
PRINCIPAL

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

Name: \_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

Name: \_\_\_\_\_

Attorney in Fact

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

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

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

(S E A L)

\_\_\_\_\_  
Witness as to Principal

ATTEST:

\_\_\_\_\_  
Secretary

(S E A L)

\_\_\_\_\_  
Witness as to Surety

Telephone Number: \_\_\_\_\_

**An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.**

Approved as to Form:

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

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

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

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

**00800**  
**GENERAL CONDITIONS OF AGREEMENT**

**1.0 DEFINITION OF TERMS**

**1.01 OWNER, CONTRACTOR AND ENGINEER.** The Owner, the Contractor and the Engineer are those persons or organizations identified as such in the Agreement and are referred to throughout the Contract Documents as if singular in number and masculine in gender.

The term Engineer means the City of Seguin CITY Engineer or his duly authorized representative. The Engineer shall be understood to be the Engineer of the Owner, and nothing contained in the Contract Documents shall create any contractual or agency relationship between the Engineer and the Contractor.

The Owner may include any authorized representative of Owner as may be set forth in the SPECIAL CONDITIONS.

**1.02 CONTRACT DOCUMENTS.** The Contract Documents shall consist of the Advertisement for Proposals, Special Instructions, Proposal, Signed Agreement, Performance and Payment Bonds, Special Bonds (when required), General Conditions of the Agreement, Technical Specifications, Plans, and all modifications thereof incorporated in any of the documents before the execution of the Agreement.

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In case of conflict between any of the Contract Documents, priority of interpretation shall be in the following order: signed Agreement, Performance and Payment Bonds, Special Bonds (if any), Proposal, Advertisement for Proposals, Special Instructions, Technical Specifications, Plans, and General Conditions of Agreement.

**1.03 SUB-CONTRACTOR.** The term Sub-Contractor, as employed herein , includes only those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked.

**1.04. WRITTEN NOTICE.** Written notice shall be deemed to have been duly served 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 delivered at or sent by registered or certified mail, return receipt requested, to the last business address known to him who gives the notice.

**1.05. WORK.** The Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, services, insurance, permits, certificates, licenses, and all water, light, power, fuel, transportation and other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials of work described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.

**1.06. EXTRA WORK.** The term “Extra Work” as used in this contract shall be understood to mean and include all work that may be required by the Engineer or Owner to be done by the Contractor to accomplish any change, alteration or addition to the work shown upon the plans, or reasonable implied by the specifications, and not covered by the Contractor’s proposal.

**1.07. CALENDAR DAY.** “Calendar Day” is any day of the week or month, no days being excepted.

**1.08. SUBSTANTIALLY COMPLETED.** By the term “substantially completed, is meant that the structure has been made suitable for use or occupancy or the facility is in condition to serve its intended purpose, but still may require minor miscellaneous work and adjustment.

## **2. RESPONSIBILITIES OF THE ENGINEER AND THE CONTRACTOR**

**2.01. OWNER-ENGINEER RELATIONSHIP.** The Engineer will be the Owner’s representative during construction. The duties, responsibilities and limitations of authority of the Engineer as the Owner’s representative during construction are as set forth in the CONTRACT Documents and shall not be extended or limited without written consent of the Owner and Engineer. The Engineer will advise and consult with the OWNER’S instructions to the Contractor shall be issued through the Engineer.

**2.02. PROFESSIONAL INSPECTION BY ENGINEER.** The Engineer shall make periodic visits to the site to familiarize himself generally with the progress of the executed work and to determine if such work generally meets the essential performance and design features and the technical and functional engineering requirements of the Contract Documents; provided and except, however, that the Engineer shall not be responsible for making any detailed, exhaustive, comprehensive or continuous on-site inspection of the quality or quantity of the work or be in any way responsible, directly or indirectly. For the construction means, methods, techniques, sequences, quality, procedures, programs, safety precautions or lack of same incident thereto on in connection therewith. Notwithstanding any other provision of this agreement or any other Contract Document, the Engineer shall not be any way responsible or liable for any acts, errors, omissions or negligence of the Contractor, any subcontractor or any of the Contractor’s or subcontractor’s agents, servants, or employees or any other person, firm or corporation performing or attempting to perform any of the work.

**2.03. PAYMENTS FOR WORK.** The Engineer shall review Contractor’s applications for payment and supporting data, determine the amount owed to the Contractor and approve, in writing, payment to Contractor in such amounts; such approval of payment to Contractor constitutes a representation to the Owner or Engineer’s professional judgment that the work has progressed to the point indicated to the made any examination to determine how or for what purpose Contractor has used the moneys paid on account of the Contract price.

**2.04. OBJECTIONS AND DETERMINATIONS.** The Engineer shall determine all claims disputes and other matters in question between the Contractor and the Owner relating to the execution or progress of the work or the interpretation of the Contract Documents. The Engineer’s decision shall be rendered in writing within a reasonable time and shall be binding.

**2.05. CONTRACTOR'S DUTY AND SUPERINTENDENCE.** The Contractor shall give adequate attention to the faithful prosecution and completion of this contract and shall keep on the work, during its progress, a competent superintendent and necessary assistants. The Superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor.

The Contractor is and at all times shall remain an independent contractor, solely responsible for the manner and method of completing his 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 Owner, and Engineer being interested only in the result obtained and conformity of such completed improvements to the Contract Documents.

Likewise, the Contractor shall be solely responsible for the safety of himself, his employees and other persons, as well as for the protection of the safety of the improvements being erected and the property of himself or any other person, as a result of his work hereunder. Shop or working construction drawings and any specifications shown in relation thereto, as well as any additional information concerning the work to be performed, passing from or through the Engineer, shall not be interpreted as requiring or allowing Contractor to deviate from the plans and specifications, the intent of such drawings, specifications and any other such instructions being to define with particularity the agreement of the parties as to the work the Contractor is to perform. Contractor shall be fully and completely liable at his own expense, for design, construction, installation and use, or non-use, of all items and methods incident to performance of the contract, and for all loss, damage or injury incident thereto, either to person or property, including, without limitation, the adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices, and similar items or devices used by him during construction.

Any review of work in process, or any visit or observation during construction, or any clarification of plans and specifications, by the Owner or Engineer, or any agent, employee, or representative of either of them, whether through personal observation on the project site or by means of approval of shop drawings for temporary construction or construction processes, or by other means or method, is agreed by the Contractor to be for the purpose of observing the extent and nature of work completed or being performed, as measured against the drawings and specifications constituting the contract, or for the purpose of enabling Contractor to more fully understand the plans and specifications so that the completed construction work will conform thereto, and shall in no way relieve the Contractor from full and complete responsibility for the proper performance of his work on the project, including but without limitation the propriety of means and methods of the Contractor in performing said contract, and the adequacy of any designs, plans or other facilities for accomplishing such performance. Deviation by the Contractor from plans and specifications that may have been in evidence during any such visitations or observation by Engineer, or any of his representatives whether called to the Contractor's attention or not, shall in no way relieve Contractor from his responsibility to complete all work in accordance with said plans and specifications.

**2.06 CONTRACTOR'S UNDERSTANDING.** It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during

the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent or employee of the Owner or Engineer, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.

**2.07 CHARACTER OF WORKMEN.** The Contractor agrees to employ only orderly and competent men, skillful in the performance of the type or work required under this contract, to do the work; and agrees that whenever the Engineer shall inform him in writing that any man or men on the work are, in his opinion, incompetent, unfaithful or disorderly, such man or men shall be discharged from the work and shall not again be employed on the work without the Engineer's written consent.

**2.08 CONTRACTOR'S BUILDINGS.** The building of structures for housing men, or the erection of tents or other forms of protection, will be permitted only at such places as the Engineer shall direct, and the sanitary conditions of the grounds in or about such structures shall at all times be maintained in a manner satisfactory to the Engineer.

**2.09 SANITATION.** Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such manner and at such points as shall be approved by the Engineer, and their use shall be strictly enforced.

**2.10 SHOP DRAWINGS.** The Contractor shall submit to the Engineer, with such promptness as to cause no delay in his own work or in that of any other contractor, four checked copies, unless otherwise specified, of all shop and/or setting drawings and schedules required for the work of the various trades, and the Engineer shall pass upon them with reasonable promptness, noting desired corrections. The Contractor shall make any corrections required by the Engineer, file with him two corrected copies and furnish such other copies as may be needed. The Engineer's approval of such drawings or schedules shall not relieve the Contractor from responsibility for deviations from drawings or specifications, unless he has in writing called the Engineer's attention to such deviations at the time of submission, nor shall it relieve him from responsibility for errors of any sort in shop drawings or schedules. It shall be the Contractor's responsibility to fully and completely review all shop drawings to ascertain their effect on his ability to perform the required contract work in accordance with the plans and specifications and within the contract time.

Such review by the Engineer shall be for the sole purpose of determining the sufficiency of said drawings or schedules to result in finished improvements in conformity with the plans and specifications, and shall not relieve the Contractor of his duty as an independent contractor as previously set forth, it being expressly understood and agreed that the Engineer does not assume any duty to pass upon the propriety or adequacy of such drawings or schedules, or any means or methods reflected thereby, in relation to the safety of either person or property during Contractor's performance hereunder.

**2.11 PRELIMINARY APPROVAL.** The Engineer shall not have the power to waive the obligations of this contract for the furnishing by the Contractor of good material, and of his performing good work as herein described, in full accordance with the plans and specifications. No failure or omission of the Engineer to discover, object to or condemn any defective work or material shall release the Contractor from the obligations to fully and

properly perform the contract, including without limitation, the obligation to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of said defective work or material; provided, however, that the Engineer shall, upon request of the Contractor, inspect and accept or reject any material furnished, and in event the material has been once accepted by the Engineer, such acceptance shall be binding on the Owner, unless it can be clearly shown that such materials furnished does not meet the specifications for this work.

Any questioned work may be ordered taken up or removed for re-examination by the Engineer prior to final acceptance, and if found not in accordance with the specifications for said work, all expense of removing, re-examination and replacement shall be borne by the Contractor, otherwise the expense thus incurred shall be allowed as EXTRA WORK, and shall be paid for by the Owner; provided that, where inspection or approval is specifically required by the specifications prior to performance of certain work, should the Contractor proceed with such work without requesting in writing prior inspection or approval, he shall bear all expense of taking up, removing, and replacing this work if so directed by the Engineer.

**2.12 DEFECTS AND THEIR REMEDIES.** It is further agreed that if the work or any part thereof, or any material brought on the site of the work for use in the work or selected for the same, shall be deemed by the Engineer as unsuitable or not in conformity with the specifications, the Contractor shall, after receipt of written notice thereof from the Engineer, forthwith remove such material and rebuild or otherwise remedy such work so that it shall be in full accordance with this contract.

**2.13 CHANGES AND ALTERATIONS.** The Contractor further agrees that the Owner may make such changes and alterations as the Owner may see fit, in the line, grade, form, dimensions, plans or materials for the work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this contract and the accompanying Performance and Payment bonds.

If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for a claim for damages for anticipated profits on the work that may be dispensed with. If the amount of work is increased, such additional work shall be paid for as provided under Extra Work. In case the Owner shall make such changes or alterations as shall make useless any work already done or material already furnished or used in said work, then the Owner shall recompense the Contractor for any material or labor so used, and for any actual loss occasioned by such change, due to actual expenses incurred in preparation for the work as originally planned.

### **3. GENERAL OBLIGATIONS AND RESPONSIBILITIES**

**3.01 KEEPING PLANS AND SPECIFICATIONS ACCESSIBLE.** The Contractor will be supplied with two (2) copies of the plans, specifications and special provisions, and he shall have available at the work site at all times one copy of each. He shall give the work his constant attention to facilitate the progress thereof and shall cooperate with the Engineer in every way possible. He shall have at all times a satisfactory and competent English-speaking Superintendent at the work site, authorized to receive orders and to act for him. The Contractor shall designate to the Engineer in writing the name of such

Superintendent, and he shall be furnished by the Contractor regardless of how much of the work may be sublet.

**3.02 AUTHORITY AND DUTY OF INSPECTORS.** Inspectors will be authorized to inspect all work done and all materials furnished. Such inspections may extend to all or to any part of the work and to the preparation or manufacture of the materials to be used. An Inspector will be assigned to the work by the Engineer and will report to the Engineer as to the progress of the work and the manner in which it is being performed; also to report whenever it appears that the materials furnished and the work performed by the Contractor fail to fulfill the requirements of the specifications and contract; and to call the attention of the Contractor to any such failure or other infringement. Such inspection will not relieve the Contractor from any obligation to perform the work in accordance with the requirements of the specifications.

In case of any dispute arising between the Contractor and the Inspector as to materials furnished or the manner of performing the work, the Inspector will have the authority to reject materials or suspend work until the questions at issue can be referred to and decided by the Engineer. The Inspector will not be authorized to revoke, alter, enlarge, or release any requirement of these specifications, or to approve or accept any portion of work, or to issue instructions contrary to the plans and specifications. He will in no case act as foreman or perform other duties for the Contractor nor interfere with the management of the work.

**3.02 OWNERSHIP OF DRAWINGS.** All drawings, specifications and copies thereof furnished by the Engineer shall not be reused on other work, and, with the exception of signed contract sets, are to be returned to him on request, at the completion of the work. All models are the property of the Owner.

**3.03 ADEQUACY OF DESIGN.** It is understood that the Owner believes it has employed competent engineers and designers. It is, therefore, agreed that, as to the Contractor only, the Owner shall be responsible for the adequacy of the design, sufficiency of the Contract Documents, and the practicability of the operations of the completed project; provided the Contractor has complied with the requirements of the said Contract Documents, all approved modifications thereof, and additions and alterations thereto approved in writing by the Owner. The burden of proof of such compliance shall be upon the Contractor to show that he has complied with the said requirements of the Contract Documents, approved modifications thereof and all approved additions and alterations thereto.

**3.04 RIGHT OF ENTRY.** The Owner reserves the right to enter the property or location on the works herein contracted for are to be constructed or installed, by such agent or agents as he may elect, for the purpose of inspecting the work, or for the purpose of constructing or installing such collateral work as said Owner may desire.

**3.05 COLLATERAL CONTRACTS.** The Owner agrees to provide by separate contract or otherwise, all labor and material essential to the completion of the work specifically excluded from this contract, in such manner as not to delay the progress of the work or damage said Contractor, except where such delays are specifically mentioned elsewhere in the Contract Documents.

**3.06 DISCREPANCIES AND OMISSIONS.** It is further agreed that it is the intent of this contract that all work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the separate contracts documents, the priority of interpretation defined under "Contract Documents" shall govern. In the event that there is still any doubt as to the meaning and intent of any portion of the contract, specifications or drawings, the Engineer shall define which is intended to apply to the work.

**3.07 EQUIPMENT, MATERIALS AND CONSTRUCTION PLANT.** The Contractor shall be responsible for the care, preservation, conservation, protection and replacement of all materials, supplies, machinery, equipment, tools, apparatus, accessories, facilities, all means of construction, and any and all parts of the work, whether the Contractor has been paid, partially paid, or not paid for such work, or whether Owner has taken possession of completed portions of such work, until the entire work is completed and accepted.

**3.08 PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC.** The Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America except where incompatible Federal, State, or Municipal laws or regulations. The Contractor shall provide such machinery guards, safe walkways, ladders, bridges, gangplanks, and other safety devices. The safety precautions actually taken and their adequacy shall be the sole responsibility of the Contractor, acting at his discretion as an independent contractor.

**3.09 PERFORMANCE AND PAYMENT BONDS.** Unless otherwise specified, it is further agreed by the parties to this Contract that the Contractor will execute separate performance and payment bonds, each in the sum of one hundred (100) percent of the total contract price, in standard forms for this purpose, guaranteeing faithful performance of the work and the fulfillment of any guarantees required, and further guaranteeing payment to all persons supplying labor and materials or furnishing him any equipment in the execution of the Contract, and it is agreed that this contract shall not be in effect until such performance and payment bonds are furnished and approved by the Owner.

Unless otherwise approved in writing by the Owner, the surety company underwriting the bonds shall be acceptable according to the latest list of companies holding certificates of authority from the appropriate authority of the State of Texas.

Unless otherwise stated, the cost of the premium for the performance and payment bonds shall be included in the Contractor's proposal.

**3.10 LOSSES FROM NATURAL CAUSES.** 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.

**3.11 PROTECTION OF ADJOINING PROPERTY.** The Contractor shall take proper means to protect the adjacent or adjoining property or properties in any way encountered, which might be injured or seriously affected by any process of construction to be undertaken under this Agreement, from any damage or injury by reason of said process of construction; and he shall be liable for any and all claims for such damage on account of his failure to fully protect all adjoining property. The Contractor agrees to indemnify, save and hold harmless the Owner and Engineer against any claim or claims for damages due to any injury to any adjacent or adjoining property, arising or growing out of the performance of the contract.

**3.12 PROTECTION AGAINST CLAIMS OF SUB-CONTRACTORS, LABORERS, MATERIALMEN, AND FURNISHERS OF MACHINERY, EQUIPMENT AND SUPPLIES.** The Contractor agrees that he will indemnify and save the Owner and Engineer harmless from all claims growing out of the demands of sub-contractors, laborers, workmen, mechanics, material men and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract, regardless whether caused wholly or in part by the negligence or gross negligence of any party indemnified hereunder and regardless of the application of any worker's compensation or similar statute which might apply to any employees or agents of the Contractor or any Subcontractor. When so desired by the Owner, the Contractor shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the Contractor fails so to do, then the Owner may, at its sole option, either pay directly any unpaid bills of which the Owner has written notice and deduct such amount from the next partial payment due to Contractor, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payments to the Contractor shall be resumed in full in accordance with the terms of this contract; but in no event shall the provisions of the sentence be construed to impose any obligation upon the Owner by either the Contractor or his Surety.

**3.13 PROTECTION AGAINST ROYALTIES OR PATENTED INVENTION.** Contractor shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with the patentee or owner. The Contractor shall defend all suits or claims for infringement of any patent or copyright rights and shall indemnify and save the Owner and Engineer harmless from any loss on account thereof, except that the Owner shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process or the product of a particular manufacturer or manufacturers is specified or required by the Owner; provided, however, if choice of alternate design, device, material or process is allowed to the Contractor, then Contractor shall indemnify and save Owner harmless from any loss on account thereof. If the material or process specified or required by the Owner is an infringement, the Contractor shall be responsible for such loss unless he promptly gives such information to the Owner.

**3.14 LAWS AND ORDINANCES.** The Contractor shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations, which any manner affect the contract or the work, and shall indemnify and save harmless the Owner and Engineer against any claim arising from the violation of any such laws, ordinances, and regulations whether by the Contractor or his employees, except where such violations are called for by the

provisions of the Contract Documents. If the Contractor observes that the plans and specifications are at variance therewith, he shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in the contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, he shall bear all costs arising there from. In case the Owner is a body politic and corporate, the law from which it derives its powers, insofar as the same regulates the objects for which, or the manner in which, or the conditions under which the Owner may enter into contract, shall be controlling, and shall be considered as part of this contract, to the same effect as thought embodied herein.

**3.15 ASSIGNMENT AND SUBLETTING.** The Contractor further agrees that he will retain personal control and will give his personal attention to the fulfillment of this contract and that he will not assign by Power of Attorney, or otherwise, or sublet said contract without the written consent of the Owner, and that no part or feature of the work will be sublet to anyone objectionable to the Engineer or the Owner. The Contractor further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this contract, shall not relieve the Contractor from his full obligations to the Owner, as provided by this Agreement.

**3.16 INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the Owner and the Engineer and their respective officers, agents and employees, from and against all damages, claims, losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, arising out of or resulting from the performance of the work, provided that any such damages, claim, loss, demand, suit, judgment, cost or expense:

- (1) Is attributable to bodily injury, sickness, disease or death or to injury or destruction or tangible property (other than the work itself) including the loss of use resulting there from; and,
- (2) Is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, the Owner, anyone directly or indirectly employed by any one of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

The obligation of the Contractor under this Paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of maps, drawings, reports, surveys, Change Orders, designs or specifications, or the giving of or the failure to give directions or instructions by the Engineer, his agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.

**3.17 INSURANCE.** The Contractor at his own expense shall purchase, maintain and keep in force such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any one of them or by anyone for whose acts any of them may be liable, including the acts of Owner:

- (1) Workmen's compensation claims, disability benefits and other similar employee benefit acts;

- (2) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by usual bodily injury liability coverages;
- (3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees, and claims insured by usual bodily injury liability coverages; and
- (4) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

**3.17.1 POLICIES OF INSURANCE.** Before commencing any of the work, Contractor shall file with the Owner valid Policies of Insurance acceptable to the Owner and Engineer. Such Policies shall contain a provision that coverages afforded under the Policies will not be canceled until at least thirty days' prior written notice has been given to the Owner.

The Contractor shall also file with the Owner valid Policies of Insurance covering all sub-contractors.

**3.17.2 WAIVER OF SUBROGATION.** Contractor, its agents, employees and subcontractors, hereby waive any and all rights of subrogation against Owner or Engineer arising out of any claim or incident for which insurance coverage or indemnification is required under the Contract Documents.

#### **4. PROSECUTION AND PROGRESS**

**4.01 TIME AND ORDER OF COMPLETION.** It is the meaning and intent of this contract, unless otherwise herein specifically provided, that the Contractor shall be allowed to prosecute his work at such times and seasons, in such order of precedence, and in such manner as shall be most conducive to economy of construction; provided however, that the order and the time of prosecution shall be such that the work shall be substantially completed as a whole and in part in accordance with this contract, the plans and specifications, and within the time of completion designated in the Proposal; provided, also that when the Owner is having other work done, either by contract or by his own force, the Engineer may direct the time and manner of constructing the work done under this contract, so that conflict will be avoided and the construction of the various works being done for the Owner shall be harmonized.

The Contractor shall submit, at such times as may reasonably be requested by the Engineer, schedules which shall show the order in which the Contractor proposes to carry on the work, with dates at which the Contractor will start the several parts of the work, and estimated dates of completion of the several parts.

**4.02 EXTENSION OF TIME.** Should the Contractor be delayed in the completion of the work by any act or neglect of the Owner or Engineer, or of any employee of either, or by other contractors employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fires, and unusual delays by common carriers, or by uncontrollable cause or causes beyond the Contractor's control, and the Engineer decides such cause justifies the delay, then an extension of time sufficient to compensate for the delay as determined by the Engineer shall be allowed for completing the work; provided, however, that the Contractor shall give the Engineer prompt notice in writing of the cause of such delay.

**4.03 HINDRANCES AND DELAYS.** No claims shall be made by the Contractor for damages resulting from hindrances or delays from any cause (except where the work is stopped by order of the Owner) during the progress of any portion of the work embraced in this contract. In case said work shall be stopped by the act of the Owner, then such expense as in the judgment of the Engineer is caused by such stoppage of said work shall be paid by the Owner to the Contractor.

## **5. MEASUREMENT AND PAYMENT**

**5.01 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.

**5.02 ESTIMATED QUANTITIES.** This agreement, including the specifications and plans, 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 proposals 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.

**5.03 PRICE OF WORK.** In consideration of the furnishing of all the necessary labor, equipment and material, and the completion of all work by the Contractor, and on the completion of all work and of the delivery of all material embraced in this Contract in full conformity with the specifications and stipulations herein contained, the Owner agrees to pay the CONTRACTOR the prices set forth in the Proposal hereto attached, which has been made a part of this contract. The Contractor hereby agrees to receive such prices in full payment for furnishing all material and all labor required for the aforesaid work, also for all expense incurred by him, and for well and truly performing the same and the whole thereof in the manner and according to this Agreement.

**5.04 PARTIAL PAYMENTS.** On or before the 25<sup>th</sup> day or each month, the Contractor shall prepare and submit to the Engineer an application for payment showing as completely as practicable the total value of the work done by the Contractor up to and including the last day immediately preceding the date of such application and the value of all sound materials delivered on the site of the work that are to be fabricated into the work.

The Engineer shall verify Contractor's application, shall either approve or modify the total value of the work done by Contractor and the value of materials delivered on the site, and shall submit to Owner such application for payment as approved or modified with Engineer's verification affixed thereto on or before the 5<sup>th</sup> days of the month following the receipt of the application from Contractor.

The Owner shall pay the Contractor on or before the 25<sup>th</sup> day of the month in which the Owner receives the approved application from the Engineer the total amount of the approved and verified application, less five (5) percent of the amount thereof, which five (5) percent shall be retained until final payment, and further less all previous payments and all further sums that may be retained by the Owner under the terms of this Agreement. It is understood, however,

that in case the whole work be near to completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the Contractor, the Owner may, upon written recommendation of the Engineer, pay a reasonable and equitable portion of the retainage to the Contractor, or the Contractor, at the Owner's option, may be relieved of the obligation to fully complete the work and, thereupon, the Contractor shall receive payment of the balance due him under the contract subject only to the conditions stated under "Final Payment." Any such payments of retainage by Owner to Contractor prior to final payment must be agreed to in writing by the surety or sureties on Contractor's payment and performance bonds.

The Contractor shall submit to the Engineer, copies of the material invoices with the application for payment. No payment will be made to the Contractor until the quantities or work submitted have been checked and verified by the Engineer.

**5.05 USE OF COMPLETED PORTIONS.** The Owner shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired. Such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents, nor shall the risk of loss change from Contractor to Owner. If such prior use increases the cost of or delays the work, the Contractor shall be entitled to such extra compensation, or extension of time, or both, as the Engineer may determine.

**5.07 FINAL COMPLETION AND ACCEPTANCE.** The Contractor shall notify the Engineer when, in the Contractor's opinion, the contract is "substantially completed" and when so notifying the Engineer, the Contractor shall furnish to the Engineer in writing a detailed list of unfinished work. The Engineer will review the Contractor's list of unfinished work and will add thereto such items as the Contractor has failed to include. The substantial completion of the structure or facility shall not excuse the Contractor from performing all of the work undertaken, whether of a minor or major nature, and thereby completing the structure of the facility if accordance with the Contract Documents.

Within ten (10) days after the Contractor has given the Engineer written notice that the work has been completed, or substantially completed, the Engineer and the Owner shall inspect the work and within said time, if the work be found to be completed or substantially completed in accordance with the Contract Documents, the Engineer shall issue to the Owner and the Contractor his Certificate of Completion, and thereupon it shall be the duty of the Owner within ten (10) days to issue a Certificate of Acceptance of the work to the Contractor or to advise the Contractor in writing of the reason for the non-acceptance.

Where the work consists of concrete pavements or concrete base, the "Final Acceptance" will not release the Contractor from responsibility for the thickness of the concrete, which will be determined by means of taking cores from the pavement. The coring of the pavement will be done within 30 days from completion of the pavement.

Final acceptance will not relieve the Contractor from any obligation for replacement or repair of any work or materials due to latent defects of materials or workmanship.

**5.08 AFFIDAVIT OF BILLS PAID.** Upon completion of the project and final acceptance by the Owner and Engineer, the Contractor shall furnish the Owner with an

affidavit certifying that all suppliers and subcontractors have been paid, before final payment will be made by Owner.

**5.09 FINAL PAYMENT.** Upon the issuance of the Certificate of Completion, the Engineer shall proceed to make final measurements and prepare a final statement of the value of all work performed and materials furnished under the terms of the Agreement and shall certify same to the Owner. Thereafter, Owner shall pay to the Contractor, on or after the 30<sup>th</sup> day and before the 35<sup>th</sup> day, the balance due the Contractor under the terms of this Agreement, provided he has fully performed his contractual obligations under the terms of this contract and provided the Contractor has delivered to the Owner the affidavit of bills paid, and a surety release. Neither the Certificate of Acceptance nor the final payment, nor any provision in the Contract Documents, shall relieve the Contractor of the obligation for fulfillment of any warranty which may be required.

**5.10 GUARANTEE AGAINST DEFECTIVE WORK** Contractor warrants materials and workmanship and that the work is in conformance with Project Manual and Plans included in this Contract for a period of one year from date of Certificate of Final Acceptance of entire project. Said warranty binds Contractor to correct any work that does not conform to such Project Manual and Plans or defects in workmanship or materials furnished under this Contract which may be discovered within said one-year period. Contractor shall at his own expense correct such defect within 30 days after receiving written notice of such defect from Owner by repairing same to condition called for in the Contract. Should Contractor fail or refuse to repair such defect within said 30 day period or to provide acceptable assurances that such repair work will be completed within a reasonable time thereafter, Owner may repair or cause to be repaired any such defect by calling Contractor's "Performance Bond".

**5.10 PAYMENTS WITHHELD.** The Owner may, on account of subsequently discovered evidence, withhold or nullify the whole or part of any certificate to such extent as may be necessary to protect him from loss on account of:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims.
- (c) Failure of the Contractor to make payments properly to subcontractors or for material or labor.
- (d) Damage to another contractor.
- (e) Reasonable doubt that the work can be completed for the unpaid balance for the contract amount.
- (f) Reasonable indication the work will not be completed within the contract time.
- (g) Failure to submit "as built" drawings as required by the Contract Documents.

When the above grounds are removed or the Contractor provides a surety bond satisfactory to the Owner, which will protect the Owner in the amount withheld payment shall be made for amounts withheld because of them.

**5.11 DELAYED PAYMENTS.** Should the Owner fail to make payment to the Contractor of the sum named in any approved partial or final statement, when payment is due, the Owner shall pay to the Contractor, in addition to the sum shown as due by such statement, interest thereon at the rate of six (6) percent per annum, unless otherwise specified, from date due as provided under "Partial Payments" and "Final Payments," until fully paid, which shall

fully liquidate any injury to the Contractor growing out of such delay in payment, but the right is expressly reserved to the Contractor in the event payments be not promptly made, as provided under "Partial Payments." To at any time thereafter treat the contract as abandoned by the Owner and recover compensation, as provided under "Abandonment of Contract," unless such payments are withheld in accordance with the provisions of "Payments Withheld."

## **6. EXTRA WORK AND CLAIMS**

**6.01 CHANGE ORDERS.** Without invalidating this Agreement, the Owner may, at any time or from time to time, order additions, deletions or revisions to the work; such changes will be authorized by written Change Order prepared by the Engineer for execution by the Owner and the Contractor. The Change Order shall set forth the basis for any change in contract price, as hereinafter set forth for Extra Work, and any change in contract time which may result from the change.

In the event the Contractor shall refuse to execute a Change Order which has been prepared by the Engineer and executed by the Owner, the Engineer may in writing instruct the Contractor to proceed with the work as set forth in the Change Order and the Contractor may make claim against the Owner for Extra Work involved therein, as hereinafter provided.

**6.02 MINOR CHANGES.** The Engineer may authorize minor changes in the work not inconsistent with the overall intent of the Contract Documents and not involving an increase in Contract Price. If the Contractor believes that any minor change or alteration authorized by the Engineer involves Extra Work and entitles him to an increase in the Contract Price, the Contractor shall make written request to the Engineer for a written Field Order. In such case, the Contractor by copy of his communication to the Engineer or otherwise in writing shall advise the Owner of his request to the Engineer for a written Field Order and that the work involved may result in an increase in the Contract Price.

Any request by the Contractor for a change in Contract Price shall be made in writing in accordance with the provisions of this section prior to beginning g the work covered by the proposed change.

**6.03 EXTRA WORK.** It is agreed that the basis of compensation to the Contractor for work either added or deleted by a Change Order or for which a claim for Extra Work is made shall be determined by one or more of the following methods:

Method (A) – By agreed unit prices; or

Method (B) – By agreed lump sum; or

Method (C) – If neither method (A) or (B) be agreed upon before the Extra Work is commenced, then the Contractor shall be paid the "actual field cost" of the work, plus fifteen (15) percent.

In the event said Extra Work be performed and paid for under Method (C), then the provisions of this paragraph shall apply and the "actual field cost" is hereby defined to include the cost to the Contractor of all workmen, such as foreman, timekeepers, mechanics and laborers, and materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used on such Extra Work, plus actual transportation charges necessarily incurred, together with all power, fuel, lubricants, water and similar operating

expenses, also all necessary incidental expenses incurred directly on account of such Extra Work, including Social Security Old Age Benefits and other payroll taxes, and a ratable proportion of premiums on Performance and Payment Bonds and Maintenance Bonds, Public Liability and Property Damage and Workmen's Compensation, and all other insurance as may be required by any law or ordinance, or directed by the Owner, or by them agreed to. The Engineer may direct the form in which accounts of the "actual field cost" shall be kept and the records of these accounts shall be made available to the Engineer. The Engineer or Owner may also specify in writing, before the work commences, the method of doing the work and the type and kind of machinery and equipment to be used; otherwise these matters shall be determined by the Contractor. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using 100 percent, unless otherwise specified, of the latest schedule of Equipment Ownership Expense adopted by the Associated General Contractors of America. Where practicable the terms and prices for the use of machinery and equipment shall be incorporated in the written Change Order. The fifteen percent (15%) of the "actual field cost" to be paid the Contractor shall cover and compensate him for his profit, overhead, general superintendence and field office expense and all other elements of cost and expense not embraced within the "actual field cost" as herein defined; save that where the Contractor's Camp or Field Office must be maintained primarily on account of such Extra Work, then the cost to maintain and operate the same shall be included in the "actual field cost."

No claim for Extra Work of any kind will be allowed unless ordered in writing by the Engineer. In case any orders or instructions, either oral or written, appear to the Contractor to involve Extra Work for which he should receive compensation or an adjustment in the construction time, he shall make written request to the Engineer for written order authorizing such Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefore, and the Engineer insists upon its performance, the Contractor shall proceed with the work after making written request for written order and shall keep an accurate account of the "actual field cost" thereof, as provided under Method (C). The Contractor will thereby preserve the right to submit the matter of payment to a court of general jurisdiction to decide the matter, otherwise the Contractor shall waive all claims for payment for EXTRA WORK.

## **7. ABANDONMENT OF CONTRACT**

**7.01 ABANDONMENT BY CONTRACTOR.** In case the Contractor should abandon and fail or refuse to resume work within ten (10) days after written notification from the Owner, or the Engineer, or if the Contractor fails to comply with the orders of the Engineer, when such orders are consistent with the Contract Documents, then, and in that case, where performance and payment bonds exist, the Sureties on these bonds shall be notified in writing and directed to complete the work, and a copy of said notice shall be delivered to the Contractor.

After receiving said notice of abandonment, the Contractor shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the Owner or the Surety on the performance bond, or another contractor in completion of the work; and the Contractor shall not receive any rental or credit therefore (except when used in connection with Extra Work, where credit shall be allowed as provided for under Section 6, Extra Work and Claims), it being understood that the use of such

equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement.

In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, within ten (10) days after service of such notice, then the Owner may provide for completion of the work in either of the following elective manners:

**7.01.1** The Owner may employ such force of men and use such machinery, equipment, tools, materials and supplies as said Owner may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said Contractor, and expense so charged shall be deducted and paid by the Owner out of such moneys as may be due, or that may thereafter at any time become due to the Contractor under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same had been completed by the contractor, then said Contractor shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said Contractor, then the Contractor and/or his Surety shall pay the amount of such excess to the Owner; or

**7.01.2** The Owner under sealed bids, after five (5) days notice published one or more times in a newspaper having general circulation in the county of the location of the work, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this contract. In the case of any increase in cost to the Owner under the new contract as compared to what would have been the cost under this contract, such increase shall be charged to the Contractor and the Surety shall be and remain bound therefore. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this contract, the Contractor and/or his Surety shall be credited therewith.

When the work shall have been substantially completed the Contractor and his Surety shall be so notified and Certificates of Completion and Acceptance, as provided in Paragraph 5.06 hereinabove, shall be issued. A complete itemized statement of the contract accounts, certified to by the Engineer as being correct, shall then be prepared and delivered to the Contractor and his Surety, whereupon the Contractor and/or his Surety, or the Owner as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

After final completion of the work and in the event the statement of accounts shows that the cost to complete the work is less than that which would have been the cost to the Owner had the work been completed by the Contractor under the terms of this contract; or when the Contractor and/or his Surety shall pay the balance shown to be due by them to the Owner, then all machinery, equipment, tools, materials or supplies left on the site of the work shall be turned over to the Contractor and/or his Surety. Should the cost to complete the work exceed the contract price, and the Contractor and/or his Surety fail to pay the amount due the Owner within the time designated hereinabove, and there remains any machinery, equipment, tools, materials or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor and his Surety at the respective addresses designated in this contract; provided, however, that actual written notice given in any manner will satisfy this condition. After mailing or other giving of such notice, such property

shall be held at the risk of the Contractor and his Surety subject only to the duty of the Owner to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice the Owner may sell such machinery, equipment, tools, materials or supplies and apply the net sum derived from such sale to the credit of the Contractor and his Surety. Such sale may be made at either public or private sale, with or without notice, as the Owner may elect. The Owner shall release any machinery, equipment, tools, materials, or supplies, which remain on the work, and belong to persons other than the Contractor or his Surety, to their proper owners.

**7.02. ABANDONMENT BY OWNER.** In case the Owner shall fail to comply with the terms of this contract within ten (10) days after written notification by the Contractor, then the Contractor may suspend or wholly abandon the work, and may remove there from all machinery, tools and equipment, and all materials on the site of the work that have not been included in payments to the Contractor and have not been wrought into the work. Thereupon the Engineer shall make an estimate of the total amount earned by the Contractor, which estimate shall include the value of all work actually completed by said Contractor, the value of all partially completed work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the items of this contract, and a reasonable sum to cover the cost of any provisions made by the Contractor to carry the whole work to completion and which cannot be utilized. The Engineer shall then make a final statement of the balance due the Contractor by deducting from the above estimate all previous payments by the Owner and all other sums that may be retained by the Owner under the terms of this Agreement and shall certify same to the Owner who shall pay to the Contractor on or before thirty (30) days after the date of delivery to Owner of such certified final statement.

00900

# PREVAILING WAGE DECISION



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

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

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 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)).

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 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.

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#### 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.

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END OF GENERAL DECISION

## General Contract Conditions

### 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 the (Name of City of Seguin), hereinafter called the City of Seguin 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 which is the specified Contract limits of the improvements contemplated to be constructed in whole or in part under this contract.
- C. The term "Engineer" means the City Engineer or his designated staff.
- D. The term "Contract Documents" means and shall include the following: Advertisement for Proposals, Special Instructions, Proposal, signed Agreement, Performance and Payment Bonds, Special Bonds (when required), General Conditions of the Agreement, Technical Specifications, Plans, and al modifications thereof incorporated in any of the documents before the execution of the Agreement.

### SUPERVISION BY CONTRACTOR

- A. Expect where the Contractor is an individual and gives his personal supervision to the work, the Contractor shall provide a competent superintendent, satisfactory to the City of Seguin and the Engineer, on the work at all times during working hours with full authority to act for him. The contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- B. The Contractor shall lay out his own work and he shall be responsible for all work executed by him under the Contract. He 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.

### SUBCONTRACTS

- A. No proposed subcontractor shall be disapproved by the city/county except for cause.
- B. The Contractor shall be as fully responsible to the city/county for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them.
- C. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work and required compliance by each subcontractor with the applicable provisions of the Contract.
- D. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the City of Seguin.

## 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.

## PAYMENTS TO CONTRACTOR

### A. Partial Payments

1. On or before the 25<sup>th</sup> day of each month, the Contractor shall prepare and submit to the Engineer an application for payment showing as completely as practicable the total value of the work done by the Contractor up to and including the last day immediately preceding the date of such application and the value of all sound materials delivered on the site of the work that are to be fabricated into work.

The Engineer shall verify Contractor's application, shall either approve or modify the total value of the work done by the Contractor and the value of Materials delivered to the site, and shall submit to Owner such application for payment as approved or modified with Engineer's verification affixed thereto on or before the 5<sup>th</sup> days of the month following the receipt of the application from Contractor.

The Owner shall pay the Contractor on or before the 25th day of the month in which the Owner receives the approved application from the Engineer the total amount of the approved and verified application, less five (5) percent of the amount thereof, which five (5) percent shall be retained until final payment, and further less all previous payments and all further sums that may be retained by the Owner under the terms of this Agreement. It is understood, however, that in case the whole work be near to completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the Contractor, the Owner may, upon written recommendation of the Engineer, pay a reasonable and equitable portion of the retainage to the Contractor, or the Contractor, at the Owner's option, may be relieved of the obligation to fully complete the work and, thereupon, the Contractor shall receive payment of the balance due him under the contract subject only to the conditions stated under "Final Payment." Any such payments of retainage by Owner to Contractor prior to final payment must be agreed to in writing by the surety or sureties on Contractor's payment and performance bonds.

The Contractor shall submit to the Engineer, copies of the material invoices with the application for payment. No payment will be made to the Contractor until the quantities or work submitted have been checked and verified by the Engineer.

2. Monthly or partial payments made by the City of Seguin to the Contractor are moneys 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 City of Seguin. Such payments shall not constitute a waiver of the right of the City of Seguin 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 City of Seguin in all details.

## B. Final Payment

1. After final inspection and acceptance by the City of Seguin of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the careful inspection of each item of work at the applicable unit prices stipulated in the Agreement. 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. The City of Seguin before paying the final estimate, shall require the Contractor to furnish releases or receipts from all subcontractors having preformed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the City of Seguin deems such action advisable, 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 City of Seguin 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 City of Seguin shall be made subject to submission by the Contractor or all written certifications required of him and his subcontractors.

## D. Withholding Payments

The City of Seguin may withhold from any payment due the Contractor whatever is deemed necessary to protect the City of Seguin, and if so elects, may also withhold any amounts due 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 City of Seguin and will not require the City of Seguin to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any moneys for their protection unless the City of Seguin elects to do so. The failure or refusal of the City of Seguin 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.

## CHANGES IN THE WORK

- A. The City of Seguin 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 of his obligations under the Contract or any guarantee given by him 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 City of Seguin 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 unit prices are contained in the Agreement, the City of Seguin may order the Contractor to proceed with desired unit prices specified in the Contract; provided that in case of a unit 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%) for counties or twenty-five percent (25%) for cities.
- 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.

#### CLAIMS FOR EXTRA COST

- A. If the Contractor claims that any instructions by Drawings 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 City of Seguin, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.
- B. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.
- C. Any discrepancies, which may be discovered between actual conditions and those, represented by the Drawings and maps shall be reported at once to the City of Seguin and work shall not proceed except at the Contractor's risk, until written instructions have been received by him from the City of Seguin.

- D. If, on the basis of the available evidence, the City of Seguin determines that an adjustment of the Contract Price and/or time is justifiable, a change order shall be executed.

#### TERMINATION, DELAYS, AND LIQUIDATED DAMAGES

A. Right of the City of Seguin to Terminate Contract.

In the event that any of the provisions of this contract are violated by the Contractor, or by any of his subcontractors, the City of Seguin 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 City of Seguin 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 is 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 City of Seguin 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 City of Seguin for any excess cost incurred. In such event the City of Seguin 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.

B. 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 City of Seguin as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of (\$ SEE SECTION I) for each calendar day of delay, until the work is completed. The Contractor and his sureties shall be liable to the City of Seguin for the amount thereof.

C. Excusable Delays.

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:

- (1) 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:
- (2) Any acts of the City of Seguin:
- (3) Causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the City of Seguin, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions.

Provided, however, that the Contractor promptly notifies the City of Seguin within then (10) days in writing of the cause of the delay. Upon receipt of such notification, the City of Seguin 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 City of Seguin shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

#### ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the City of Seguin; provided, however, that assignment to banks or other financial institutions may be made without the consent of the City of Seguin. No assignment or notation of this Contract shall be valid unless the assignment or notation 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, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

#### DISPUTES

- A. All disputes arising under this Contract or its interpretation except those disputes covered by **FEDERAL LABOR STANDARDS PROVISIONS** whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall, within ten (10) days of commencement of the dispute, be presented by the Contractor to the City of Seguin for decision. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of its commencement, the claim will be considered only for a period commencing then (10) days prior to the receipt of the City of Seguin.
- B. The Contractor shall submit in detail his claim and his proof thereof.
- C. If the Contractor does not agree with any decision of the City of Seguin, he shall in no case allow the dispute to delay the work but shall notify the City of Seguin promptly that he is proceeding with the work under protest.

#### TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or vice versa, shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the City of Seguin, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

## SHOP DRAWINGS

- A. All required shop drawings, machinery details, layout drawings, etc. shall be submitted to the Engineer in six (6) copies for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. The Contractor may proceed, only at his own risk, with manufacture or installation of any equipment or work covered by said shop drawings, etc. until they are approved and no claim, by the Contractor, for extension of the contract time shall be granted by reason of his failure in this respect.
- B. Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time, otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.
- C. If a shop drawing is in accordance with the contract or involves only a minor adjustment in the interest of the City of Seguin not involving a change in contract price or time; the engineer may approve the drawing. The approval shall not relieve the Contractor from his responsibility for adherence to the contract or for any error in the drawing.

## REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the City of Seguin for any additional information not already in his possession which should be furnished by the City of Seguin under the terms of this Contract, and which he will require 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 this time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer 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.

## MATERIALS AND WORKMANSHIP

- A. Unless otherwise specifically provided for in the technical specifications, 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 in the technical specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.
- B. The Contractor shall furnish to the City of Seguin 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 City of Seguin may require the Contractor to dismiss from the work such employee or employees as the City of Seguin or the Engineer may deem incompetent, or careless, or insubordinate.

#### 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 the Engineer, 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 the Engineer. 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 City of Seguin's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer 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 Engineer 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. All testing of materials required under these specifications shall be performed by an approved agency for testing materials. The Contractor shall make the nomination of the laboratory and the payment for such services. The Contractor will pay for any retest required because of failure of the initial test.

## PERMITS AND CODES

- A. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the local Governments. 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 drawings and technical specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the City of Seguin. Where the requirements of the drawings and technical specifications fail to comply with such applicable ordinances or codes, the City of Seguin 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.

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 City of Seguin.

- B. 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.
- C. 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.

## CARE OF WORK

- A. The Contractor shall be responsible for all damages to person or property that occur as a result of his 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. The Contractor shall provide sufficient competent watchmen, both day and night, including Saturdays, Sundays, and holidays, from the time the work is commenced until final completion and acceptance.
- C. In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the City of Seguin is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the City of Seguin.
- D. 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 he shall at his own expense completely repair any damage thereto caused by his operations.

- E. 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 City of Seguin from any damages on account settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the City of Seguin may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

## 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, are determined under construction safety and health standards promulgated by the Secretary 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 City of Seguin with reports concerning these matters.
- D. The Contractor shall indemnify and save harmless the City of Seguin 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 protection for all trenches in an excess of a depth of five (5) feet, in the manner specified in the technical specifications and drawings.
- F. The Contractor shall at all times conduct his work in such a manner as to insure 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 City of Seguin, 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 streets. Barricades, warning signs, and necessary lighting shall be provided to the satisfaction of the City of Seguin at the expense of the Contractor.

## SANITARY FACILITIES

The Contractor shall furnish, install and maintain ample sanitary facilities for the workmen. 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.

#### USE OF PREMISES

- A. The Contractor shall confine his equipment, storage of materials, and construction operations to the contract limits as shown on the drawings and as prescribed by ordinances or permits, or as may be desired by the City of Seguin, and shall not unreasonably encumber the site or public rights of way with his materials and construction equipment.
- B. The Contractor shall comply with all reasonable instructions of the City of Seguin and all existing state and local regulations regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades.

#### 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.

#### INSPECTION

- A. All materials and workmanship shall be subject to inspection, examination, or test by the City of Seguin and Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction occurs. The City of Seguin 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 City of Seguin may be 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 City of Seguin.
- B. The Contractor shall furnish promptly all materials reasonably necessary for any tests, which may be required. All tests by the City of Seguin 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 City of Seguin 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 City of Seguin, the Contractor shall uncover for inspection and recover such facilities at his own expense, when so requested by the City of Seguin.

- D. Should it be considered necessary or advisable by the City of Seguin at any time before final acceptance of the entire work to make an examination of work already completed by uncovering the same, 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 his 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 replacements, shall be allowed the Contractor and he shall, in addition, if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.
- 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 (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 City of Seguin or its agents shall relieve the Contractor or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

#### REVIEW BY CITY OF SEGUIN

The City of Seguin and its authorized representatives and agents shall have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, 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 City of Seguin through its authorized representatives or agents.

#### FINAL INSPECTION

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

#### DEDUCTION FOR UNCORRECTED WORK

If the City of Seguin 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 City of Seguin and subject to settlement, in case of dispute, as herein provided.

## INSURANCE

The Contractor shall not commence work under this contract until he has obtained all the insurance required as described in Attachment A.

The Vendor will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Vendor or its agents, subcontractors or employees. Before commencing the work the Vendor will furnish to the City an original certificate or certificates in a form satisfactory to the City.

The Vendor shall not cause any insurance policy to be cancelled or permit it to lapse, and all insurance policies shall include an endorsement to the effect that the insurance policy shall not be subject to cancellation or to a reduction in the required limits of liability or amounts of insurance until notice has been mailed to the City of Seguin, ATTN: Purchasing Manager, P.O. Box 591, Seguin, TX 78156-0591. The notice shall state the date when such cancellation or reduction shall be effective. The cancellation date shall not be less than thirty (30) days after such notice.

Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The types and amounts of insurance required are set forth in Attachment A.

## 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 City of Seguin 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.

## COMPLIANCE WITH AIR AND WATER ACTS

In compliance with the Clean Air Act, as amended, 41 U.S.C. Sec. 7401 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, the Contractor agrees that:

1. Any facility to be utilized in the performance of this contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.
2. He will comply with all requirements of Section 114 of the Clean Air Act, as amended.

## EQUAL EMPLOYMENT OPPORTUNITY

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

action shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms or compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner.

- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The Contractor shall take affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions.
- E. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts.
- F. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

#### AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, promotion, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

#### NON SEGREGATED FACILITIES

The Contractor certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees any segregated facilities at any of his establishments, or permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. As used in this paragraph the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker room and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise.

#### JOB OFFICES

- A. The Contractor and his 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 City of Seguin shall be consulted with regard to locations.
- B. Upon completion of the improvements, or as directed by the City of Seguin, the Contractors 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.

#### PARTIAL USE OF SITE IMPROVEMENTS

The City of Seguin 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.
- C. The period of guarantee stipulated in the Section 132 hereof shall not begin to run until the date of the final acceptance of all work which the Contractor is required to construct under this Contract.

#### CONTRACT DOCUMENTS AND DRAWINGS

The City of Seguin will furnish the Contractor without charge 2 copies of the Contract Documents, including Technical Specifications and Drawings. Additional copies requested by the Contractor will be furnished at cost.

#### CONTRACT PERIOD

The work to be performed under this contract shall commence within the time stipulated by the City of Seguin in the Notice to Proceed, and shall be fully completed within 30 calendar days thereafter.

## LIQUIDATED DAMAGES

Failure to Complete on Time-The time of completion is the essence of the contract. For each calendar day that any work shall remain uncompleted after the time specified in the proposal and the contract, or the increased time granted by the Owner, or as automatically increased by additional work or materials ordered after the contract is signed, the sum per day given in the following schedule will not be deducted from the monies due the Contractor, not as a penalty but as liquidated damages.

AMOUNT OF CONTRACT	AMOUNT OF LIQUIDATED DAMAGES PER DAY
Less than \$500,000	\$ 500.00
\$500,000 to \$750,000	\$ 600.00
\$750,000 to \$1,000,000	\$ 800.00
Over \$1,000,000	\$ 1,000.00

This sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but it shall be deemed, taken and treated as reasonable liquidated damages, since it would be impractical and extremely difficult to fix the actual damages and the Owner may withhold from the Contractor's compensation such sum as liquidated damages.

## GENERAL CONDITIONS OF BIDDING

These general conditions apply to any procurement of products or services by the City of Seguin. Failure to comply with these General Conditions of Bidding may result in the bid being disqualified.

### 1. DEFINITION OF TERMS

**A.** "Bid documents" mean the entire packet of documents provided to bidders, including, but not limited to the General Conditions of Bidding, General and/or Technical Specifications, Special and Supplementary Conditions, Information to Bidders, Bid Form(s) and any Addendum.

**B.** "Bidder" means a person or firm submitting a bid, proposal, or quote to provide equipment, material, and/or services necessary in the performance of these specifications, and competing for award of a contract.

**C.** "Bid" or "Proposal" means an offer to perform or provide the requirements specified herein. "Furnish" or "provide" means to supply, equip, and deliver the specified equipment, material and/or services to the Purchaser.

**D.** "Formal Bid" is a formally advertised solicitation for acquiring goods, services, and construction that requires a public opening of sealed bids or proposals, generally \$50,000 or more.

**E.** "Informal Bid" is a competitive bid or price quotation for supplies or services under \$50,000 that is conveyed by letter, telephone, or other means and does not require a sealed bid, public opening, or public reading of bids.

**F.** "City", "Purchaser", or "Owner" shall refer to the City of Seguin, PO Box 591, Seguin, Texas 78156-0591.

**G.** "Contract" means the contract awarded pursuant to this solicitation.

**H.** "Contractor" or "Vendor" means the bidder to which a contract award has been made by the City.

**I.** "Purchase Order" means the document issued by the City that creates a legal binding contract between the City and the Contractor and authorizes the Contractor to ship goods pursuant to the contract.

### 2. SUBMISSION OF BIDS

**A.** All bids must be on blank forms furnished by the Purchasing Department and must be written in ink or typed. Pencil quotations will not be considered. Proposals must be submitted on the forms or in the format called for in specifications. Each must be executed personally by the bidder, or if executed by an agent, a power of attorney or other evidence of his authority to act on behalf of the bidder must accompany the bid. If the bidder is a corporation, the certificate of corporate bidder must be executed under the corporate seal by some duly authorized officer of the corporation other than the officers signing the bid. By execution of the bid, the bidder accepts all general and special conditions of the contract and the specifications.

**B.** **Formal** sealed bids and proposals must be received at the date, time, and place specified in the bid document packaged in a sealed envelope (8 1/2" x 11" minimum) clearly marked with the bid or project name, bid number, and date/time of opening, unless otherwise specified. An early postmark will not suffice. Bids and proposals will be publicly opened and read followed by evaluation and award at a later

date. **Formal bids and proposals (\$50,000 or higher) may NOT be faxed or submitted via e-mail.**

**C.** Informal bids are due at the date, time, and place stated in the bid document. **Informal bids (less than \$50,000) may be faxed or submitted via e-mail.**

**D.** Each Bidder agrees that its price will remain firm and subject to acceptance by the City for a period of sixty (60) calendar days from the bid opening date. The prices quoted in the bid shall not be subject to escalation except where otherwise clearly indicated by the Bidder or by the City in bid documents. The basis for the escalation shall be clearly indicated in either case.

**E.** All information required by the bid documents will be furnished. The bidder will print or type its name, in ink, and manually sign the bid sheet. The bid sheet, with original signatures, must be submitted.

**F.** All prices shall be quoted as required in the specifications. Unit prices will be shown when called for on the bid sheet, and where there is a conflict between the unit price show and the total price shown, the unit price will govern.

**G.** No change in price will be considered after bids have been opened. The City reserves the right to negotiate prices as submitted by proposal as allowed by state statute.

**H.** In case of ambiguity or lack of clarity in stating prices in the bid, Purchaser reserves the right to adopt the price written in words or reject the bid. Any ambiguity in the bid as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of the City.

**I.** If this bid is altered, any erasure or alteration of figures on the item on which the erasure or alteration is made must be initialed by signee of this bid.

**J.** The City reserves the right to extend the bid closing time and date. Notification will be made by addendum.

**K.** The City reserves the right to increase or decrease the quantity specified, unless the bidder specified otherwise.

### **3. WITHDRAWAL OF BIDS**

**A.** A Bidder may withdraw a bid before Council acceptance of the bid without prejudice to himself by a written request addressed to the Purchasing Manager.

**B.** If there is an honest mistake in the bid, due to clerical errors, and the bidder calls attention thereto promptly, the bidder will not be bound by the bid.

**C.** When the mistake was a result of a bidder's negligence, and City has no knowledge of the mistake when bids were opened, and awarded a contract based on the bid, bidder will not be released and shall be bound by the bid.

**D.** If a mistake is not discoverable and verifiable by the City, bidder's incorrect interpretation of Engineering specifications set forth in a construction contract will not release him from his obligations, once a contract has been awarded by City Council and bidder has received notice of such award.

### **4. GENERAL CONDITIONS**

Bidders will submit their bids or proposals upon the following express conditions:

**A.** Bidders shall thoroughly examine all drawings, specifications, plans, schedules, instructions, and all other contract documents pertaining to this bid.

**B.** Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of materials or equipment as required by the bid conditions. No plea of ignorance by the Bidder of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the Bidder to make the necessary examinations and investigations will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.

**C.** If any bidder is in doubt as to the true meaning of the specifications, other bid documents, or any part thereof, they may submit a written request for clarification to the Purchasing Manager. A request for clarification should be submitted by the deadline, if any, indicated in the specifications.

**D.** All materials, equipment, supplies which are new, non-standard to the City of Seguin, and/or items which are to be listed as an alternate or exception must be pre-approved PRIOR to placing them on a bid proposal. In order to fairly evaluate all bids, sufficient time requirements for possible field testing or demonstrations should be allowed.

**E.** Bidders are advised that City contracts are subject to all legal requirements under Local, State and Federal statutes, ordinances, and regulations. Any bid, after being opened, becomes subject to the Public Information Act, Government Code Chapter 552; therefore bidders must clearly indicate any portion of the submitted bid that the bidder claims is not subject to public inspection under the Public Information Act.

**F.** No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee.

**G.** The City of Seguin is committed to maintaining fair and open competition as required by local, state, and federal laws and statutes. Every effort is made to maintain the highest level of ethical conduct in every aspect of the procurement process. Sharp business practices or high-pressure tactics will not be tolerated. Qualification and selection of vendors is based on those vendors who share the same high standards of ethical conduct.

## **5. DESCRIPTION OF GOODS**

**A.** Any catalog or manufacturer's reference in this bid is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Any such references are made a part of these contract documents as if incorporated verbatim herein.

**B.** The term "Or Equal", if used, is intended to allow substitution of a brand which has all the essential performance, features, reliability, and other salient characteristics as the brand name and model stated in the item description. "Or Equal" is intended to establish a level of quality and function and is not to be interpreted as a preference for a particular brand. Other brands meeting these minimum requirements will be accepted. Bid submitted on an "Or Equal" item must clearly identify the proposed product, the quantity of the product, model, and type, as applicable.

**C.** Alternate bids will not be considered unless expressly authorized by the bid documents.

## **6. PREPARATION OF BID**

Bidders will prepare bids in accordance with the following:

**A.** Specifications are written to encourage competition. The specifications herein shall be the basis of comparison between bidders. There is no intent to discriminate against any supplier or vendor but rather, to set a definite standard of performance. Bidders are required to quote services and/or equipment that will meet or exceed the minimum or maximum specifications herein.

**B.** Any omission in the specifications of any minor requirement necessary to make each unit complete and functional shall not relieve the Supplier of responsibility to furnish any material or equipment necessary.

**C.** The City reserves the right to request clarification to assist in evaluating the bidder's response when the bid response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the bid response in any fashion and such information must be provided within two days from request.

**D.** Bidders shall not include federal taxes nor State of Texas limited sales, excise and use taxes in bid prices since the City of Seguin is exempt from payment of such taxes under section 151.309 of the Texas Tax Code.

**E.** By submitting a bid, each bidder certifies that it is a duly qualified, capable, and bondable business entity, that it is not in or contemplating bankruptcy or receivership and that it is not currently delinquent with respect to payment of taxes assessed by any political subdivision.

**F.** By submitting a bid, each bidder certifies that it does not currently owe any money to the City.

**G.** The City is exempt from the Federal Excise and Transportation Tax, and the Limited Sales and Use Tax. Unless the bid form or specification specifically indicates otherwise, the price bid must be net exclusive of the above mentioned taxes, and will be so construed.

**H.** Prompt payment discounts will not be considered in determining low bids and making awards.

## **7. BID DEPOSIT**

No bid deposit will be expected of bidder UNLESS specifications expressly provide otherwise. If a bid bond is required, the submitted bond may be in the form of a cashier's check, cash, a certified check made payable to the City of Seguin or an original bond submitted in the form required by the City in the Bid Documents. The bond shall be executed by a surety authorized by the Texas State Insurance Commission and must be signed by both the surety and the bidder. Should a bid deposit be presented in a form not acceptable to the City, the bid will not be considered.

## **8. EXCEPTIONS**

If Bidder takes exceptions to any provisions of the specifications, the exceptions must be specifically and clearly identified by section in Bidder's bid, and Bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire bid document.

## **9. ADDENDA**

Any clarification or interpretation of the bid, if made, will be made only by written addendum issued through the Purchasing Department and signed by the City of Seguin Purchasing Manager. A copy of such Addendum will be mailed or delivered to each person receiving bids. Addenda to the bid documents may be issued in response to a request for clarification or objection, or for any other reason the City considers advisable. Once issued, an addendum becomes a part of the bid documents. All addenda can be viewed and downloaded at the City's website: [www.seguintexas.gov](http://www.seguintexas.gov). It is the bidder's responsibility to check this site to determine if the City has issued any addenda. The City will not be

responsible for any other explanation or interpretation of the bid made or given prior to the award of the contract.

## **10. REJECTION OF BIDS**

**A.** The City of Seguin reserves the right to accept or reject any or all bids, and to waive any informalities and technicalities. The City of Seguin shall consider all factors it believes to be relevant in selecting the offer that provides the best value for the City including, but not limited to, the offered price. Causes for bidder disqualification and rejection of bids may include, but shall not be limited to:

- 1.** Bidder's current inability to satisfactorily perform the work or service, or the bidder's previous failure to properly and timely perform its obligations under a contract with the City. Purchaser may make such investigation as is deemed necessary to determine the ability of the Bidder to provide the equipment, material, and/or services as required by this specification and to determine the adequacy of the proposed equipment, material, and/or services. The Bidder shall furnish, upon request, all such data and information requested for this purpose. The information provided is not intended to change the bid response in any fashion and such information must be provided within **two** days from request.
- 2.** Bidder's current violation of any City ordinance.
- 3.** Bidder's misstatement or concealment of any material fact in the bid.
- 4.** Bid or proposal's nonconformance to law or the requirements of the bid specifications.
- 5.** Failure to use or properly complete the bid/proposal form furnished by the City of Seguin.
- 6.** Lack of signature by an authorized representative on the proposal form.
- 7.** Alteration of bid form.
- 8.** Evidence of collusion among proposers.
- 9.** Omission of proposal guarantee (if required).
- 10.** In the event that a bidder is, or subsequently becomes, delinquent in the payment of his, her or its City taxes, including state and local sales taxes, or any other City financial obligation, such fact shall constitute grounds for rejection of the bid, or if awarded the bid, for cancellation of the contract.

## **11. AWARD**

**A.** The City reserves the right to award a bid or contract to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the City. Factors to be considered in the evaluation of the bids are price, quality, reputation and experience of Bidder, past relationship with City, long term cost, safety record, operating history of equipment, conformance to specifications, delivery, and other factors as deemed appropriate by the Purchaser.

**B.** The City reserves the right to reject or accept all or any combination of bids deemed advantageous to the City.

**C.** The City reserves the right to reject or accept all or any combination of base bid plus alternative bids when alternate bids are called for in bid documents, subject to available funding.

**D.** Contractor is an independent contractor. Award of a contract does not create a joint venture between the Contractor and the City.

## **12. CONTRACT**

**A.** City's Bid Documents combined with the Vendor's response (bid or proposal) submitted to and accepted by the City, constitutes a contract between the City of Seguin and the selected vendor at the time the Seguin City Council awards the contract to such vendor.

**B.** No further documentation is required, although the contracting parties may supplement the

contract with further documentation. By submitting a bid or proposal, the vendor agrees to comply with the Terms and Conditions and other requirements set forth in the Bid Documents and to be further bound to the representations and information the vendor provides in the response.

C. Acceptance of bidder's offer may be in the form of a "Notice of Award", a Purchase Order (P.O.) or a "Contract".

### **13. RESERVATIONS**

THE CITY EXPRESSLY RESERVES THE RIGHT TO ACCEPT, REJECT OR CANCEL ANY AND ALL BIDS and:

A. Waive any defect, irregularity, or informality in any bid or bidding procedure;

B. Reissue a bid invitation or proposal;

C. Procure any item by other allowable means;

D. Waive minor deviations from the specifications when a bid meets the intent of the specifications and consider such bid if it is determined the bid's total cost is lower, the purpose for the bid is improved or not impaired, the bid amounts to the best value for the City, and/or the waiver otherwise results in a measurable benefit on behalf of the City.

E. Extend any contract when most advantageous to the City as provided by original contract conditions.

### **14. WARRANTIES**

**A. WARRANTY FOR PRODUCT:** The Contractor warrants to the City that all goods delivered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, will be of merchantable quality, good workmanship, free from defects, and fit for all purposes specified in this contract. The Contractor shall not Limit or exclude any implied warranties, and any attempt to do so shall render this contract voidable at the option of the City. The Contractor will provide copies of applicable warranties or guarantees to the Purchasing Manager. The City may return goods not meeting applicable warranties to the Contractor at the Contractor's expense.

**B. WARRANTY FOR PRICE:** The City will pay the price for goods specified by the Contractor's bid. The Contractor warrants its price to be no higher than the Contractor's current prices or charges on orders by others for products or services of the kind and specification covered by this bid contract for similar quantities under similar or like conditions and methods of purchase. In the event Contractor breaches this warranty, the prices or charges shall be reduced to Contractor's current prices or charges on orders by others, or in the alternative, City may cancel this contract without liability to Contractor for breach or Contractor's actual expense.

**C. SAFETY WARRANTY:** Contractor warrants that the goods sold to the City conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA) as amended. In the event the goods do not so conform, the Contractor must correct or replace the goods at the Contractor's expense. If the Contractor fails to do so within a reasonable time, the City, at its discretion, may cause the correction to be made at the Contractor's expense, or may return the goods at the Contractor's expense and terminate this contract.

### **15. PROTESTS**

A. The City Council is the final authority on issues relating to this contract. The Purchasing Manager is the City's representative in the award and administration of this contract, and will issue and receive

all documents, notices, and correspondence.

**B.** Any protest to the City's consideration of any bid must be submitted in writing and delivered to the City of Seguin, ATTN: Purchasing Manager.

**C.** The protest may be delivered in person to the Purchasing office located at 816 Fred Byrd Drive, Seguin, Texas, or by certified mail, return receipt requested, to the following address: City of Seguin, Purchasing Department, ATTN: Purchasing Manager, PO Box 591, Seguin, Texas 78156-0591.

**D.** The written protest must include the following information before it may be considered by the City:

- 1.** Name, mailing address, and business phone number of the protesting party;
- 2.** Identification of the bid or proposal being protested;
- 3.** A precise and concise statement of the reason/reasons for the protest which should provide enough factual information to enable the City to determine the basis of the protest;
- 4.** Any documentation or other evidence supporting the protest.

**E.** The Purchasing Department, in conjunction with the department responsible for the bid or proposal solicitation, will attempt to resolve the protest, including, at the City's option, meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution of each ground addressed in the protest will be provided to the City Manager. If the Purchasing Department is unable to resolve the protest, the protesting party may request the protest be reviewed and resolved by the City Manager.

**F.** A request for the City Manager's review must be in writing and received by the Purchasing Department within three (3) business days from the date the Purchasing Department informs the protesting party the protest cannot be resolved. The request for review must be delivered in person to the Purchasing Department at the address stated above or by certified mail, return receipt requested, to the mailing address stated above. If the protesting party fails or refuses to request a review by the City Manager within the three (3) days, the protest is deemed finalized and no further review by the City is required. Applicable documentation and other information applying to the protest may be submitted by the protesting party to the Purchasing Department before review by the City Manager. If the protesting party requests a review by the City Manager, such documentation will be forwarded to the City Manager for consideration. The City Manager may likewise notify the protesting party or any City department to provide additional information.

**G.** The decision reached by the City Manager will be final, but the protesting party may still appear before the City Council during the hearing of citizens' session.

## **16. SHIPMENT & DELIVERY**

**A.** Bidder is to quote its lowest and best price F.O.B. Destination on each item to shipping location in Seguin, Texas unless otherwise specified in the bid documents. Pricing shall include packaging, transportation, unloading, and any trade and cash discounts, which may be taken if earned.

**B.** The bidder certifies all materials, parts, and equipment supplied or represented in response to this bid shall be new and unused unless noted elsewhere in the bid documents.

**C.** The title and risk of loss of the goods will not pass to the City until receipt and acceptance takes place at the FOB point. The City department receiving deliveries or issuing purchase orders under this contract will inspect and accept any and all deliveries made and may reject those items which are

damaged or which do not conform to the specifications. The Contractor is responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries at no additional cost.

**D.** Delivery dates pertaining to this specification must be clearly stated in the bid form where required. The bidder will clearly state in the bid the time required for delivery upon receipt of contract or purchase order. Failure to specify delivery date or state unrealistically short or long delivery dates may cause the bid to be disqualified. Proposed delivery time must be specific and such phrases “as required”, “as soon as possible”, or “prompt” may result in disqualification of the bid.

**E.** Vendor must keep the City advised as to the status of the delivery. When delivery delay can be foreseen, the Vendor shall give prior notice to the City.

**F.** Default in promised delivery, without acceptable reasons, or failure to meet specifications without remedy shall cause the City to purchase the goods elsewhere, and charge any increase in cost and handling to the defaulting vendor. This does not limit any other remedies to the City for damage entitled under the Uniform Commercial Code.

## **17. REJECTIONS**

**A.** Delivered articles not in accordance with samples and specifications must be removed by the bidder at his expense. All disputes concerning quality of supplies delivered under this proposal will be determined by the City’s Purchasing Manager or his/her designated representative.

**B.** All articles enumerated in the proposal shall be subject to inspection or delivery by an officer designated for the purpose and if found inferior to the quality called for, or not equal in value to the department’s samples, or deficient in weight, measurements, workmanship or otherwise, this fact shall be reported to the Purchasing Manager who shall have the right to reject the whole or any part of the same.

## **18. PAYMENTS**

**A.** Payment of invoices by the City shall be made thirty (30) days after receipt and acceptance of all equipment or performance of services covered by each purchase order or following the receipt of an accurate invoice, whichever is later, in compliance with state statute. Bidder shall state his bid in accordance with the standard payment terms and conditions of the City of Seguin of Net 30 days. All bids must be stated in terms of dollars and cents, the bidder’s lowest, best, and final price.

**B.** Invoices submitted or otherwise used pursuant to the bid awarded under this IFB shall be presented to the City in the following form and content:

1. Each invoice must reference the City of Seguin contract, agreement, or P.O. number;
2. Only one contract, agreement, or project shall be billed on a particular invoice;
3. Each invoice must have a billing or invoice number and an Invoice Total.

**C.** The invoice requirements stated herein shall not be read to disallow or exclude other information that may be otherwise required or requested by the City. Such information required herein must be submitted only on an invoice and not in any other non-invoice form or document.

## **19. ASSIGNMENT**

No right or interest in the contract shall be assigned, nor delegation of any obligation made by Vendor without the written permission of the City. Any attempted assignment or delegation by Vendor shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

## **20. WAIVER**

No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

## **21. FORCE MAJEURE**

In the event that the performance by either party of any of its obligations under this contract is interrupted or delayed by events outside of their control such as acts of God, war, riot, or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of the events.

## **22. GRATUITIES**

The City may, by written notice to the Vendor, cancel this contract without liability to the City if it is determined by the City that gratuities have been offered to any officer or employee of the City with a view toward securing a contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations in respect to the performance of such a contract. In the event City, as set forth in this paragraph, cancels this contract the City shall be entitled to recover from the Vendor all additional costs incurred by City as a result of the cancellation.

## **23. TERMINATION**

**A. DEFAULT:** Failure by either party to perform any of its provisions will constitute a default and breach of contract, in which case, the other party may require corrective action within 10 days from the date the defaulting party receives written notice citing the nature of the breach. Failure of the defaulting party to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed 10 days will authorize the other party to terminate this agreement by written notice.

**B. CONVENIENCE:** The City reserves the right to terminate this contract upon 30 days written notice for any reason deemed by the City Council to serve the public interest. Termination for convenience will not be made when termination is authorized under any other provisions of this contract. In the event of such termination the City will pay the Contractor those costs directly attributable to supplies obtained in compliance with the contract prior to termination. Provided, however, that no costs will be paid to the Contractor which are recoverable in the normal course of doing business. The City is not liable for loss of any profits anticipated to be made hereunder.

**C. FUNDING:** The City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

**D. FUNDING OUT:** The State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Should, during the term of this contract, funds be withdrawn by the funding authority, a Force Majeur shall be deemed to exist, and this contract may be terminated without penalty or recourse by either party.

## **24. ENTIRETY OF AGREEMENT/AMENDMENTS**

This represents the entire agreement between the parties relating to the subject matter of this contract. Any prior agreements, promises, negotiations, or representations between the parties are not binding unless included in this contract. All amendments to this contract must be in writing and executed by both parties.

## **25. SEVERABILITY**

In case any one or more of the provisions contained in this contract is held to be invalid or unenforceable in any respect by a court of proper jurisdiction, the invalidity, illegality or unenforceability will not affect any other provision of this contract, and this contract will be construed as if the invalid or unenforceable provision was not contained herein.

**26. INSURANCE**

If required, specific insurance provisions will be included in bid specifications. An original, certified copy of an insurance certificate must be submitted within ten days from request. The successful vendor will be required to maintain, at all times during performance of the contract, the insurance detailed in bid specifications. Failure to provide this document may result in disqualification of bid.

**27. INDEMNITY**

The Vendor will indemnify, hold harmless and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts errors or omissions of the Vendor, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims demands and causes of action for personal injuries, death or damages to property alleged or actual infringement of patents, copyrights, and trademarks and without limitation by enumeration, all other claims, demands, or causes of action of every character occurring, resulting, or arising from any negligent or intentional wrongful act, error or omission of the Vendor or its agents or employees. This obligation by the Vendor will not be limited by reason of the specification of any particular insurance coverage required under this Agreement.

**28. PATENTS**

The bidder agrees to indemnify and save harmless the City, the Purchasing Manager, and his/her assistants from all suits and actions of every nature and description brought against it or any of them, for or on account of the use of patented appliances, products or processes, and he shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted, upon request of the Purchasing Manager, as a necessary requirement in connection with the final estimate for payment in which such patented appliances, products or processes are used.

**29. CONFIDENTIALITY**

The City of Seguin is governed by the Public Information Act ("The Act"), Chapter 552 of the Texas Government Code. All information submitted by prospective bidders during the bidding process is subject to release under The Act. On each page where proprietary information appears, information considered confidential must be labeled. Failure to so label the proprietary or confidential information shall be considered as a waiver of any confidentiality rights or interests. Disclosure of requested information will be determined in accordance with the Texas Public Information Act. You are not encouraged to submit such data and information unless it is absolutely required to understand and evaluate your response. If such data and information is submitted, you agree that the City shall not be liable for disclosure of such data and information and hereby release the City from any liability. In the event a request for public information is filed with the City which involves information labeled as confidential, you will be notified by the City of the request so that you will have an opportunity to contact the Attorney General as to why such information should not be released.

**30. ANTI-LOBBYING PROVISION**

Bidders are prohibited from directly or indirectly communicating with City Council members regarding the Bidder's qualifications or any other matter related to the eventual award of a contract for the

services requested under this Invitation for Bids. Bidders are prohibited from contacting City staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the Bidder from the selection process.

Upon issuance of the Invitation for Bids, all bidder communications and requests for clarification or objections shall be directed in writing to the Purchasing Manager for response, determination and dissemination to all bidders. Any communication by bidders or their representatives toward other city officers or employees regarding this Invitation for Bids or the award of a contract are prohibited and will constitute grounds for disqualification of a proponent. A lobbyist or a proponent or any of their agents may not do any act or refrain from any act for the express purpose and intent of placing any City official under personal obligation to the lobbyist or proponent.

### **31. CONFLICT OF INTEREST**

A person or vendor seeking to contract with the City must file a Conflict of Interest Questionnaire (CIQ) if the person has a business relationship with the City, and either: has a business relationship with a city official or a city official's family member; or has given a gift worth more than \$250 to a city official or city official's family member within the previous 12-month period. A vendor required to file a CIQ must do so with the City's Purchasing Manager within seven business days of: (1) beginning contract discussions with the city; (2) submitting to the City an application, response to a request for proposals or bid; or (3) learning of the existence of the applicable business relationship. Vendors should see Texas Local Government Code Chapter 176 in an effort to determine its applicability. The conflict of interest questionnaire form is included herein and is available from the Texas Ethics Commission at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

### **32. CERTIFICATE OF INTERESTED PARTIES**

Texas Government Code, Sections 2252.908 requires a business entity to submit a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity following the guidelines prescribed by the Texas Ethics Commission at [www.ethics.state.tx.us](http://www.ethics.state.tx.us). The law applies to contracts that require an action or vote by the governing body of the governmental entity before the contract is signed. The Form 1295 is included herein. The completed Form 1295 must be submitted electronically by the business entity to the state. A copy of the certified Form 1295 including the certification number generated by the state must be provided to the City of Seguin at the time a bid or proposal is submitted. Information on the Form 1295 may be considered by the City during bid evaluation and award. The City will only officially acknowledge the Form 1295 submitted by the awarded vendor which will cause it to be publicly posted on the Texas Ethics Commission website.

### **33. LOCAL VENDOR PREFERENCE POLICY**

Texas Local Government Code, Sections 271.905(a) and 271.9051 allow the City to consider a vendor's principal place of business in awarding certain contracts by way of competitive bids. This consideration is in effect to promote economic development opportunities through the contract by employing local residents and increasing tax revenue. The City of Seguin applies a local vendor preference to bids in compliance with state statute.

### **34. NOTICES**

All notices called for or required by this agreement will be addressed to Purchasing Manager, City of Seguin, 205 N. River Street, Seguin, Texas 78155, or such other party or address as either party designates in writing, by certified mail, postage pre-paid, or by hand delivery, and will be effective five days after mailing.

**35. QUESTIONS**

Questions regarding interpretation of specifications, bids, bid results or bid awards should be directed in writing to the Buyer indicated in the General and/or Technical Specifications or to the Purchasing Manager, [twood@seguintexas.gov](mailto:twood@seguintexas.gov) and be referenced by bid number and bid title.

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

**FORM CIQ**

**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 governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

**OFFICE USE ONLY**

Date Received

**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 is being disclosed.**

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

**4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

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 or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes       No

**5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**

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

\_\_\_\_\_  
Date

## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

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

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

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

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

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

\*\*\*

(2) the vendor:

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

(2) the date the vendor becomes aware:

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

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

## OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

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

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

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

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

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

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

**ADD ADDITIONAL PAGES AS NECESSARY**

**ATTACHMENT A**

(Revised 2/18/14)

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**INSURANCE**

**SECTION A.** Prior to the approval of this contract by the City, CONTRACTOR shall furnish a completed Insurance Certificate to the Purchasing office. The certificate shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and shall furnish and contain all required information referenced or indicated thereon. CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE IS RECEIVED BY THE CITY OF SEGUIN'S PURCHASING DEPARTMENT, and no officer or employee of the City shall have authority to waive this requirement.

**INSURANCE COVERAGE REQUIRED**

**SECTION B.** CITY reserves the right to review the insurance requirements of this section during the effective period of the contract and to adjust insurance coverages and their limits when deemed necessary and prudent by CITY, based upon changes in statutory law, court decisions, or the claims history of the industry as well as the CONTRACTOR.

**SECTION C.** Subject to CONTRACTOR'S right to maintain reasonable deductibles in such amounts as are approved by CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at CONTRACTOR'S sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to CITY, in the following type(s) and amount(s):

<b><u>TYPE</u></b>	<b><u>AMOUNT</u></b>
1. <b>Workers' Compensation and Employer's Liability</b>	Statutory
<b>NOTE: For building or construction projects, and services provided at City-owned facilities, the successful Contractor shall meet the minimum requirements defined in the Texas Workers' Compensation Commission Rule 28 TAC §110.110 which follows this insurance attachment.</b>	
2. <b>Commercial General (public) Liability</b> including coverage for the following:	
a. Premises operations	Combined single limit for bodily injury and property damage of \$500,000 per occurrence or its equivalent with an aggregate limit of \$1,000,000.
b. Independent contractors	
c. Products/completed operations	
d. Personal injury	
e. Advertising injury	
f. Contractual liability	
g. Medical payments	
h. Professional liability*	
i. Underground hazard*	
j. Explosion and collapse hazard*	
k. Liquor liability*	
l. Fire legal liability*	
m. City's property in Contractor's* care, custody, or control	
n. Asbestos specific liability*	
* <b>Not required for this contract</b>	
3. <b>Comprehensive Automobile Liability</b> insurance, including coverage for loading and unloading hazards, for:	Combined single limit for bodily injury and property damage of \$500,000 per occurrence or equivalent.

- a. Owned/leased vehicles
  - b. Non-owned vehicles
  - c. Hired vehicles
4. **Errors and Omissions** insurance policy (when applicable) Provide a prudent amount of coverage for the willful or negligent acts or omissions of any officers, employees or agents thereof.

**ADDITIONAL POLICY ENDORSEMENTS**

CITY shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by CITY, CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof.

**REQUIRED PROVISIONS**

CONTRACTOR agrees with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions.

- a. Name the City of Seguin and its officers, employees, and elected representatives as an Additional Insured(s), (as the interest of each insured may appear) to all applicable coverage.
- b. Provide for 30 days notice to City for cancellation, non-renewal, or material change.
- c. Provide for notice to City at the address shown below by registered mail.
- d. CONTRACTOR agrees to waive subrogation against the City of Seguin, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance.
- e. Provide that all provisions of this agreement concerning liability, duty, and standard of care together shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- f. For coverages that are **only** available with claims made policies, the required period of coverage will be determined by the following formula: Continuous coverage for the life of the contract, plus one year (to provide coverage for the warranty period) and an extended discovery period for a minimum of five years which shall begin at the end of the warranty period.

**NOTICES**

CONTRACTOR shall notify CITY in the event of any change in coverage and shall give such notices not less than thirty (30) days prior to the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE. All notices shall be given to CITY at the following address:

Purchasing Department  
 City of Seguin  
 P.O. Box 591  
 Seguin, Texas 78156

**SECTION D.** Approval, disapproval, or failure to act by CITY regarding any insurance supplied by CONTRACTOR shall not relieve CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate CONTRACTOR from liability.

**WORKERS COMPENSATION INSURANCE**  
**for**  
**Building or Construction Projects and Services Provided at City-Owned Facilities**

**TEXAS WORKERS' COMPENSATION COMMISSION RULE 28 § 110.110**

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As required by the Texas Workers' Compensation Rule 28, §110.110, the Contractor shall accept the following definitions and comply with the following provisions:

**Workers' Compensation Insurance Coverage**

**A. Definitions:**

1. Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (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.
2. Duration of the project-includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the City of Seguin.
3. Persons providing services on the project ("subcontractor" in Section 406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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 City of Seguin prior to being awarded the contract.

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City of Seguin showing that coverage has been extended.

E. The Contractor shall obtain from each person providing services on a project, and provide to the City of Seguin:

1. A certificate of coverage, prior to that person beginning work on the project, so the City of Seguin will have on file certificates of coverage showing coverage for all persons providing services on the project; and
2. No later than seven (7) days after receipt by 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 (1) year thereafter.

G. The Contractor shall notify the City of Seguin in writing by certified mail or personal delivery, within ten (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 (1) year thereafter;
  6. Notify the City of Seguin in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be 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 City of Seguin 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 which entitles the City of Seguin to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City of Seguin.

As defined by the Texas Labor Code, Chapter 269, Section 406.096(e), building or construction is defined as:

1. Erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
2. Remodeling, extending, repairing, or demolishing a structure; or
3. Otherwise improving real property or an appurtenance to real property through similar activities.

The employment of a maintenance employee who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

**CITY OF SEGUIN  
INSURANCE REQUIREMENT AFFIDAVIT**

**To be Completed By Appropriate Insurance Agent  
and submitted with bid proposal.**

I, the undersigned Agent/Broker, certify that the insurance requirements contained in this bid document have been reviewed by me with the below identified Contractor. If the below identified Contractor is awarded this contract by the City of Seguin, I will be able to, within ten (10) days after being notified of such award, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

\_\_\_\_\_   
Agent (Signature)

\_\_\_\_\_   
Agent (Print)

Name of Agency/Broker: \_\_\_\_\_

Address of Agent/Broker: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Agent/Broker Telephone #: (        ) \_\_\_\_\_

CONTRACTOR'S NAME: \_\_\_\_\_

(Print or Type)

**NOTE TO AGENT/BROKER**

If this time requirement is not met, the City has the right to invalidate the bid award and award the contract to the next lowest bidder meeting specifications. Should an awarded bid be invalidated the Contractor may be liable for breach of contract. If you have any questions concerning these requirements, please contact the Purchasing Manager for the City of Seguin at (830) 401-2451

**TECHNICAL SPECIFICATIONS**  
**GENERAL INFORMATION**

**1.1 SCOPE AND SEQUENCE OF WORK.** This project consists of street overlay, streets rebuild and drainage. It is the intent of the plans and specifications to describe a completed work to be performed under the contract. Unless otherwise provided, the Contractor shall furnish all materials, supplies, tools, equipment, supervision and labor necessary for the proper prosecution and completion of the work.

Sequence of Work:

- A. Set up traffic control before the start of the work day
- B. Milling operations
- C. Spray the tact coat and place the HMAC hot mix asphalt
- D. Raise all valves and manholes to be flush with the new pavement surface
- E. Final clean up
- F. Final project inspection.

**1.2 PERMITS, CERTIFICATES, LAWS AND ORDINANCES.** The Contractor shall, at his own expense, procure any and all permits, certificates and licenses required of him by law for the execution of his work. The Owner will furnish permits from the Texas Department of Highways and Public Transportation and railroad companies for crossing their properties with utility extensions if such are required.

**1.3 MANUFACTURER'S CERTIFICATES.** All manufacturers' certificates required herein are to be furnished by the Contractor at his own expense.

**1.4 BOUNDARIES OF WORK.** The Owner will provide land and rights-of-way for the work specified in this contract and make suitable provisions for ingress and egress and the Contractor shall not enter on or occupy with men, tools, equipment, or materials, any ground outside the property of the Owner without the written permission of the Owner of such ground. Other contractors and employees or agents of the Owner may for all necessary purposes enter upon the work and premises used by the Contractor, and the Contractor shall conduct his work so as not to impede unnecessarily any work being done by others on or adjacent to the site.

**1.5 PROTECTION OF THE SITE.** The Contractor shall protect all structures, walks, pipelines, trees, shrubbery, lawns and other improvements during the progress of his work and shall remove from the site all debris and unused materials.

**1.6 TESTING OF MATERIALS.** All testing of materials required under these specifications shall be performed by an approved agency for testing materials. The Contractor shall make the nomination of the laboratory and the payment for such services. The Contractor will pay for any retest required because of failure of the initial test.

**1.7 REJECTED/DEFECTIVE MATERIALS.** All materials not conforming to the requirements of these specifications will be rejected and shall be removed immediately from the site of the work..

**1.8 HAULING OF MATERIALS.** Any vehicle, truck, truck-tractor, trailer or semi-trailer or combination of such vehicles, when used to deliver materials to a project shall comply with the State laws concerning the gross weight of such vehicle or combinations of vehicles and load and the allowable axle weights, unless authorized by permit to exceed the legal weight.

**1.9 DETAIL PLANS.** Detail plans for construction are furnished herewith and make a part of these specifications, the same as if they were written herein.

**1.10 EXAMINATION OF SITE OF THE PROJECT.** Prospective bidders shall make a careful examination of the site of the project, soil and water conditions to be encountered, improvements to be protected, disposal sites for surplus material not designated to be salvage materials, and as to methods of providing ingress and egress to private properties.

**1.11 QUANTITIES.** The quantities of each item on the bid proposal blank represent the approximate amount of work to be done. Final quantities actually completed will be determined and paid for by actual measurements on the ground of the final work completed. No incidental items or work will be paid for unless there appears an item in the proposal for such work. It must be strictly understood that the prices bid are for complete and acceptable work.

**1.12 FAILURE TO COMPLETE ON TIME.** The time of completion is the essence of the contract. For each calendar day that any work shall remain uncompleted after the time specified in the proposal and the contract, or the increased time granted by the Owner, or as automatically increased by additional work or materials ordered after the contract is signed, the sum per day given in the following schedule will be deducted from the monies due the Contractor, not as a penalty but as liquidated damages.

<u>AMOUNT OF CONTRACT</u>	<u>AMOUNT OF LIQUIDATED DAMAGES PER DAY</u>
Less than \$ 500,000	\$ 500.00
500,000 to \$ 750,000	\$ 600.00
750,000 to \$1,000,000	\$ 800.00
Over \$1,000,000	\$1,000.00

Prior to commencing construction of the project, the Contractor shall furnish for approval to the Engineer and Owner a tentative construction schedule showing the Contractor's intended sequence of work together with approximate dates for commencing and completing the principle units of work.

This sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but it shall be deemed, taken and treated as reasonable liquidated damages, since it would be impractical and extremely difficult to fix the actual damages and the Owner may withhold from the Contractor's compensation such sum as liquidated damages.

**1.13 TREE DAMAGES.** The protection of existing trees within the right-of-way and on private property is the essence of the contract. For each tree that any work shall damage or destroy, the amount per tree shall be \$500.00. This will be deducted from the monies due the

Contractor, not as a penalty but as liquidated damages. In addition the Contractor shall replace the tree with a caliper-inch to caliper-inch replacement.

This sum of money thus deducted for such failure to protect the trees is not to be considered as a penalty, but it shall be deemed, taken and treated as reasonable liquidated damages, since it would be impractical and extremely difficult to fix the actual damages and the Owner may withhold from the Contractor's compensation such sum as liquidated damages.

**1.14 MATERIALS.** The Contractor shall furnish all materials for a complete job as shown on the plans and as required by the specifications.

**1.15 EXISTING STRUCTURES.** The plans show the locations of all known surface and subsurface structures. However, the Engineer assumes no responsibility for failure to show any or all of the structures on the plans or to show them in their exact location. It is mutually agreed that such failure to show these structures will not be considered sufficient basis for claims for additional compensation for extra work or for increasing the pay quantities in any manner whatsoever, unless the obstruction encountered is such as to necessitate changes in the lines or grades, or requires the building of special work, provisions for which are not made in the plans and proposal, in which case the provisions in these specifications for extra work shall apply

**1.16. COMPETENT WORKERS.** The Contractor shall employ only competent workers for the execution of this work and all such work shall be performed under the direct supervision of an experienced superintendent.

**1.17 TERMINATION OF CONTRACT IN CASE OF NATIONAL EMERGENCY.** Whenever, because of a national emergency so declared by the President of the United States or other lawful authority, it becomes impossible for the Contractor to obtain all of the necessary labor, material and equipment for the prosecution of the work with reasonable continuity for a period of two months, the Contractor shall within seven days notify the Owner in writing, giving a detailed statement of the efforts which have been made and listing all necessary items of labor, material and equipment not obtainable. If after investigation, the Owner finds that such conditions exist and that the inability of the Contractor to proceed is not attributable in whole or in part to the fault or neglect of the Contractor, then in the Owner cannot after reasonable effort assist the Contractor in procuring and making available the necessary labor, materials, and equipment within thirty days, the Contractor may request the Owner to terminate the contract and the Owner shall within thirty days comply with the request, and the termination shall be based on a final settlement, which shall include, but not be limited to, the payment for all work executed.

**1.18 COPIES OF PLANS AND SPECIFICATIONS** Four (4) sets of the Plans and Specifications shall be furnished to the Contractor, without charge, for construction purposes. Additional copies may be obtained from the Engineer at actual reproduction cost. One (1) additional set of plans shall be marked and returned to the Engineer as "RECORD" drawings.

**1.19 MATERIALS AND WORKMANSHIP.** The Contractor shall furnish all materials for a complete job as shown on the plans and as required by the specifications.

Where materials or equipment are specified by a trade or brand name, it is not the intention of the Owner to discriminate against an equal produce or another manufacturer, but rather to set a definite standard of performance and to establish an equal basis for the evaluation of bids. Where the words “equivalent”, “proper”, or “equal to” are used, they shall be understood to mean that the article or process is equal, in the opinion or judgment of the Engineer, to the article or process specified by name. Unless otherwise specified, all materials shall be the best of their respective kinds and shall be in all cases fully equal to approved samples. Notwithstanding that the words “or equal to” or other such expressions are used in the specifications, the material, manufactured article or process specifically designated shall be used unless a substitute shall be approved in writing by the Engineer, and the Engineer shall have the right to require the use of such specifically designated material, article or process.

The Contractor should note that his bid will be based on the material, manufactured article or process specifically designated in the specifications.

## **1.20 CONTRACTOR’S INSURANCE**

### **1.20.1 Contractor’s Liability Insurance**

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor and each subcontractor, at their own expense, shall, during the term of the contract, purchase and maintain the hereinafter stipulated minimum insurance with companies duly authorized to do business in the State of Texas and satisfactory to the Owner. Certificates of each policy, together with a statement by the issuing company to the extent policy shall not be cancelled without thirty (30) days’ prior notice being given the Owner, shall be delivered to the Owner before any work is started:

(a) Employers liability insurance a minimum of \$1,000,000 combined single limit,

(a) Comprehensive General Liability Insurance, including independent contractor’s liability, completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this contract, fully insuring Contractor’s (or subcontractor’s) liability for injury to or death of Owner’s employees and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with the following limits for each occurrence:

Injury or Death	\$1,000,000
Property Damage	\$1,000,000

The policy shall include broad form property damage coverage extended to apply to completed operations, XCU exclusions removed. The completed operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the work, with evidence of same filed with the Owner. Where work is being performed in connection with an existing facility owned or leased by the Owner, the policy shall include fire legal liability of not less than \$100,000 per occurrence.

(b) Comprehensive automobile and truck liability insurance, covering owned, hired, and non-owned vehicles, with minimum limits of \$1,000,000 each occurrence, for bodily

injury and \$1,000,000 each occurrence for property damage, such insurance to include coverage for loading and unloading hazards.

**1.20.2 “Umbrella” Excess Liability Insurance**

The Contractor shall obtain, pay and maintain this policy during the contract term, insuring the Contractor for an amount of not less than \$1,000,000 combined single limit bodily injury and property damage liability insurance, including death, in excess of the primary coverage required hereinabove, Owner to be named as additional insured.

**1.20.3 Policy Endorsements and Special Conditions**

Each insurance policy to be furnished by the Contractor shall include the following conditions by endorsement to the policy:

(a) Each policy shall require that thirty (30) days prior to the cancellation or any material change in coverage, a notice thereof shall be given the Owner by certified mail.

(b) The term “Owner” shall include all authorities, boards, bureaus, commissions, divisions, departments, and offices of the Owner and the individual members, employees, and agents thereof in their official capacities, and/or while acting on behalf of the Owner; and

(c) The policy phrase “other insurance” shall not apply to the Owner where the Owner is an additional insured on the policy.

Concerning insurance to be furnished by the Contractor, is a condition precedent to acceptability thereof that:

(a) Any policy submitted shall not be subject to limitations, conditions, or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by the Contractor. The Owner’s decision thereon shall be final; and

(b) Companies issuing the insurance policies and Contractor shall have no recourse against the Owner for payment of any premiums and deductibles are the sole responsibility and risk of the Contractor;

(c) Approval, disapproval, or failure to act by the Owner regarding any insurance supplied by the Contractor (or any subcontractor) shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability; and

(d) No special payments shall be made for any insurance that the Contractor and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

**1.20.4 Proof of Insurance Coverage.** The Contractor shall furnish the Owner with certificates showing type, amount, class of operations covered, effective dates, and dates of expiration or policies.

**1.21 CONTRACTOR'S RESPONSIBILITY FOR WORKERS' COMPENSATION INSURANCE COVERAGE.** Without limiting any of the other obligations or liabilities of the Contractor, the Contractor and each subcontractor, at their own expense, shall, during the term of the contract, purchase and maintain the hereinafter stipulated Workers' Compensation Insurance with Companies duly authorized to do business in the State of Texas and satisfactory to the Owner. Workers' Compensation is to be as required by Texas Law, with the policy endorsed to provide a waiver of subrogation as to the Owner. Certificates of each policy, together with a statement by the issuing company to the extent policy shall not be cancelled without thirty (30) days' prior notice being given the Owner, shall be delivered to the Owner before any work is started. The Contractor shall post a notice on each project site 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. All Workers' Compensation policies shall adhere to the following:

**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's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project – includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of such an 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 governmental entity prior to being awarded the contract.

**D.** If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

**E.** The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates 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 governmental entity 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 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 governmental entity 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; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) – (7), with the certificates of coverage to be 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 governmental entity 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 which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

**1.22 REFERENCE SPECIFICATIONS.** Where reference is made in these specifications to specifications compiled by other agencies, organizations, or departments, such reference is made for expediency and standardization from the material suppliers' point of view, and such specifications referred to are hereby made a part of these specifications.

Whenever reference is made to the furnishing of materials or testing thereof to conform to the Standards of any technical society, organization, or body, it shall be construed to mean the latest standard, code, specification, or tentative specification adopted and published at the time of advertisement for bids, even though reference has been made to an earlier standard, and such standards are made a part hereof to the extent which is indicated or intended.

The following are names and abbreviations of such groups:

AASHO

American Association of State Highway Officials

ACI	American Concrete Institute
AGMA	American Gear Manufacturers Association
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
API	American Petroleum Institute
AREMA	American Railway Engineering and Maintenance-of-Way Association
ASCE	American Society of Civil Engineers
ASA	American Standards Association
ASHE	American Society of Heating & Ventilating Engineers
ASTM	American Society for Testing Materials
ASME	America Society of Mechanical Engineers
AWSC	American Welding Society Code
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
FED.SPEC.	Federal Specification
NAVY SPEC.	Navy Department Specification
NEC	National Electric Code
NEMA	National Electrical Manufacturer's Association
SAE	Society of Automotive Engineers Standards
SHBI	Steel Heating Boiler Institute
U.L., INC.	Underwriters' Laboratories, Incorporated

Where no reference is made to a code, standard, or specification, the Standard Specifications of the ASTM, the ASA, the ASME, the AIEE, or the NEMA shall govern.

**1.23 ABBREVIATIONS.** Wherever the abbreviations defined herein occur on the plans, in the specifications, contract, bonds, advertisement, proposal, or in any other document or instrument herein contemplated or to which the specifications apply or may apply, the intent and meaning shall be as follows:

Asph.	Asphalt
Ave.	Avenue
Blvd.	Boulevard
D.I.	Ductile Iron
C.L.	Centerline
C.O.	Cleanout
Conc.	Concrete
Cond.	Conduit
Corr.	Corrugated
Cu.	Cubic
Culv.	Culvert
Dia.	Diameter
Dr.	Drive or Driveway
Elev.	Elevation
F.	Fahrenheit
Ft. of ‘	Foot or feet
Gal.	Gallon
Lb.	Pound
Lin.	Linear
M.H.	Manhole
Max.	Maximum
Min.	Minimum
Mono.	Monolithic
No.	Number
%	Percent
P.S.I.	Pounds per square inch
P.V.C.	Polyvinyl Chloride
Reinf.	Reinforced
Rem.	Remove
Rep.	Replace
R/W or R of W	Right-of-Way
Sani.	Sanitary
Sq.	Square
Std.	Standard
St.	Street or Storm
Str.	Strength
Vol.	Volume
Yd.	Yard

In reference to such abbreviations where a specification number is referred to, the latest revision of said specification shall apply.

**1.24 ENGINEER.** The "Engineer" in these specifications shall be understood as referring to the City Engineer or his designated representative.

**1.25 PREVAILING WAGE RATES** The Contractor shall pay to all laborers, workmen and mechanics employed by him in the execution of the contract, not less than the rate as determined by the US Department of Labor in accordance with the Davis-Bacon Act. For

reference purposes, a copy of the US Department of Labor wage decision is included herein these specifications.

**1.26 INCIDENTAL ITEMS** Bidders are especially notified that no incidental items of work will be paid for unless there appears an item in the proposal for such work. It must be strictly understood that the prices bid are for complete and acceptable work.

**1.27 PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC**

The Contractor and his sureties shall indemnify and save harmless the Engineer, the Owner, and all their officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property, on account of any negligent act or fault of Contractor, his agents or employees in the execution of said contract; or on account of the failure of the Contractor to provide necessary barricades, warning lights or signs, or the failure to take any other necessary precautions to prevent injury to persons or damage to property, and will be required to pay any judgment, with costs and attorney fees, which may be obtained against the Engineer and/or Owner growing out of such injury or damage.

**1.28 PUBLIC UTILITIES AND OTHER PROPERTY.** In case it is necessary to change or move the property of Owner or of a public utility, such property shall not be moved or interfered with until ordered to do so by the Engineer and Owner. The right is reserved to the Engineer of public utilities to enter upon the limits of the project for the purpose of making such changes or repairs of their property that may be made necessary by performance of this contract.

**1.29 POWER FOR CONSTRUCTION.** The electrical service to the site will be provided by the Contractor. The Contractor shall furnish and install all necessary temporary wiring, and furnish and install area distribution boxes so located that the individual trades may use their own construction type extension cords to obtain adequate power and artificial lighting at all points where required by inspectors and for safety. All necessary permits shall be acquired by the Contractor.

**1.30 USE OF EXPLOSIVES.** Use of explosives will not be allowed.

**1.31 MANUFACTURED PRODUCTS.** All equipment of standard manufacture specified herein shall be the manufacturer's latest and proven design. Specifications and drawings call attention to certain features but do not purport to cover all details entering into the design of the products or systems. The completed product or system shall be compatible with the functions required and the equipment furnished by the Contractor.

**1.32 PATENTED DEVICES.** If the manufacturer of any material, process, or manufactured product used in the construction of this project is required or desires to use any design, device, materials, or process covered by letters, patent, or copyright, the manufacturer shall provide for such use by suitable legal agreement with the patentee or Engineer and Owner and the prices bid hereunder shall, without exception, indemnify and save the Engineer and Owner harmless from any and all claims for infringement by reason of the use of any such patented design, device, material, or process, or trade mark or

copyright used in connection with any equipment to be furnished under this contract.

**1.33 TOOLS AND ACCESSORIES.** The Contractor shall, unless otherwise stated in the detailed specifications, furnish with each type, kind, or size of equipment, one (1) complete set of suitably marked high grade tools and appliances which may be needed to adjust, operate, maintain, or repair the equipment.

Such tools and appliances shall be furnished in approved painted steel cases, properly labeled and equipped with good grade cylinder locks and duplicate keys.

Spare parts shall be furnished as specified in the specific provisions or contract items.

Each piece of equipment shall be provided with a substantial name plate securely fastened in place and clearly inscribed with the manufacturer's name, year of manufacture, and principal rating data.

**1.34 COORDINATION WITH OTHERS** In the event other contractors are doing work in the same area simultaneously with this project, the Contractor shall coordinate his proposed construction with that of the other contractors.

Likewise, the operations of the Owner must continue without undue interruption, and the Contractor shall schedule and coordinate his work to provide for the least possible inconvenience to the Owner.

**1.35 LAND FOR CONSTRUCTION PURPOSES.** The Contractor will be permitted to use available land belonging to the Owner, on or near the site of the Work, for construction purposes and for storage of materials and equipment.

The Contractor shall immediately move stored materials or equipment if any occasion arises, as determined by the Owner, requiring access to the storage area. Materials or equipment shall not be placed on the property of the Owner until the Engineer or Owner has agreed to the location to be used for storage.

**1.36 REFERENCE STANDARDS.** Reference to standards, specifications, manuals or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual code, or laws or regulations 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. However, no provision of any referenced standard, specification, manual, or code, (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the Owner, Contractor, or Engineer, or any of their Consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer and Owner, or any of their consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work.

**1.37 SITE ADMINISTRATION.** The Contractor shall be responsible for all areas of

the site used by it, and by all Subcontractors in the performance of the Work. The Contractor will exert full control over the actions of all employees and other persons with respect to the use and preservation of property and existing facilities, except such controls as may be specifically reserved to the Owner or others. The Contractor has the right to exclude from the site all persons who have no purpose related to the Work or its inspection, and may require all persons on the site (except Owner's employees) to observe the same regulations as the Contractor requires of its employees.

**1.38 SUBSTITUTE EQUIPMENT AND "OR EQUAL" ITEMS.** The technical specifications specify equipment brands, which have been used as the basis of design for this project.

Allowance of substitute equipment does not constitute a waiver of the specifications. The Engineer reserves the right to decide whether or not the proposed substitution will be accepted.

In order that the Engineer may determine if the proposed substitute item is a satisfactory alternate to that specified, three (3) sets of drawings, specifications, full descriptive material, installation list and a detailed list of the equipment proposed shall be submitted to the Engineer for approval. The following shall also be submitted:

1. Name, address, contact and phone number of similar projects on which product was used and date of installation.
2. For construction methods:
  - a. Detailed description of proposed methods including required modifications to structures (concrete, piping, etc.).
  - b. Drawings illustrating methods.
3. Itemized comparison of proposed substitution with product or method specified to include a list of all deviations from product or method specified.
4. Data relating to changes in construction schedule.

In making request for substitution, Contractor represents:

1. He has personally investigated proposed product or method and determined that it is equal or superior in all respects to the specified product or method.
2. He will provide the same guarantee for substitution as for product or method specified.
3. He will coordinate installation of accepted substitution into work, making such changes as may be required for work to be complete in all respects.
4. He waives all claims for additional costs related to substitution, which consequently becomes apparent.

Substitutions will not be considered if:

1. They are indicated or implied on Shop Drawings or project data submittals without a formal request being first submitted and approved.
2. Acceptance will require substantial revision of Contract Documents.

Should the Contractor furnish an approved substitute unit, he shall notify in writing the Engineer office of **all dimensional, mechanical, electrical and structural changes and/or requirements for the unit's use and shall reimburse the Engineer for any associated redesign and/or construction drawings.** He shall include in his bid, the additional construction costs of mechanical, architectural, structural, electrical and engineering costs of that unit. Redesign and drawing revisions will be prepared by the Engineer. The Contractor (Supplier) shall pay the Engineer for such redesign cost. The bid shall also include any paid-up licenses necessary for the use of the equipment, if required by the manufacturer.

Reimbursement shall be based on engineering direct labor cost plus indirect labor cost plus any direct non-labor expenses such as travel or per diem plus profit of the above total.

Whenever a material or article is specified or described by using the name of a proprietary product or the name of a particular manufacturer or vendor, the specified item shall be understood as establishing the type, function, and quality desired. Unless the specification states that no equivalent or "or equal" item is permitted, other manufacturers' products will be accepted, provided sufficient information is submitted to allow the Engineer to determine that the products proposed are equivalent to those named. Such items shall be submitted for review by the procedure set forth in the submittals section.

Requests for review of equivalency will not be accepted from anyone except the Contractor.

**1.39 PROJECT ACCESS.** Access to the project is limited to the boundaries shown on the plans. If additional access is required or desired it shall be acquired by the Contractor, with written approval from the affected property owners being provided to the Owner. Such approval shall be received by the Owner prior to use of additional access areas. Contractor shall be responsible for all street repairs necessary for use of unapproved streets.

**1.40 LINES AND GRADES.** Horizontal control and established benchmarks are provided on the Plans. The Engineer shall provide a base line and a benchmark for the Contractor.

The Contractor will be responsible for all field and construction staking. The Contractor shall provide construction staking at such intervals as necessary to control the grade and alignment of the work. Any work performed without being properly located may be ordered removed and replaced at the Contractor's expense.

The cost of replacing any stakes or iron pipes which were disturbed by the Contractor shall be charged against the Contractor and deducted from the payment for the work.

#### **1.41 PUBLIC UTILITIES AND OTHER PROPERTY**

In case it is necessary to change or move the property of the Owner or of a public utility, such property shall not be moved or interfered with until authorized by the utility company, Owner, or Engineer.

It will be the Contractor's responsibility to contact the proper authority, and set up a field meeting to verify by uncovering of the utility and determine the location and elevation of each major utility described above, at least two weeks prior to crossing the utility. If field conditions vary from those shown on the contract plans, the Contractor shall notify the Engineer immediately of field conditions to be encountered, so sufficient time exists to make any necessary adjustments in line or grade. Failure by the Contractor to make proper and timely verification of the above described utilities shall be justification for rejection of claim for extra cost by the Contractor.

If, after field verification, it is necessary to change or move the property of a property owner or of a public utility, seven (7) days' notice shall be given before such change, and such property shall not be moved or interfered with until authorized by the property owner or the utility company. The right is reserved to the property owner or public utilities to enter upon the limits of the project for the purpose of making such changes or repairs of their property that may be made necessary by the performance of this contract/

**1.42 POLLUTION CONTROL.** Contractor shall prevent the release of sanitary wastes, sediment, debris and other substances resulting from construction activities. No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris or other substance will be permitted to enter sanitary sewers and reasonable measures will be taken to prevent such materials from entering any drain or watercourse.

**1.43 CONTRACTOR'S WARRANTY OF TITLE.** Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the project or not, will pass to Owner at the time of payment free and clear of all liens, claims, security interests, and encumbrances.

**1.44 CONTRACTOR'S CONTINUING OBLIGATION.** Contractor's obligation to perform the work and complete the Project in accordance with the Contract documents shall be absolute. Neither recommendations of any progress or final payment by Owner, nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents nor any use or occupancy of the project or any part thereof by Owner, nor any act of acceptance by Owner nor any failure to do so, nor any correction of defective work by Owner shall constitute an acceptance of work not in accordance with the Contract Documents.

#### **1.45 QUALITY CONTROL**

##### **General**

Contractor shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents. The Contractor is solely responsible for maintaining that the quality of work is in accordance with the Contract Documents. The Contractor shall be responsible for the notification and scheduling required to ensure that a certified technician from the testing laboratory is present during all sampling and testing procedures required in the Contract Documents. The

Contractor shall not proceed with construction work requiring such testing without the presence of the laboratory's certified technician. The Owner, at his option, may perform additional tests as quality monitoring. Quality monitoring activities of the Owner and Engineer, or failure on the part of the Owner or Engineer to perform tests on constructed works, in no way relieves the Contractor of the obligation to perform work and furnish materials conforming to the Contract Documents.

### **Contractor's Responsibilities**

1. Control the quality of work produced and verify that the work performed meets the standards of quality established in the Contract Documents.
  - a. Inspect and verify conformance of all materials furnished and work performed, whether by the Contractor, its subcontractors or its suppliers.
  - b. Provide and pay for the services of a testing laboratory approved by Engineer to insure that products proposed for use fully comply with the Contract Documents.
  - c. Perform tests as indicated in this and other sections of the specifications. Schedule the time and sequence of testing with the Owner and Engineer. Testing is to be observed by the Engineer or Owner.
  - d. Promptly replace any defective materials and/or construction work incorporating defective materials or workmanship.
  - e. Provide Certified Test Reports as required. Reports are to indicate that materials and construction are in compliance with the Contract Documents.
2. Assist the Owner and Owner's testing organization to perform quality monitoring activities.

### **Quality Monitoring Activities by Engineer**

1. Quality Monitoring activities of the Owner through their own forces or through contracts with materials testing laboratories and survey crews are for the Owner's use in monitoring the results of the Contractor's work and quality control activities, if deemed necessary by the Owner.
2. The Quality Monitoring activities of the Owner DO NOT relieve the Contractor of its responsibility to provide testing in accordance with the requirements of the Contract Documents or to provide materials and construction work complying with the Contract Documents.

### **Submittals**

1. Submittals shall be in accordance with Section B — SPECIAL INSTRUCTIONS and shall include:
  - a. The name of the proposed primary and secondary testing laboratories along with

documentation of qualifications, a list of tests that can be performed, and a list of the certified laboratory technicians and the licensed engineers who will be performing the sampling and testing for the Construction Work along with their certifications and licenses.

- b. Test reports per Test Reports paragraph of this supplementary condition.

### **Standards**

1. Provide a testing laboratory that complies with the ASTM (American Society of Testing Materials) and/or ACIL (American Council of Independent Laboratories) "Recommended Requirements for Independent Laboratory Qualifications", or other specified testing organizations.
2. Perform tests listed in the specifications.

### **Delivery and Storage**

1. Handle and protect test specimens of products and construction materials at the construction site in accordance with ASTM or other applicable testing procedures.

### **Verification Testing**

1. Provide verification testing when tests performed by the Owner indicate that materials or the results of construction activities are not in conformance with Contract Documents.
2. Verification testing is to be provided at the Contractor's expense to verify products or constructed works are in compliance after corrections have been made.
3. Tests must comply with recognized methods or with methods recommended by the Engineer's testing laboratory and approved by the Engineer and Owner.

### **Test Reports**

1. Test reports are to be prepared for all tests. Tests performed by testing laboratories may be submitted on their standard test report forms. These reports must include the following:
  - i. Name of the Owner, project title and number, equipment installer and general contractor.
  - ii. Name of the laboratory, address, and telephone number.
  - iii. Name and signature of the certified laboratory personnel performing the sampling and testing.
  - iv. Date and time of sampling, inspection, and testing.
  - v. Date the report was issued.
  - vi. Description of the test performed.
  - vii. Weather conditions and temperature at time of test or sampling.
  - viii. Location at the site or structure where the test was taken.
  - ix. Standard or test procedure used in making the test.
  - x. A description of the results of the test.
  - xi. Statement of compliance or non-compliance with Contract Documents.

xii. Interpretations of test results, if appropriate.

2. Distribute copies of the test reports to:

	<u>No. of Copies</u>
Owner	2
Engineer	1
Contractor	1

**Non-Conforming Work**

1. Contractor shall promptly correct any work that is not in compliance with the Contract Documents and shall immediately notify the Engineer and Owner when the corrective work will be performed.
2. Payment for non-conforming work shall be withheld until such work is corrected or replaced with work complying with the Contract Documents.

**1.46. DOCUMENTATIONS TO ACCOMPANY APPLICATIONS FOR PAYMENT.**

Contractor's Applications for Payment shall be accompanied by the documentation specified herein:

1. Materials and Equipment:

- a. If payment is required for materials and equipment not incorporated in the work but delivered and suitably stored at the site, the Application for Progress Payment shall be accompanied by invoices and such data, satisfactory to Engineer, as will establish Owner's title to the material and equipment and protect his interest therein, including applicable insurance.
- b. Payments for such materials and equipment shall be based only upon the actual cost of the materials and equipment to Contractor and shall not include any overhead or profit to Contractor.
- c. Failure to properly store materials and equipment will be cause to withhold payment for those materials and pieces of equipment.
- d. Non-receipt of operation and maintenance manuals, as required, will be cause for Owner to withhold partial payment for that particular piece of equipment. See individual specifications for required operation and maintenance manuals.

2. Schedules and Data:

Each Application for Progress Payment shall be accompanied by Contractor's updated schedule of operations, or progress report, with such shop drawings schedules, procurement schedules, value of material on hand included in application, and other data specified or reasonably required by Engineer. An updated cash flow schedule shall accompany each partial payment request.

**1.47 CONSTRUCTION IN PUBLIC ROADS.** Contractor will be responsible for complying with all federal, State, County and City regulations pertaining to construction in public roadway and traffic safety. No public road shall be entirely closed overnight. It shall be the responsibility of the Contractor to build and maintain all weather bypasses and detours, if necessary, and to properly light, barricade mark all bypasses and detours that might be required on an across the roads involved in the work included in this contract.

The Contractor shall make every effort to complete construction and allow immediate access to adjacent property at driveway entrances located along the roads. Owners or tenants of improvements where access and/or entrance drives are located shall be notified at least twenty-four (24) hours prior to the time the construction will be started at their drive-ins or entrances, and the Contractor shall provide temporary ingress to entrance drives where necessary. The Contractor shall be responsible for all road and entrance reconstruction and repairs and maintenance for same for a period of one year from the date of acceptance of the project.

In addition to roads and entrances cut by construction excavation, if any other roads or streets in the area are used by the Contractor or Subcontractors during the progress of construction and are damaged by the Contractor in the opinion of the Engineer, the Contractor, when directed by the Owner, shall immediately repair such damage. In the event the repairs and maintenance are not made in a reasonable period of time and it becomes necessary for the County, City or Engineer to make such repairs, the Contractor shall reimburse the County, City or Engineer for the cost of such repairs.

The Contractor shall, at all times, keep a sufficient width of the roadway clear of dirt and other materials to allow the free flow of traffic on the project site. The Contractor shall assume any and all responsibility for damage, personal or otherwise, that may be caused by the construction along roads or private drives.

**1.48 FENCES, IMPROVEMENTS, AND DRAINAGE CHANNELS.** Fences or other improvements removed to permit construction shall be replaced in the same location and left in a condition as good as, or better, than that in which they were found. There shall be no separate pay item for fences removed or damaged beyond the limits shown in the plans.

Temporary fencing for maintenance of site security shall be provided by the Contractor at his expense. Temporary fencing, with gates, to restrain livestock shall be provided through areas where livestock are pastured, unless the Contractor makes satisfactory arrangements with the land owner and/or tenant. The temporary fence shall be installed on the easement lines and shall be removed after the trench has been backfilled.

Where surface drainage channels or drainage structures are disturbed or altered during construction, they shall be restored to their original condition of grade and cross section as soon as possible.

Temporary channels required to provide adequate drainage during construction shall be provided and maintained by the Contractor. No separate payment shall be allowed.

**1.49 SUPERINTENDENCE BY CONTRACTOR.** The Contractor shall have on the

project at all times, as his agent, a competent Superintendent capable of reading and thoroughly understanding the plans and specifications and thoroughly experienced in the type of work being performed. The Superintendent must be capable reading, speaking and comprehending English. The Superintendent shall have full authority to execute orders or directions and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work subcontracted.

The Contractor shall be responsible for supervision of all work performed by the subcontractor at all times during construction.

**1.50 HANDLING MATERIALS NOT APPROVED.** The Contractor shall remove from the site any materials found to be damaged, and any materials not meeting the specifications. These materials shall be removed promptly, unless the Engineer and Owner will accept the materials after repairing. Materials found to be damaged, or not acceptable to the Engineer or Owner after installation, shall be removed or replaced as directed. Inspection before installation shall not relieve the Contractor from any responsibility to furnish materials meeting the specifications.

**1.51 DUST CONTROL.** Contractor shall take responsible measures to prevent unnecessary dust. Earth surfaces subject to dusting shall be kept moist with water or by application of a chemical dust suppressant. Dusty materials in piles or in transit shall be covered when practical to prevent blowing.

Buildings or operating facilities which may be affected adversely by dust shall be adequately protected from dust. Existing or new machinery, motors, instrument panels or similar equipment, shall be protected by suitable dust screens. Proper ventilation shall be included with dust screens.

**1.52 APPLICATION FOR FINAL PAYMENT.** In addition to the requirements of Article 5.09, GENERAL CONDITIONS, the final Application for Payment shall be accompanied by all other documentation called for in the Contract Documents, including Affidavit of Bills Paid, Waiver of Lien, Consent of Surety to Final Payment, complete record drawings and such other data and schedules as Owner may reasonably require.

**1.53. CORRECTION PERIOD.** If, prior to two years after date of final payment or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, Contractor shall within seven (7) days of notification by Owner, without cost to Owner and in accordance with Owner's written instructions, either correct such defective work or, if it has been rejected by Owner, remove it from the site and replace it with non-defective work. If Contractor does not promptly comply with the terms of such instructions, Owner may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by Contractor.

Nothing in these Contract Documents concerning the correction period shall establish a period of limitation with respect to any other obligation which Contractor has under the

Contract Documents. The establishment of time periods relates only to the specific obligations of Contractor to correct tile work, and has no relationship to the time within which his obligations under the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish his liability with respect to his obligations other than to specifically correct the work.

All special guarantees and manufacturers' warranties that extend beyond the two (2) year correction period shall be issued directly to tile Owner without continued involvement by tile Contractor.

**1.54 ENVIRONMENTAL PROTECTION REQUIREMENTS.** The Contractor shall provide and maintain, during the life of the contract, environmental protection as defined herein:

1. Plan for and provide environmental protective measures to control pollution that develops during normal construction practice.
2. Plan for and provide environmental protective measures required to correct conditions that develop during the construction of permanent or temporary environmental features associated with the project.
3. Comply with Federal, State, and local regulations pertaining to the environment, including water, air, solid waste, hazardous waste and substances, oily substances, and noise pollution. Obtain all construction and disposal permits as required.

**1.55. ENVIRONMENTAL PROTECTION PLAN.** All of the Contractor's employees shall be trained on tile site Environmental Protection Plan requirements. The Contractor shall meet all requirements of tile Owner's Environmental Protection Plan described herein.

1. Land Resources: Except in areas to be cleared, DO NOT remove, cut, deface, injure, or destroy trees or shrubs without the Owner's permission. DO NOT fasten or attach ropes, cables, or guys to existing nearby trees for anchorages unless authorized by the Owner. Where such use of attached ropes, cables, or guys is authorized, the Contractor shall be responsible for any resultant damage.
2. Replacement: Trees and other landscape features scarred or damaged by equipment operations, and replace with equivalent, undamaged trees and landscape features. Obtain Owner approval before replacement.
3. Oily and Hazardous Substances: Prevent oil or hazardous substances from entering the ground, drainage areas, or navigable waters. In accordance with 40 CFR §112, surround all temporary fuel oil or petroleum storage tanks with a temporary berm or containment of sufficient size and strength to contain the contents of the tanks, plus ten percent (10%) freeboard for precipitation. The berm shall be impervious to oil for seventy-two (72) hours and be constructed so that any discharge will not permeate, drain, infiltrate, or otherwise escape before cleanup occurs.
4. Storm Water Drainage: There shall be no discharge of excavation groundwater to

the sanitary sewer, storm drains, or to drainage ditches without prior specific authorization by required regulatory agencies and Owner in writing. Discharge of hazardous substances will not be permitted under any circumstances. Construction site runoff shall be prevented from entering any storm drain or the drainage ditch directly by the use of straw bales or other method suitable to the Engineer. Contractor shall provide erosion protection of the surrounding soils. Contractor shall be responsible for payment and receipt of a stormwater permit if necessary. Contractor shall maintain stormwater controls of said permit per state, local agencies or Engineer and Owner.

5. Fish and Wildlife Resources: DO NOT disturb fish and wildlife. DO NOT alter water flows or otherwise significantly disturb the native habitat adjacent to the project and critical to the survival of fish and wildlife, except as indicated or specified.

6. Bum-off: Bum-off of the ground cover is not permitted.

7. Protection of Erodible Soils: Immediately finish the earthwork brought to a final grade, as indicated or specified. Immediately protect the side slopes and back slopes upon completion of rough grading. Plan and conduct earthwork to minimize the duration of exposure of unprotected soils.

8. Temporary Protection of Erodible Soils: Use the following methods to prevent erosion and control sedimentation:

- a. Mechanical Retardation and Control of Runoff: Mechanically retard and control the rate of runoff from the construction site. This includes construction of diversion ditches, benches, berms, and use of silt fences and straw bales to retard and divert runoff to protected drainage courses.
- b. Vegetation and Mulch: Provide temporary protection on sides and back slopes as soon as rough grading is completed or sufficient soil is exposed to require erosion protection. Protect slopes by accelerated growth of permanent vegetation, temporary vegetation, mulching, or netting. Stabilize slopes by hydro-seeding, anchoring mulch in place, covering with anchored netting, sodding, or such combination of these and other methods necessary for effective erosion control.
- c. Provide new seeding where ground is disturbed. Include topsoil or nutrients during the seeding operation necessary to establish a suitable stand of grass.

9. Control And Disposal Of Solid Wastes: Prevent contamination of the site or other areas when handling and disposing of wastes. At project completion, leave the areas clean. Remove all solid waste (including non-hazardous debris) from the property and dispose off-site at an approved landfill. Solid waste disposal off-site must comply with most stringent local, State, and Federal requirements including 40 CFR §241, 40 CFR §243, and 40 CFR §258.

10. Dust Control: Keep dust down at all times, including during nonworking periods. Sprinkle or treat, with dust suppressants, the soil at the site, haul roads, and other areas

disturbed by operations. Dry power brooming will not be permitted. Instead, use vacuuming, wet mopping, wet sweeping, or wet power brooming. Air blowing will not be permitted.

11. Noise: Make the maximum use of low-noise emission products, as certified by the EPA. Confine soil placement operations to the period between 7 A.M. and 5 P.M., Monday through Friday, exclusive of holidays, unless otherwise specified.

12. Spill Control: In the event of a spill or release of a hazardous substance (as designated in 40 CFR §302), pollutant, contaminant, or oil (as governed by the Oil Pollution Act (OPA), 33 U.S.C. 2701 et seq.), the Contractor shall notify the Owner immediately. Immediate containment actions shall be taken to minimize the effect of any spill or leak. Cleanup shall be in accordance with applicable federal, state, and local regulations. As directed by the Owner, additional sampling and testing shall be performed to verify spills have been cleaned up. Spill cleanup and testing shall be done at no additional cost to the Owner.

13. Spill Response Materials:

- a. The Contractor shall provide appropriate spill response materials including, but not limited to the following: containers, adsorbents, shovels, and personal protective equipment. Spill response materials shall be available at all times when contaminated materials/wastes are being handled or transported. Spill response materials shall be compatible with the type of materials and contaminants being handled.
- b. Within five days after the award of contract, the Contractor shall meet with the Owner to discuss the project and verify a mutual understanding relative to the details of environmental protection, including measures for protecting natural resources, required reports, and other measures to be taken.
- c. The Engineer must receive from the Contractor a letter signed by an officer of the firm appointing a project Environmental Manager and stating that he/she is responsible for managing and implementing the Environmental Program as described in this contract. The Environmental Manager must have authority to direct the removal and replacement of non-conforming work, and the letter shall include a statement of this authority.

**ITEM 103**

**ASPHALTIC CONCRETE PAVEMENT**

Description: This item shall consist of Hot Mix Hot Laid Asphaltic Concrete Pavement Type D conforming to Item 340 of the Standard Specifications for Construction of Highways, Streets and Bridges adopted by the State Department of Highways and Public Transportation, most recent edition.

## ITEM

### 512 ADJUSTING EXISTING MANHOLES AND VALVE BOXES

**512.1. DESCRIPTION:** *Adjustment of all existing manholes and valve boxes by either lowering or raising the top elevation to match the final profile grade line and includes the reconstruction of existing manholes or valve boxes in conformity with the provisions of these specifications.*

**512.2. MATERIALS:** Provide materials as provided herein or as shown on the plans.

**A. Concrete.** Item No. 300, "Concrete (Class B)."

**512.3. EQUIPMENT:** Provide equipment necessary to conduct the work specified herein or as directed by the Engineer.

**512.4. CONSTRUCTION:**

**A. Manholes.** Perform all work in conformance with Sections 1. "Lowering Manholes", 2. "Raising Manholes" and 3. "Reconstructing Existing Manholes" unless otherwise shown on the plans. Existing manhole rings, risers, and covers which are determined by the Inspector to be in an unacceptable condition, will be removed and replaced with new rings, risers, and cover. Contractor shall take all necessary measures to prevent damage to existing or new rings, risers, covers, or cones from equipment and materials used in or taken through the work area. If an existing or new manhole cover, ring, riser, or cone is damaged by the Contractor, it shall be replaced, as directed by the Engineer, by the Contractor at his expense.

**1. Lowering Manholes.** Manholes shall be lowered below subgrade before placing base materials and openings shall be protected by hatch covers. Manholes shall be adjusted after the base material has been laid and before placing of the surface course. Material excavation from around the manholes shall be replaced with concrete in accordance with Standard Drawings, and select materials from the excavation as shown on the plans or specified by the Engineer. All excess materials shall be disposed of by the Contractor at his own expense and in an approved location.

All manholes shall be lowered a sufficient depth so as to be level with the finished surface course and shall not exceed  $\pm\frac{1}{2}$  inch deviation at any point between the top of manhole elevation and surface of pavement. Adjustment in height will be made by removal of "throat rings" above the manhole "cone" where feasible. A minimum of two and a maximum of six throat rings shall be used at each manhole. If the height of the manhole cannot be adjusted to meet the required number of throat rings, the manhole shall be reconstructed in accordance with Section 3, "Reconstructing Existing Manholes."

**2. Raising Manholes.** Manholes to be raised between  $\frac{3}{4}$  inches to 5- $\frac{3}{4}$  inches on an existing surface course not being replaced will be completed utilizing a pivoted turnbuckle manhole riser meeting the requirements shown in Figure 1. Installation of the riser begins by removal of the manhole lid and cleaning the manhole frame from roadway materials, dirt, and any other debris not part of the manhole frame. Insert appropriately sized riser (see Section a. "Measurement Dimensions Required for Obtaining Properly Sized Riser") and seat with a hammer. Expand turnbuckle mechanism to full circumferential engagement. Replace lid and ensure that lid seats fully on riser without rocking. If necessary, seating surfaces shall be machined. Apply solvent to the top of the lid just

prior to application of pavement overlay. Manufacturer's instructions shall be consulted to ensure proper installation of riser.

All manholes shall be raised a sufficient height so as to be level with the finished surface course and shall not exceed  $\pm\frac{1}{2}$  inch deviation at any point between the top of manhole elevation and surface of pavement.

**a. Measurement Dimensions Required for Obtaining Properly Sized Manhole Riser.** Measurement dimensions typically required to obtain a properly sized riser include the interior or bottom of hole dimension, the top of hole opening, the lid thickness, lid diameter, and riser height. Manufacturer's requirements shall be consulted to ensure that the proper dimensions for the riser are obtained.

**3. Reconstructing Existing Manholes.** Major adjustments will be made by reconstruction of the manhole below the "cone" where necessary. Material excavation from around the manholes shall be replaced with concrete meeting the requirements of Item No. 300, "Concrete (Class B)," and select materials from the excavation as shown on the plans or specified by the Engineer. All excess materials shall be disposed of by the Contractor.

**B. Valve Boxes.** Perform all work in conformance with this section unless otherwise shown on the plans. Adjust existing valve boxes in situations where the finished profile of the street or sidewalk will be changed from its existing elevation. Existing valve boxes and covers which are determined by the Inspector to be in an unacceptable condition, will be removed and replaced with new boxes and/or covers. Material excavation from around the valve boxes shall be replaced with concrete meeting the requirements of Item No. 300, "Concrete (Class B)," and select materials from the excavation as shown on the plans or specified by the Engineer. Contractor shall take all necessary measures to prevent damage to existing or new boxes and covers from equipment and materials used in or taken through the work area. If an existing or new box and/or cover is/are damaged by the Contractor, it shall be replaced, as directed by the Engineer, by the Contractor at his expense.

The valve box shall be repositioned in such a manner as to prevent shock or stress from being transmitted to the valve. It shall be centered and plumb over the operating nut of the valve. Valve boxes shall be located so that the valve operating nut is readily accessible for operation through the opening in the valve box.

All valve box covers shall be raised or lowered a sufficient distance so as to be level with the finished surface course and shall not exceed  $\pm\frac{1}{2}$  inch deviation at any point between the top of valve box elevation and surface of pavement or sidewalk.

**512.5. MEASUREMENT:** Manholes adjusted, as prescribed above, will be measured by the unit of each manhole adjusted. The excavation and the amount of concrete or reinforced concrete as necessary to fill the area excavated, if required, will not be measured for payment.

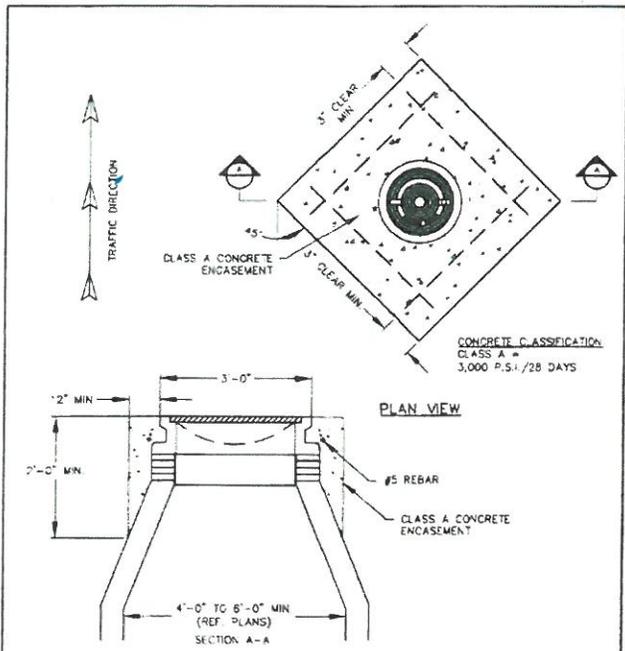
**512.6. PAYMENT:** The work performed as prescribed by this item will be paid for at the contract unit price bid per manhole for "Adjusting Existing Manholes" which price shall be full compensation for all excavation, including saw cutting of surfaces as required, reinforced concrete and disposal of material excavated; for furnishing and placing all materials and for all labor, tools, equipment and incidentals necessary to complete the work.

**512.7. BID ITEM:**

Item 512.1 - Adjusting Existing Manholes - per each

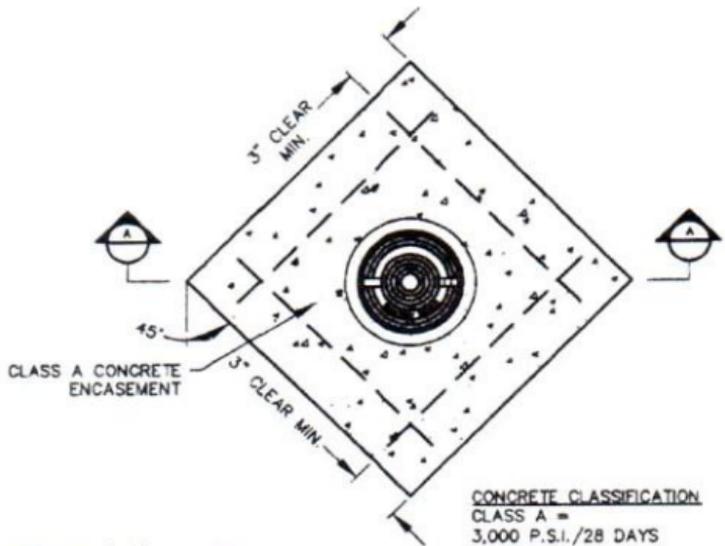
Item 512.2 - Reconstructing Existing Manholes - per each

Item 512.3 - Valve Box Adjustments - per each

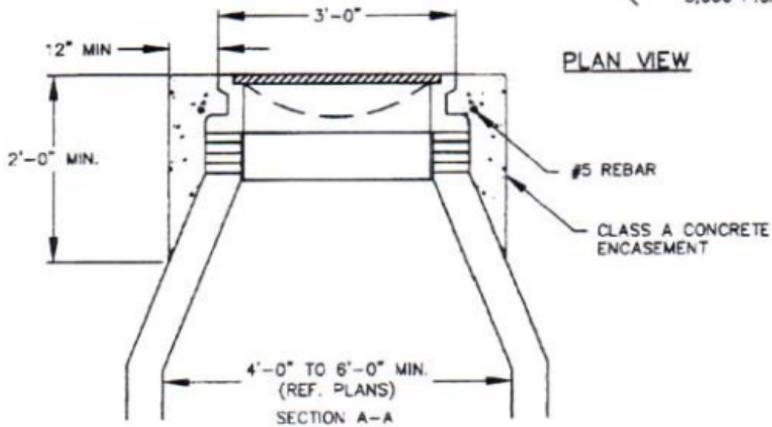


- NOTES:**
1. CONCRETE ENCASEMENT SHALL BE INSTALLED AFTER FINAL PAVEMENT HAS BEEN INSTALLED.
  2. MANHOLES SHALL BE LOCATED BY GPS AND PROVIDED TO THE CITY IN TEXAS STATE PLANE COORDINATES, NAD 83 (93), SOUTH-CENTRAL ZONE.

 <b>THE CITY OF SEGUIN</b>	DATE REVISION	DATE	TITLE
	NO.	BY	<b>MANHOLE RING ENCASEMENT DETAILS</b>
	DATE	BY	
	DATE	BY	
DATE	BY		
SCALE: N. I. S.		Drawing No.	WW-6



CONCRETE CLASSIFICATION  
 CLASS A =  
 3,000 P.S.I./28 DAYS



PLAN VIEW

SECTION A-A

NOTES:

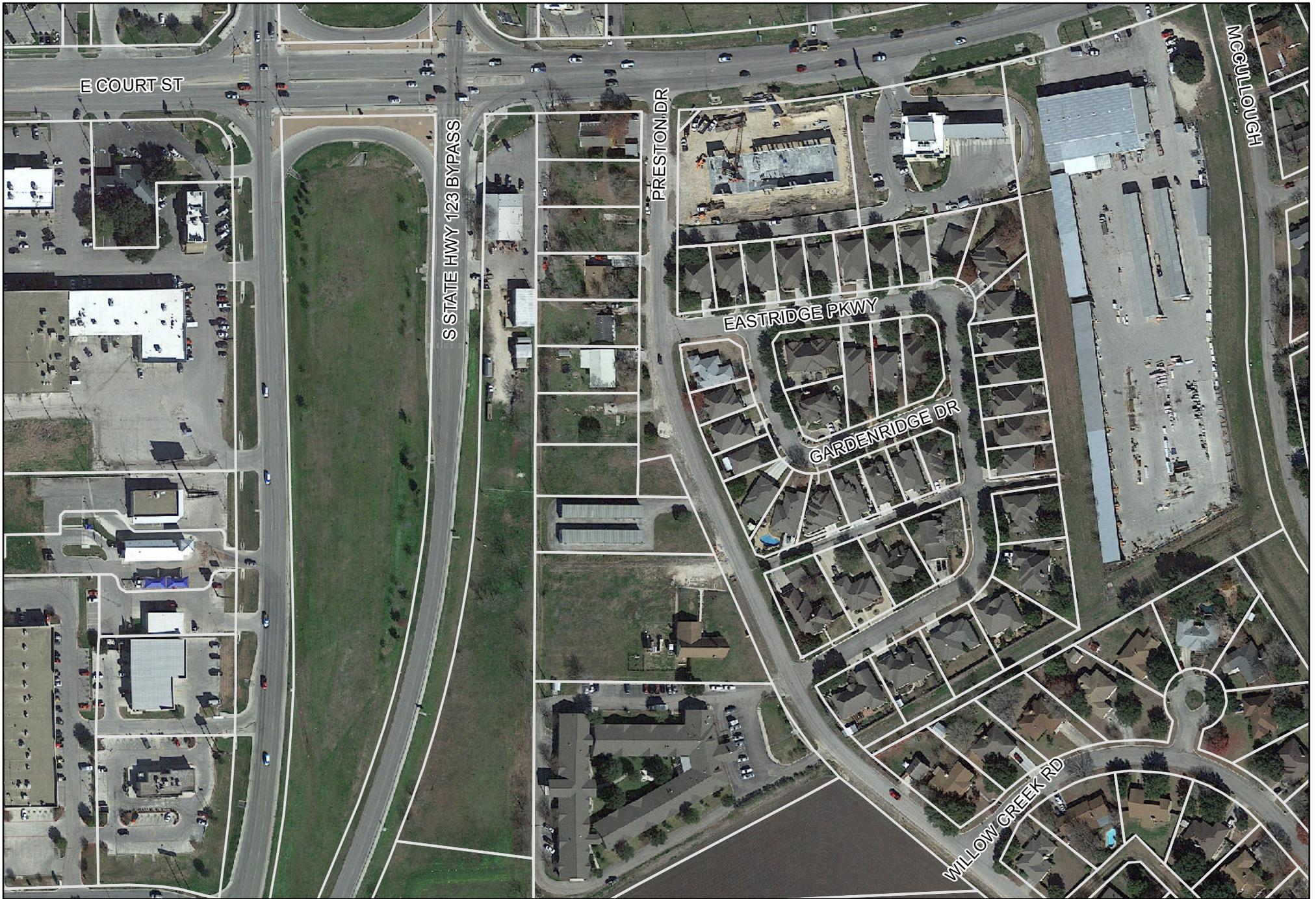
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**THE CITY OF  
 SEGUIN**

DATE REVISION	DATE	BY	BY
REV	DATE	BY	BY
1ST REVISION	07/28/16	TR	
2ND REVISION	12/24/15	JM	

TITLE	
<b>MANHOLE RING    ENCASEMENT DETAILS</b>	
SCALE:	N. T. S.
DRAWING No.	WW-6

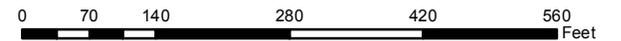


### Preston Dr - E Court to Willowcreek Rd

1 inch = 200 feet



This map is for information purposes only and represents the best data available at the time of printing. The City of Seguin assumes no liability for errors on this map or use of this information.





### Preston Dr - Willowcreek Rd to FM 466

1 inch = 200 feet



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