



## Travis County Commissioners Court Agenda Request

**Meeting Date:** September 23, 2013

**Prepared By/Phone Number:** Jason G. Walker/44562; Marvin Brice, CPPB, Assistant Purchasing Agent

**Elected/Appointed Official/Dept. Head:** Cyd Grimes

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language: Approve Contract No. 4400002232, with Pavement Restoration, Inc. for Asphalt Rejuvenation Program**

- **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.
- TNR is requesting the award of a contract to Pavement Restoration, Inc. Previously, on June 19, 2007, the Commissioners Court approved an exemption (see attached) for the purchase of Reclamite Preservative Seal from Pavement Restoration Inc., the sole source applicator in the State of Texas as appointed by Tricor Refining, LLC, the manufacturer of the product.
- On August 4, 2007, 07K00304JW was awarded to Pavement Restoration, Inc. Through that contract approximately 135 miles of County roadways were treated, in FY 2006 – 22 miles, FY 2007 – 23 miles, FY 2008 – 36 miles, FY 2009 – 27, FY 2010 – 23, and FY 2011 – 26 miles. TNR has experienced very good results with this asphalt pavement restoration and has extended the pavement life of the County's roadways.
- On September 20, 2011, 11K00268JW was awarded to Pavement Restoration, Inc. Through that contract approximately 50 miles of County roadways were treated, in FY 2013 – 25 miles and in FY 2014 – 25 miles.
- Applying this product to roadways that are good candidates for the application allows their life to be extended by seven (7) to twelve (12) years before structural repairs are necessary. Through continuation of the application of this product, substantial budget savings will continue

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to [agenda@co.travis.tx.us](mailto:agenda@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

to be provided to Travis County, Travis County's roadway system will continue to maintain a high percentage of the Commissioners Court mandated rating - "Good to Fair".

- Therefore, it is TNR's recommendation, with Purchasing's concurrence, that contract number 4400002232 with Pavement Restoration, Inc. be awarded.
- **Contract Expenditures:** Within the last \_\_\_\_ months \$0.00 has been spent against this contract/requirement.

➤ **Contract-Related Information:**

Award Amount: \$1.05 per square yard as-needed

Contract Type: Construction

Contract Period: 9/23/14 – through 9/22/15

➤ **Contract Modification Information: N/A**

Modification Amount:

Modification Type:

Modification Period:

➤ **Solicitation-Related Information: N/A**

Solicitations Sent:

Responses Received:

HUB Information:

% HUB Subcontractor:

➤ **Special Contract Considerations:**

Award has been protested; interested parties have been notified.

Award is not to the lowest bidder; interested parties have been notified.

Comments:

➤ **Funding Information:**

SAP Shopping Cart #:

Funding Account(s):

Comments: As-needed basis



## TRANSPORTATION AND NATURAL RESOURCES

STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE

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411 West 13<sup>th</sup> Street  
Executive Office Building, 11<sup>th</sup> Floor  
P. O. Box 1748  
Austin, Texas 78767  
(512) 473-9383  
FAX (512) 708-4697

July 8, 2014

### MEMORANDUM

**TO:** Cyd Grimes, Travis County Purchasing Agent

**FROM:** Donald W. Ward, P.E., Assistant Public Works Director, TNR Road & Bridge

**SUBJECT:** Award of Contract to Pavement Restoration, Inc.

The TNR Road Maintenance Division is requesting that the Purchasing Department issue an annual contract to Pavement Restoration, Inc. for the application of the asphalt rejuvenation product "Reclamite".

TNR has researched numerous asphalt rejuvenation products and would like to continue the application of Reclamite as part of an alternative paving program approved by the Court in FY 2006. TNR has experienced very good results in asphalt pavement restoration and extended the pavement life of the roadways that have been treated with Reclamite. Approximately twenty-two miles of County roadways were treated in FY 2006, 23 miles in FY 2007, 36 miles in FY 2008, 27 miles in FY 2009, 23 miles in FY 2010, 26 miles in FY 2011, 25 miles in FY 2013, 25 miles in FY 2014 and 24 miles planned for FY2015, and TNR would like for this program to continue. The product allows the roadways that are good candidates for the application to extend their life by 7 to 12 years before structural repairs are required. This result in substantial budget savings each Fiscal Year while maintaining the roadway system to a high percentage of Good to Fair rating as mandated by the Court.

In FY 2006, Travis County advertised publicly for bids and Pavement Restoration was the sole responsive bidder. Pavement Restoration has exclusive rights to apply Reclamite within the State of Texas as provided in their contract with the manufacturer Tricor Refining, LLC. TNR has forwarded a statement relating to Pavement Restoration, Inc. contract as a Sole Source Applicator for Reclamite within the State of Texas for your review.

Please proceed with the contract to utilize Reclamite through Pavement Restoration, Inc. for our 2014-15 Alternative Paving Program. If you have any questions regarding this product, contract or correspondence please contact me at your earliest convenience.

Cc Jason Walker, Purchasing  
Morgan Cotten, TNR  
Steven Manilla, TNR  
Scott Lambert, TNR  
Cynthia McDonald, TNR

**ORDER EXEMPTING PURCHASE OF  
ASPHALT REJUVENATION PRODUCT  
FROM REQUIREMENTS OF THE COUNTY PURCHASING ACT**

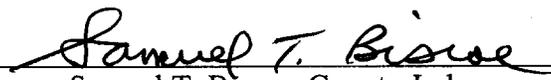
WHEREAS, the Commissioners Court of Travis County, Texas has received a sole source justification from Travis County Transportation and Natural Resources for the purchase of Reclamite Preservative Seal, an asphalt rejuvenation product, in support of the Alternative Paving Program, and

WHEREAS, based on the evidence presented, the Commissioners Court of Travis County, Texas finds there to be only one source available due to Reclamite Preservative Seal's manufacturer, Tricor Refining, LLC, having appointed Pavement Restoration, Inc. as the sole source applicator of their product in the State of Texas, and

WHEREAS, The Commissioners Court is authorized to exempt the purchase of an item or service, if only one source exists for items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies, from the bidding requirements of the County Purchasing Act, Texas Local Gov't Code Ann Section 262.023, pursuant to Texas Local Gov't Code Ann Section 262.024 (a) (7) (A), and

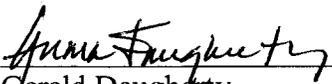
NOW THEREFORE, the Travis County Commissioners Court orders that the purchase of Reclamite Preservative Seal, from Pavement Restoration, Inc., is exempted from the bidding requirements of the County Purchasing Act, Texas Local Gov't Code Ann Section 262.024, because of the preclusion of competition due to the existence of patents, copyrights, secret processes, or monopolies.

Signed and entered this 19<sup>th</sup> day of June, 2007.

  
Samuel T. Biscoe, County Judge  
Travis County, Texas

  
\_\_\_\_\_  
Ron Davis  
Commissioner, Precinct 1

\_\_\_\_\_  
Sarah Eckhardt  
Commissioner, Precinct 2

  
\_\_\_\_\_  
Gerald Daugherty  
Commissioner, Precinct 3

\_\_\_\_\_  
Margaret Gomez  
Commissioner, Precinct 4

June 5, 2007

TO: Commissioners Court  
Travis County, Texas

SOLE SOURCE ACQUISITION OF  
ASPHALT REJUVENATION PRODUCT

I certify that the purchase of Reclamite Preservative Seal in support of the Alternative Paving Program for Travis County, constitutes a sole source procurement, and is only available through Pavement Restoration, Inc., the sole source applicator in the State of Texas, as appointed by Tricor Refining, LLC, the manufacturer of Reclamite Preservative Seal. I, therefore, find that this is a sole source purchase pursuant to V.T.C.A. Local Government Code 262.024(a)(7)(A).

This statement is submitted pursuant to V.T.C.A. Local Government Code 262.024(a) and is to be entered into the Commissioners Court minutes.



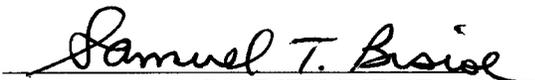
Cyd V. Grimes, C.P.M.  
Travis County Purchasing Agent

APPROVED () DISAPPROVED ()

BY COMMISSIONERS COURT ON

6-19-07

(DATE)

  
(COUNTY JUDGE)



# **CONTRACT**

for

**ASPHALT REJUVENATION PROGRAM**

**COUNTY OF TRAVIS  
STATE OF TEXAS  
Austin, Texas**

**CONTRACT NO: 4400002232**

***DRAFT***

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**SECTION 00210 - PREVAILING WAGE RATE DETERMINATION  
SITE CONSTRUCTION & BUILDING CONSTRUCTION CRAFTS**

NOTICE

The Travis County Commissioners Court has adopted the prevailing wage rates for Travis County as determined by the United States Department of Labor in accordance with the Davis –Bacon Act and its subsequent amendments. The prevailing wage rates for this project are those rates set forth for Travis County in the U.S. Department of Labor General Decisions for:

**(1) Building Construction Projects and**

**(2) Highway Construction Projects.**

**Copies of the U.S. Department of Labor General Decisions referenced above are included in this Contract.**

This determination of prevailing wages will not be construed to prohibit the payment of more than the rate named. Under no condition shall any laborer, workman, or mechanic employed on this job be paid less than the minimum wage scale.

Travis County encourages bidders to pay all laborers, workmen, and mechanics employed on this job no less than the living wage as established by Travis County at the time of contract award, even if the living wage exceeds the wages set forth in the minimum wage scale.

The Contractor must comply with all applicable state and federal laws, including, but not limited to, laws concerned with labor, equal employment opportunity, safety, and minimum wage. The Contractor must post the applicable Prevailing Wage Rate Determination in a prominent, easily accessible place at the work site. To ensure that the Contractor, and/or subcontractors are paying the posted specified rates (including fringe benefits when applicable) to all classifications of workmen, mechanics, and laborers, the County reserves the right to perform “spot labor interviews” and examine Contractor payroll information.

Pursuant to Chapter 2258 of the Texas Government Code:

1. A worker employed on a public work by or on behalf of the County shall be paid:
  - (a) not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and
  - (b) not less than the general prevailing rate of per diem wages for legal holiday and overtime work. NOTE: This Paragraph Number 1 does not apply to maintenance work.
2. A worker is employed on a public work for the purposes of Paragraph Number 1 if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with the County or any officer or department of the County.
3. The contractor who is awarded a contract by the County or a subcontractor of the contractor shall pay not less than the rates (plus fringe benefits when applicable) as listed in the U.S. Department of Labor General Decisions referenced above to a worker employed by the contractor to work on the project.
4. A contractor or subcontractor who violates this section shall pay to the County \$60.00 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates set forth in the U.S. Department of Labor General Decisions referenced above. The County shall use any money collected pursuant to this section to offset the cost incurred in the administration of the requirements of Chapter 2258.
5. The County will take notice of complaints of all violations of this chapter committed in the execution of the contract and withhold money forfeited or required to be withheld under Chapter 2258 from the payments to the contractor under the contract, except that the County may not withhold money from other than the final payment without a determination by the County that there is good cause to believe that the contractor has violated this chapter.

ATTACHMENT 1

# **IMPORTANT INFORMATION**



**YOU CAN DIRECT ANY WAGE DISPUTES OR QUESTIONS TO:**

**TRAVIS COUNTY PURCHASING OFFICE  
700 LAVACA STREET, SUITE 800  
AUSTIN, TEXAS 78701  
512-854-9700**

***Pursuant to Section 2258.023(a) of the Government Code, “The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.”***

ATTACHMENT 2

# **INFORMACION IMPORTANTE**



**TU PUEDES DISCUTIR O PREGUNTAR DE TU SALARIO DIRECTAMENTE CON:**

**OFICINA DE COMPRAS DE TRAVIS COUNTY  
700 LAVACA STREET, SUITE 800  
AUSTIN, TEXAS 78701  
512-854-9700**

***De acuerdo con la seccion 2258.023(a) delCodigo del Gobierno, “El contratista al que le fue adjudicado un contrato por el Gobierno, o su subcontratista, debaran pagar a un trabajador contratado, no menos que las tarifas determinadas bajo la seccion 2258.022, para la ejecucion del contrato.”***

ATTACHEMT 3

**HOURLY WAGE RATES FOR BUILDING CONSTRUCTION CRAFTS EMPLOYED IN CURRENT COUNTY BUILDING PROJECTS. (U.S. Department of Labor General Decision No. TX140017 06/20/2014 TX17 Follows):**

Date: June 20, 2014  
 General Decision Number **TX140017 6/20/2014**

Superseded General Decision No.. TX20130017

State: TEXAS

Construction Type: BUILDING

County: TRAVIS COUNTY IN TEXAS.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving & utilities incidental to building construction).

Modification Number	Publication Date
0	01/03/2014
1	03/07/2014
2	06/06/2014
3	06/20/2014

• CARP1266-001 10/18/2012

	Rates	Fringes
Carpenters: Carpenters (All other work Including Acoustical Installation and Drywall Framing/Hanging, Including Metal Studs).....	\$ 20.25	7.15
Millwrights.....	\$ 20.56	7.15

-----  
 ELEC0520-001 10/21/2013

	Rates	Fringes
ELECTRICIANS (Including Low Voltage Wiring for Computers, Fire/Smoke Alarms and Telephones)	26.75	11%+4.89

-----  
 ELEV0133-001 01/01/2013

	Rates	Fringes
ELEVATOR MECHANICS	36.21	25.185+a

Footnote: A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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 IRON0482-004 06/01/2013

	Rates	Fringes
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IRONWORKERS - STRUCTURAL (Excluding Metal Building Erection)	20.40	5.70
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PAIN1778-001 06/01/2013		
	Rates	Fringes
GLAZIERS	18.37	6.53
-----		
PLUM0286-001 06/01/2013		
	Rates	Fringes
PIPEFITTER (Including HVAC Work)	27.03	10.40
PLUMBER (Excluding HVAC Work)	27.03	10.40
-----		
SHEE0067-003 07/06/2009		
	Rates	Fringes
SHEET METAL WORKER		
(Including HVAC Duct Work)	24.30	10.18
-----		
SUTX1997-001 02/24/1997		
	Rates	Fringes
BRICKLAYER (Excluding Caulking and Waterproofing)	13.25	
CARPENTER (Formbuilding Only)	13.20	
CAULKER	13.05	
CEMENT MASON/CONCRETE FINISHER	10.22	
FLOOR LAYER: CARPET (SOFT) FLOOR	10.00	
HVAC MECHANIC (Excluding Duct or Pipe Work)	11.83	1.14
IRONWORKERS: Reinforcing	10.00	
LABORERS: Brick Tender	8.00	
Common	7.57	
PAINTERS: Brush	10.06	.31
Drywall Finishing	9.00	
Spray	9.70	.19
POWER EQUIPMENT OPERATOR: Backhoe	11.11	1.92
Crane	12.50	2.03
Front End Loader	11.33	
SPRINKLER FITTER	14.00	
TILE SETTER FINISHER	10.00	
TILE SETTER	13.00	1.55
TRUCK DRIVER (Lowboy)	8.00	

WATERPROOFER

12.13

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

=====  
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)).

=====  
In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.  
=====

**END OF GENERAL DECISION**

**HOURLY WAGE RATES FOR SITE CONSTRUCTION CRAFTS (DETERMINED TO BE FIVE [5] FEET BEYOND THE BUILDING, EXTENDING TO THE PROPERTY BOUNDARY) EMPLOYED IN CURRENT COUNTY BUILDING PROJECTS. (U.S. Department of Labor General Decision No. TX140016 01/03/2014 TX16 Follows):**

Date: January 3, 2014

General Decision Number **TX140016** 1/03/2014

Superseded General Decision No. TX20130016

State: TEXAS

Construction Type: HEAVY and HIGHWAY

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

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

Modification Number                      Publication Date  
0    01/03/2014

SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER Paving & Curb.....	\$ 12.94	
Structures.....	\$ 12.87	
LABORER		
Asphalt Raker.....	\$ 12.12	
Flagger.....	\$ 9.45	
Laborer, Common.....	\$ 10.50	
Laborer, Utility.....	\$ 12.27	
Pipelayer.....	\$ 12.79	
Work Zone Barricade Servicer.....	\$ 11.85	
PAINTER (Structures).....	\$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor.....	\$ 12.69	
Asphalt Distributor.....	\$ 15.55	
Asphalt Paving Machine.....	\$ 14.36	
Boom Truck.....	\$ 18.36	
Broom or Sweeper.....	\$ 11.04	
Concrete Pavement Finishing Machine.....	\$ 15.48	
Crane, Hydraulic 80 tons or less.....	\$ 18.36	
Crane, Lattice Boom 80 tons or less.....	\$ 15.87	

Crane, Lattice Boom over 80 tons.....	\$ 19.38
Crawler Tractor.....	\$ 15.67
Directional Drilling Locator.....	\$ 11.67
Directional Drilling Operator.....	\$ 17.24
Excavator 50,000 lbs or Less.....	\$ 12.88
Excavator over 50,000 lbs...	\$ 17.71
Foundation Drill, Truck Mounted.....	\$ 16.93
Front End Loader, 3 CY or Less.....	\$ 13.04
Front End Loader, Over 3 CY.	\$ 13.21
Loader/Backhoe.....	\$ 14.12
Mechanic.....	\$ 17.10
Milling Machine.....	\$ 14.18
Motor Grader, Fine Grade....	\$ 18.51
Motor Grader, Rough.....	\$ 14.63
Pavement Marking Machine....	\$ 19.17
Reclaimer/Pulverizer.....	\$ 12.88
Roller, Asphalt.....	\$ 12.78
Roller, Other.....	\$ 10.50
Scraper.....	\$ 12.27
Spreader Box.....	\$ 14.04
Trenching Machine, Heavy....	\$ 18.48
 Servicer.....	 \$ 14.51
 Steel Worker	
Reinforcing.....	\$ 14.00
Structural.....	\$ 19.29
 TRAFFIC SIGNAL INSTALLER	
Traffic Signal/Light Pole Worker.....	\$ 16.00
 TRUCK DRIVER	
Lowboy-Float.....	\$ 15.66
Off Road Hauler.....	\$ 11.88
Single Axle.....	\$ 11.79
Single or Tandem Axle Dump Truck.....	\$ 11.68
Tandem Axle Tractor w/Semi Trailer.....	\$ 12.81
 WELDER.....	 \$ 15.97

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

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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)).

=====

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

=====

**END OF GENERAL DECISION**

**SECTION 00220 - WORKERS' COMPENSATION INSURANCE COVERAGE**

The Texas Department of Insurance, Division of Workers' Compensation ("TDIDWC") has adopted Rule 110.110. Rule 110.110 applies to all building and construction contracts advertised for bid by a governmental entity on or after September 1, 1994. **Rule 110.100, and any amendments thereto, affects your bid on this project.**

Rule 110.110 is designed to achieve compliance from contractors, subcontractors, and governmental entities regarding workers' compensation insurance coverage. **This affects contractors, subcontractors, and the County on this project.**

Providing false or misleading certificates of coverage, failing to provide or maintain required coverage, or failing to report any change that materially affects the coverage may subject the contractor(s) or other persons providing services on this project to administrative penalties, criminal penalties, civil penalties, or other civil actions. **This affects contractors and subcontractors.**

Therefore, the attached is provided in accordance with the requirements on governmental entities as set forth in Title 28, Part 2, Section 110.110(c) of the Texas Administrative Code. Please read this carefully and prepare your bid in full compliance with TDIDWC Rule 110.110. Failure to provide the required certificates upon submission of a bid could result in your bid being declared non-responsive.

We do not believe that Rule 110.110 creates any additional duties or burdens on anyone which Texas workers' compensation laws, rules, and regulations have not already established. **Therefore, the County should not experience any increase in cost because of the need to comply with all Texas workers' compensation laws, rules, and regulations.**

Cyd V. Grimes, C.P.M., CPPO  
County Purchasing Agent

Additional questions may be addressed to the Texas Department of Insurance, Division of Workers' Compensation Central Office, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1609, (512) 804-4000.

## TWCC RULE 110.110 WORKERS' COMPENSATION INSURANCE COVERAGE

### A. Definitions:

1. "Certificate of Coverage" - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the TWCC, 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 the project, and valid for the duration of the project.
2. "Duration of the Project" - Includes the time from commencement of the Contractor's work on the project until completion and acceptance of such work by the governmental entity.
3. "Persons/employees providing services on the project" and/or "Subcontractor" (as used in Section 406.096 of the Texas Labor Code) - 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 term 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 the 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 code and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of the 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 the 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 (7) calendar days after receipt by the Contractor, a new Certificate of Coverage showing extension of coverage, if the coverage period shown on the current certificate 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 governmental entity in writing by certified mail or personal delivery, within ten (10) calendar 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 TWCC, 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:
    - 4.1 A Certificate of Coverage, prior to the other person beginning work on the project;
    - 4.2 A new Certificate of Coverage showing an extension of coverage, if the coverage period shown on the current certificate 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 governmental entity in writing by certified mail or personal delivery, within ten (10) calendar 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 I.1.- I-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 self-insured persons or entities, with the TWCC'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 with ten (10) calendar days after receipt of notice of breach from the governmental entity.

**SECTION 00230**  
**CONFLICT OF INTEREST QUESTIONNAIRE**

If required under Chapter 176 Texas Local Government Code, Contractor must file a completed Conflict of Interest Questionnaire in accordance with the requirements of that Chapter. Within the applicable, authorized time period prescribed in Chapter 176, Contractor must file the completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751. Contractor must file an updated, completed questionnaire with the Travis County Clerk not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. The Contractor should note that the law requires that the County provide access to a filed Questionnaire on the official Travis County Internet website. However, the law does not require that the County release information which is excepted from disclosure under the Texas Public Information Act. As between County and Contractor, Contractor is solely responsible for the preparation of its Conflict of Interest Questionnaire, the accuracy and completeness of the content contained therein, and ensuring compliance with all applicable requirements of Chapter 176, Local Government Code.

## SECTION 00240 – FORFEITURE OF CONTRACT

Contractor shall forfeit all benefits of the Contract and County shall retain all performance by Contractor and recover all consideration or the value of all consideration paid to Contractor pursuant to this Contract if:

Contractor was doing business at the time of executing the Contract or had done business during the 365-day period immediately prior to the date on which Contractor executed the Contract with one or more Key Contracting Person listed in Exhibit A to Attachment 1 (Ethics Affidavit) if Contractor has not disclosed the name of the Key Contracting Person in the space provided in Exhibit A;

-or-

Contractor does business with any Key Contracting Person after the date on which Contractor executes the Contract and prior to full performance of the Contract and fails to disclose the name of that Key Contracting Person in writing to each member of the Commissioners Court, the Purchasing Agent, and to the County Clerk within ten (10) days after commencing business with that Key Contracting Person.

### Definition of “was doing/does business”:

- (i) “Was doing business” and “does business” mean:
- (ii) paying or receiving in any calendar year any money or valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for the purchase of any property or property interest, either real or personal, either legal or equitable; or,
- (iii) loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;

but does not include

- (iv) any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the public,
- (v) any financial services product sold to a Key Contracting Person for personal, family or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by Contractor in the ordinary course of its business; and
- (vi) a transaction for a financial service or insurance coverage made on behalf of Contractor if Contractor is a national or multinational corporation by an agent, employee, or other representative of Contractor who does not know and is not in a position that he or she should have known about the Contract.

**ATTACHMENT 1- ETHICS AFFIDAVIT**

STATE OF TEXAS  
COUNTY OF TRAVIS

ETHICS AFFIDAVIT

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

Name of Affiant: \_\_\_\_\_

Title of Affiant: \_\_\_\_\_

Business Name of Contractor: \_\_\_\_\_

County of Contractor: \_\_\_\_\_

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by Contractor to make this Affidavit for Contractor.
2. Affiant is fully aware of the facts stated in this Affidavit.
3. Affiant can read the English language.
4. Contractor has received the list of Key Contracting Persons associated with this Contract which is attached to this Affidavit as Exhibit "A".
5. Affiant has personally read Exhibit "A" to this Affidavit.
6. Affiant has no knowledge of any Key Contracting Person on Exhibit "A" with whom Contractor is doing business or has done business during the 365 calendar day period immediately before the date of this Affidavit.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_

\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN TO before me by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of notary

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

**EXHIBIT A to Attachment 1**  
**LIST OF KEY CONTRACTING PERSONS**  
**August 4, 2014**

**CURRENT**

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Name of Business Individual is Associated</u>
County Judge .....	Samuel T. Biscoe	
County Judge (Spouse) .....	Donalyn Thompson-Biscoe	
Executive Assistant .....	Cheryl Brown	
Executive Assistant .....	Melissa Velasquez	
Executive Assistant .....	Josie Z. Zavala	
Executive Assistant .....	David Salazar	
Commissioner, Precinct 1 .....	Ron Davis	
Commissioner, Precinct 1 (Spouse) .....	Annie Davis	Seton Hospital
Executive Assistant .....	Deone Wilhite	
Executive Assistant .....	Felicitas Chavez	
Executive Assistant .....	Sue Spears	
Commissioner, Precinct 2 .....	Bruce Todd	
Commissioner, Precinct 2 (Spouse) .....	Elizabeth Christian	Consultant
Executive Assistant .....	Sara Krause*	
Executive Assistant .....	Joe Hon	
Executive Assistant .....	Peter Einhorn	
Commissioner, Precinct 3 .....	Gerald Daugherty*	
Commissioner, Precinct 3 (Spouse) .....	CharylN Daugherty	Consultant
Executive Assistant .....	Bob Moore*	
Executive Assistant .....	Martin Zamzow*	
Executive Assistant .....	Madison A. Gessner*	
Commissioner, Precinct 4 .....	Margaret Gomez	
Executive Assistant .....	Edith Moreida	
Executive Assistant .....	Norma Guerra	
County Treasurer .....	Dolores Ortega-Carter	
County Auditor .....	Nicki Riley	
County Executive, Administrative .....	Vacant	
Interim County Executive, Planning & Budget .....	Leroy Nellis*	
County Executive, Emergency Services .....	Danny Hobby	
County Executive, Health/Human Services .....	Sherri E. Fleming	
County Executive, TNR .....	Steven M. Manilla, P.E.	
County Executive, Justice & Public Safety .....	Roger Jefferies	
Director, Facilities Management .....	Roger El Khoury, M.S., P.E.	
Chief Information Officer .....	Tanya Acevedo	
Director, Records Mgmt & Communications .....	Steven Broberg	
Travis County Attorney .....	David Escamilla	
First Assistant County Attorney .....	Steve Capelle	
Executive Assistant, County Attorney .....	James Collins	
Director, Land Use Division .....	Tom Nuckols	
Attorney, Land Use Division .....	Julie Joe	
Attorney, Land Use Division .....	Christopher Gilmore	
Director, Transactions Division .....	John Hille	
Attorney, Transactions Division .....	Daniel Bradford	
Attorney, Transactions Division .....	Elizabeth Winn	
Attorney, Transactions Division .....	Mary Etta Gerhardt	
Attorney, Transactions Division .....	Barbara Wilson	
Attorney, Transactions Division .....	Jennifer Kraber*	
Attorney, Transactions Division .....	Tenley Aldredge	
Director, Health Services Division .....	Beth Devery	
Attorney, Health Services Division .....	Prema Gregerson	
Purchasing Agent .....	Cyd Grimes, C.P.M., CPPO	
Assistant Purchasing Agent .....	Elaine Casas, J.D.*	

Assistant Purchasing Agent .....Marvin Brice, CPPB  
 Assistant Purchasing Agent .....Bonnie Floyd, CPPO, CPPB  
 Purchasing Agent Assistant IV .....CW Bruner, CTP, CPPB  
 Purchasing Agent Assistant IV .....Lee Perry  
 Purchasing Agent Assistant IV .....Jason Walker  
 Purchasing Agent Assistant IV .....Richard Villareal  
 Purchasing Agent Assistant IV .....Patrick Strittmatter, CPPB  
 Purchasing Agent Assistant IV .....Lori Clyde, CPPO, CPPB  
 Purchasing Agent Assistant IV .....Scott Wilson, CPPB  
 Purchasing Agent Assistant IV .....Jorge Talavera, CPPO, CPPB  
 Purchasing Agent Assistant IV .....Loren Breland, CPPB  
 Purchasing Agent Assistant IV .....John E. Pena, CTPM, CPPB  
 Purchasing Agent Assistant IV .....Angel Gomez  
 Purchasing Agent Assistant IV .....Jesse Herrera, CPPB, CTPM, CTCM, CTP  
 Purchasing Agent Assistant III .....Shannon Pleasant, CTPM  
 Purchasing Agent Assistant III .....David Walch  
 Purchasing Agent Assistant III .....Michael Long, CPPB  
 Purchasing Agent Assistant III .....Sydney Ceder  
 Purchasing Agent Assistant III .....Ruena Victorino  
 Purchasing Agent Assistant III .....Rachel Fishback  
 Purchasing Agent Assistant II.....L. Wade Laursen  
 Purchasing Agent Assistant II.....Sam Francis  
 HUB Coordinator.....Sylvia Lopez  
 HUB Specialist .....Betty Chapa  
 HUB Specialist .....Jerome Guerrero  
 Purchasing Business Analyst .....Scott Worthington  
 Purchasing Business Analyst .....Rosalinda Garcia  
 TNR ... .....Don Ward

#### FORMER EMPLOYEES

Position Held	Name of Individual Holding Office/Position	Date of Expiration
Purchasing Agent Assistant III .....	Shannon Pleasant .....	08/22/15
Purchasing Business Analyst .....	Jennifer Francis .....	11/29/14
Executive Assistant.....	Barbara Smith ....	01/15/15
Attorney, Transactions Division.....	Jim Connolly .....	02/28/15
County Executive, Planning & Budget.....	Leslie Browder... ..	03/31/15

\* - Identifies employees who have been in that position less than a year.

**SECTION 00300  
CONTRACTOR'S PROPOSAL**

**Travis County reserves the right to award a contract or contracts to the lowest responsive bidder or bidders, the entire program or portions of the program, or to award no contract at all, at the discretion of the Travis County Commissioners Court.**

Bid Item	Spec. Item	Estimated Bid Quantity	Unit	Tech Spec	Description with Unit Price in words	Unit Price	Total Item Amount
1	Special Spec	N/A	SY		Application of Asphalt rejuvenating agent, including sand application, sweeping, traffic control, materials, equipment, and labor, complete, for _____ Dollars and _____ Cents per square yard.	\$ _____	\$ <u>N/A</u>

Note: Following listed Abbreviations used for proposed units:

- |   |                  |                   |                                   |
|---|------------------|-------------------|-----------------------------------|
| CY = Cubic Yard   | LF = Linear Foot | STA = Stations    | EACH = Each item or unit          |
| AC = Acre   | EA = Each        | SY = Square Yards | HMAC = Hot Mix Asphaltic Concrete |
| GAL = Gallon  | LS = Lump Sum    | LBS = Pounds      |                                   |
| TONS = Tons   | SF = Square Feet | MO = Month        |                                   |
| TC = TxDOT MUTCD Work Zone Traffic Control, including impact compliance |                  |                   |                                   |

**CERTIFICATE OF SECRETARY**

I CERTIFY that:

I am the duly qualified and acting Secretary of \_\_\_\_\_, a duly organized and existing

corporation of the State of \_\_\_\_\_  
[Name of State]

The following is a true copy of a Resolution duly adopted by the Board of Directors of such corporation in a meeting legally held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and entered in the minutes of such meeting in the minute book of the Corporation.

RESOLVED, that this corporation enter and that \_\_\_\_\_ [Insert Name of Person Executing Contract], the \_\_\_\_\_ [Position With Corporation] of this corporation, is authorized and directed to execute on behalf of and as the act of this corporation the Contract for the Travis County \_\_\_\_\_ together with all associated documents. The Secretary is directed to attach a copy of the Contract Documents to the minutes of this meeting and to make them a part of the corporate records.

The above Resolution is in conformity with the Articles of Incorporation and the Bylaws of the Corporation has never been modified or repealed and is now in full force and effect.

Date \_\_\_\_\_

Secretary \_\_\_\_\_

President \_\_\_\_\_

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_ as Principal (the "Principal"), and the other undersigned as Surety, are held and firmly bound to Travis County, Texas in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States, well and truly to be paid to Travis County, Texas, and we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by this document.

Whereas, the above-bound Principal has entered into a contract with Travis County, Texas, for the purpose of \_\_\_\_\_, which is attached to this performance bond, and whereas, pursuant to TEX. GOV'T CODE ANN., Ch. 2253 Principal is required before commencing the work provided for in that contract to execute a bond in the amount of that contract.

The condition of this obligation is that if the above bound-Principal, his or its heirs, successors, executors, and administrators shall well and faithfully do and perform each and every obligation required in the contract, in accordance with the Plans, Specifications, and Contract Documents, including warranties as provided for in the attached Contract, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Witness our hands this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

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

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

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

\*Note: If signed by an officer of the Surety Company, there must be on file a certified extract from the By-laws showing that this person has authority to sign such obligations. If signed by an Attorney-in-Fact, the Travis County Purchasing Office must have a copy of the Power of Attorney in its files.

Surety Company Notice of Claim Information:

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

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

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

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

Bond Number: \_\_\_\_\_

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_ as Principal (the "Principal"), and the other undersigned as Surety, are held and firmly bound to Travis County, Texas in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States, well and truly to be paid to Travis County, Texas, and we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by this document.

Whereas, the above bound Principal has entered into a Contract with Travis County, Texas, for the purpose of \_\_\_\_\_, which is attached to this Payment Bond, and whereas, pursuant to TEX. GOV'T CODE ANN., Ch. 2253 Principal is required before commencing the work provided for in that Contract to execute a Bond in the amount of that Contract solely for the protection of all claimants supplying labor and materials as defined by law, in the prosecution of the work provided for in that Contract, for the use of each such claimant.

The condition of this obligation is that if the above-bound Principal, his or its heirs, successors, executors, and administrators must well and faithfully make payments to each and every claimant as defined by law, supplying labor and materials as defined by law, in the prosecution of the work provided for in the attached Contract, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Witness our hands this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

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

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

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

\*Note: If signed by an officer of the Surety Company, there must be on file a certified extract from the By-laws showing that this person has authority to sign such obligation. If signed by an Attorney-in-Fact, the Travis County Purchasing Office must have a copy of the Power of Attorney in its files.

Surety Company Notice of Claim Information:

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

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

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

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

Bond Number: \_\_\_\_\_

**SAFETY RECORD QUESTIONNAIRE**  
**PART A – SAFETY RECORD QUESTIONNAIRE FOR PRIME CONTRACTOR**  
*(Part A must be submitted by prime contractor with bid.)*

The Travis County Commissioners Court desires to avail itself of the benefits of Section 271.0275 of the Local Government Code, and thereby consider the safety records of potential contractors prior to awarding bids on County contracts. Pursuant to Section 271.0275 of the Local Government Code, Travis County has adopted the following written definition and criteria for accurately determining the safety record of a bidder prior to awarding bids on County contracts.

The definition and criteria for determining the safety record of a bidder for this consideration shall be:

If the bidder in response to the questions in this Questionnaire reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the bidder for serious violations of OSHA regulations within the past three (3) years, County will, at its discretion, determine whether to disqualify the bidder.

If the bidder in response to the questions in this Questionnaire reveals more than one (1) case in which bidder has received a citation from an environmental protection agency for violations within the past five (5) years, County will, at its discretion, determine whether to disqualify the bidder. Environmental Protection Agencies include the U.S. Army Corps of Engineer (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), and its past associated agency: the Texas Natural Resource Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

If the bidder in response to the questions in this Questionnaire reveals that the bidder has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, County will determine whether to disqualify the bidder.

In order to obtain proper information from bidders so that Travis County may consider the safety records of potential contractors prior to awarding bids on County contracts, Travis County requires that bidders answer the following three (3) questions and submit them with their bids:

**QUESTION ONE**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the bidder has indicated YES for question number one above, the bidder must provide to Travis County, with its bid submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and

penalty assessed.

**QUESTION TWO**

Has the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations with the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ’s regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

YES \_\_\_\_\_ NO \_\_\_\_\_

If the bidder has indicated YES for question number two above, the bidder must provide to Travis County, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

**QUESTION THREE**

Has the bidder, or the firm, corporation, partnership, or institution represented by bidder, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the bidder has indicated YES for question number three above, the bidder must provide to Travis County, with its bid submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, in any, and penalty assessed.

On all projects having an estimated construction budget range of One Million Dollars (\$1,000,000) or higher, it is the sole responsibility and obligation of the bidder to ensure that all subcontractors performing any part of the work on this project disclose to the bidder their safety records. The bidder may fulfill this obligation by distributing the “Safety Record Questionnaire for Subcontractors” form included in this solicitation as Part B of this form to all subcontractors and verifying to County that the forms have been completed and returned to the bidder. All safety records are subject to County’s review upon request.

ACKNOWLEDGEMENT

THE STATE OF TEXAS  
COUNTY OF TRAVIS

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**PART B - SAFETY RECORD QUESTIONNAIRE FOR SUBCONTRACTORS**

***(Part B must be submitted by all subcontractors to the prime contractor with their bids. Prime contractor is NOT required to submit this Part B with their bid.)***

The Travis County Commissioners Court desires to avail itself of the benefits of Section 271.0275 of the Local Government Code, and thereby consider the safety records of potential subcontractors prior to awarding bids on County contracts. Pursuant to Section 271.0275 of the Local Government Code, Travis County has adopted the following written definition and criteria for accurately determining the safety record of a subcontractor prior to awarding bids on County contracts.

The definition and criteria for determining the safety record of a subcontractor for this consideration shall be:

If the subcontractor in response to the questions in this Questionnaire reveals more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (OSHRC) against the subcontractor for serious violations of OSHA regulations within the past three (3) years, the prime contractor and Travis County will jointly determine whether to disqualify the subcontractor; provided, however, that if the prime contractor and Travis County disagree on this determination, Travis County's determination will prevail.

If the subcontractor in response to the questions in this Questionnaire reveals more than one (1) case in which subcontractor has received a citation from an environmental protection agency for violations within the past five (5) years, County will, at its discretion, determine whether to disqualify the subcontractor. Environmental Protection Agencies include the U.S. Army Corps of Engineer (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), and its past associated agency: the Texas Natural Resource Conservation Commission (TNRCC), the Texas Department of Health, the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

If the subcontractor in response to the questions in this Questionnaire reveals that the subcontractor has been convicted of a criminal offense within the past ten (10) years which resulted in serious bodily harm or death, the prime contractor and Travis County will jointly determine whether to disqualify the subcontractor; provided, however, that if the prime contractor and Travis County disagree on this determination, Travis County's determination will prevail.

In order to obtain proper information from subcontractors so that Travis County may consider the safety records of potential subcontractors prior to awarding bids on County contracts, Travis County requires that subcontractor answer the following three (3) questions and submit them with their bids to the prime contractor or a higher-tier subcontractor:

**QUESTION ONE**

Has the subcontractor, or the firm, corporation, partnership, or institution represented by the subcontractor, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the subcontractor has indicated YES for question number one above, the subcontractor must provide, with its bid submission to the prime contractor or a higher-tier subcontractor, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and penalty assessed.

### **QUESTION TWO**

Has the subcontractor, or the firm, corporation, partnership, or institution represented by the subcontractor, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations with the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, judicial final judgments. Notice of Violations and Notice of Enforcement received from TCEQ shall include those classified as major violations and moderate violations under TCEQ's regulations for documentation of Compliance History, 30TAC, Chapter 60.2 (c) (1) and (2).

YES \_\_\_\_\_ NO \_\_\_\_\_

If the subcontractor has indicated YES for question number two above, the subcontractor must provide, with its bid submission to the prime contractor or a higher-tier subcontractor, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

### **QUESTION THREE**

Has the subcontractor, or the firm, corporation, partnership, or institution represented by subcontractor, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the subcontractor has indicated YES for question number three above, the subcontractor must provide, with its bid submission to the prime contractor or a higher-tier subcontractor, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, in any, and penalty assessed.

On all projects having an estimated construction budget range of One Million Dollars (\$1,000,000) or higher, it is the sole responsibility and obligation of the subcontractor to ensure that its subcontractors performing any part of the work on this project disclose to the subcontractor their safety records, and to submit those records

to the prime contractor. The subcontractor may fulfill this obligation by distributing the "Safety Record Questionnaire for Subcontractors" form included in this solicitation to all its subcontractors and verifying to the prime contractor that the forms have been completed and returned to the prime contractor. All safety records are subject to County's review upon request.

ACKNOWLEDGEMENT

THE STATE OF TEXAS

COUNTY OF TRAVIS

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

---

Signature

---

Title

**SECTION - 00500**  
**AGREEMENT FOR CONSTRUCTION SERVICES**  
**CONTRACT NO. 440000xxxx**

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

This Agreement is made and entered into this day by and between Travis County, Texas, hereinafter referred to as the "County" and Pavement Restoration, Inc., hereinafter referred to as the "Contractor" and is binding upon their respective executors, administrators, heirs, successors, and assigns;

WHEREAS, the County desires to enter into a contract for the Asphalt Rejuvenation Program in Travis County, Texas, in accordance with the provisions of the state statutes and conforming to the Contractor's Notice of Construction, Contract Proposal, and Specifications, all of which are incorporated herein;

WHEREAS, the Contractor has been engaged in and now does comparable work and represents that it is fully equipped, competent and capable of performing the above-desired and outlined work, and is ready and willing to perform such work in accordance with all provisions of the above-mentioned Specifications and marked Asphalt Rejuvenation Program.

NOW THEREFORE, in consideration of the County's promise to pay the amount below as totaled in the Contract Proposal hereto attached and made part of this Contract, the Contractor agrees to do at its own proper cost and expense all the work necessary for the Asphalt Rejuvenation Program in Travis County, Texas, in accordance with the provisions of the aforementioned Contractor's Notice of Construction, the Contract Proposal as awarded by the Commissioner's Court, and the Specifications to the satisfaction of the County Executive of the Transportation and Natural Resources Department of Travis County, Texas.

This contract document, the Contractor's Notice of Construction, the Contract Proposal, and the Specifications represent the entire and integrated contract between the County and the Contractor and supersede all prior negotiations, representations, or agreements, either oral or written. This Contract may be amended only by written instrument signed by both the County and the Contractor.

The term of the contract is for a twelve-month period commencing upon award by the Travis County Commissioners Court.

County may unilaterally extend this contract for (i) two additional one-year periods and (ii) three additional one-month periods (individually, an "Option to Extend" and collectively, the "Options to Extend"), and all provisions of this contract, except for term and price, will remain unchanged and in full force and effect. County will exercise an Option to Extend no sooner than 90 days prior to expiration of the then current term. The total term of this contract, including the Options to Extend, will not exceed 39 months. County has the right to exercise all or a portion of the Options to Extend in any combination it deems necessary.

For and in consideration of the Contractor's performance of the Work, County will pay the Contractor, in the manner provided for in Item 9 of Section 00700 of the General Conditions, on an "as-needed basis" based on the following Unit Price: **\$\_\_\_\_\_ per Square Yard.**

Unit prices must remain firm for the period of the contract and must not include federal or state sales, excise, or use taxes. The unit prices offered will also remain firm for the option years, should County choose to exercise the option to renew, except for changes

that are industry-wide and beyond the control of the contractor. **No unit price changes will be allowed during the initial twelve (12) month term of the contract.** *If contractor does submit request for such changes after the initial twelve (12) month term, it will be the responsibility of the Contractor to provide documentation to County substantiating the changes to the unit prices. Any price changes must be approved by County.*

An estimate will be required for each job when requested by County. Within five working days after notification, Contractor must provide a complete estimate, including pricing according to the Unit Price as stated in Section 00300 Contractor's Proposal and Specifications. The estimate must also include the number of working days required to complete the job. The Contractor further agrees to be available for work within ten working days after receipt of "Notice to Proceed".

Concurrently with the parties' execution of each job, the Contractor must furnish to the County (i) a payment bond in the full amount of the job if such amount is in excess of \$25,000.00 and (ii) a performance bond in the full amount of the job if such amount is in excess of \$100,000.00. Such bonds must be executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas. The Contractor must also furnish to the County the certificate of insurance naming the County as an additional insured and showing coverages in accordance with Section 00700 General Requirements, Item 7, 7.4 Insurance.

This contract will be construed according to the laws of the State of Texas. The performance of this Contract will be in Travis County, and venue for any action will lie in Travis County, Texas. The Contractor warrants that the completed project will be adequate for the purposes intended.

Notwithstanding anything to the contrary herein, if Contractor is delinquent in payment of taxes at the time of invoicing, Contractor hereby assigns any payments to be made for service rendered under this Contract to the Travis County Tax Assessor-Collector for the payment of said delinquent taxes.

NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESSED OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT OF THE COUNTY.

The forfeiture provisions of the contract imposed pursuant to the Travis County Ethics Policy may be waived in whole or in part by the Travis County Commissioners Court.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, YEAR \_\_\_\_\_.

TRAVIS COUNTY, TEXAS

**DRAFT**

APPROVED AS TO FORM:

\_\_\_\_\_  
TRAVIS COUNTY ATTORNEY

CERTIFIED FUNDS ARE AVAILABLE

\_\_\_\_\_  
COUNTY AUDITOR, TRAVIS COUNTY

Pavement Restoration, Inc.

CONTRACTOR

BY: \_\_\_\_\_

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
COUNTY PURCHASING AGENT

**SECTION 00700 - GENERAL CONDITIONS****ITEM 1**

- 1.01 Definitions - Wherever in these specifications or other contract documents, the following terms, abbreviations, or pronouns are used, the intent and meaning will be interpreted as follows:

Abbreviations

<b>AAN</b>	American Association of Nurserymen
<b>AASHTO</b>	American Association of State Highway and Transportation Officials
<b>AITC</b>	American Institute of Timber Construction
<b>ANSI</b>	American National Standards Institute
<b>API</b>	American Petroleum Institute
<b>AREA</b>	American Railroad Engineers Association
<b>ASTM</b>	American Society for Testing Materials
<b>AWG</b>	American Wire Gage
<b>AWPA</b>	American Wood Preservers Association
<b>AWPB</b>	American Wood Preservers Bureau
<b>AWPI</b>	American Wood Preservers Institute
<b>AWS</b>	American Welding Society
<b>DFPA</b>	Douglas Fir Plywood Association
<b>IES</b>	Illuminating Engineering Society
<b>IMSA</b>	International Municipal Signal Association
<b>ITE</b>	Institute of Transportation Engineers
<b>NBFU</b>	National Board of Fire Underwriters
<b>NEC</b>	National Electrical Code (Published By NBFU)
<b>NEMA</b>	National Electrical Manufacturers Association
<b>NFPA</b>	National Forest Products Association
<b>SFPA</b>	Southern Forest Products Association
<b>SPIB</b>	Southern Pine Inspection Bureau
<b>TMUTCD</b>	TX Manual on Uniform Traffic Control Devices for Streets and Highways
<b>TXDOT</b>	Texas Department of Transportation
<b>TCEQ</b>	Texas Commission on Environmental Quality
<b>UL</b>	Underwriters Laboratory, Inc.
<b>WWPA</b>	Western Wood Products Association

1.02 Bid Guaranty

The security designated in the proposal and furnished by the Bidder as a guaranty that the Bidder will enter into a contract if awarded the work.

1.03 Bidder

An individual, firm, corporation or any combination thereof submitting a bid.

1.04 Certificate of Insurance

Proof of insurance in an approved form covering standard insurance requirements.

1.05 Change Directive

A written directive to the Contractor, signed by the Owner, ordering a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Amount or Contract Time, or both. A Change Directive may be used in the absence of total agreement on the terms of a Change Order. A Change Directive does not change the Contract Amount or Contract Time, but is evidence that the parties expect that the change directed or documented by a Change Directive will be incorporated in a subsequently issued Change Order.

1.06 Change Orders

Written agreements entered into between Contractor and Owner authorizing an addition, deletion, or revision to the Contract, issued on or after the Execution date of the Agreement.

1.07 Commissioners Court

The duly elected County Judge and four County Commissioners; the legally constituted governing body of Travis County.

1.08 Construction Administrator

The Consulting engineering firm hired by the County to prepare sealed plans and specifications or such other firm or entity as the County may designate, if any. The County reserves the right to perform this function with its own personnel, in whole or in part, at any time during the term of the Contract.

1.09 Construction Site Notice

The Construction Site Notice ("CSN") is a standard form promulgated by TCEQ and prepared by the County that is required for the Storm Water Pollution Prevention Plan ("SWP3"). The CSN must be posted and maintained on the construction site throughout construction of the project until final site stabilization is completed.

1.10 Contract

The agreement between the County and the Contractor covering the furnishing of materials and performance of the work. The contract includes the Notice of Construction, the Bid Proposal (including the Bidding Documents, the Bid Form, and any Addenda or Amendments thereto), the Contract Document, Bonds, the General Conditions, the Supplementary Conditions, Plans and Specifications, and Supplemental Agreements approved by authorized representatives of the

County and the Contractor.

1.11 Contract Time

The number of calendar days or working days allowed for completion of the work as defined by the Contract. When any period is referred to in days, it will be computed to exclude the first and include the last day of such period.

1.12 Contractor

The individual, firm, corporation, or any combination thereof with which the contract is made by the County.

1.13 County

Travis County, a political subdivision of the State; Owner.

1.14 Department

The Texas Department of Transportation ("TxDOT").

1.15 Engineer

The Public Works Director of the Travis County Transportation and Natural Resources Department ("TNR") or his authorized representative.

1.16 Field Order

A written order issued by the Owner's Representative which orders minor changes in the Work and which does not involve a change in the Contract Amount or the Contract Time.

1.17 Highway, Roadway, Street, or Road

A general term denoting a public way for purposes of vehicular travel, the movement of people, distribution of goods, and provision of essential services, including the entire area within the right of way.

1.18 Inspector

The authorized representative of the Engineer assigned to supervise and inspect any or all parts of the work and the materials to be used therein.

1.19 Laboratory

Any qualified commercial laboratory that may be designated or approved by the Engineer.

1.20 Nonresident Bidder

A bidder whose principal place of business is not in Texas; includes a bidder whose ultimate parent company or majority owner does not have its principal place of business in Texas.

1.21 Notice to Proceed

A written notice given by the Travis County Purchasing Agent to the Contractor fixing the date on which the contract time will commence to run and on which the Contractor is allowed to perform the work under the contract documents.

1.22 Owner

Travis County, a political subdivision of the State of Texas.

1.23 Owner's Representative

The designated representative of the Owner.

1.24 Payment Bond

The security furnished by the Contractor solely for the protection of claimants, as defined by law, supplying labor and materials for the prosecution of the work in accordance with the terms of the contract.

1.25 Performance Bond

The security furnished by the Contractor to guarantee the completion of the work in accordance with the terms of the contract.

1.26 Plans

The drawings included in the bid documents and any subsequent drawings approved by the Engineer or true reproductions thereof which show the location, character, dimensions, and details of the work and which are a part of the contract.

1.27 Project

The specific section or sections of the proposed public improvement together with all appurtenances and construction to be performed thereon under the contract.

1.28 Proposal or Bid

The offer of the bidder, made out on a prescribed form, giving unit prices for performing the work described in the plans and specifications.

1.29 Purchasing Agent

The purchasing agent for the County who reports to the Travis County Purchasing Board and her designated representatives.

1.30 Resident Project Representative

The individual representing the owner, sometimes selected from the design professional's firm, who administers the construction contract and monitors progress and the relationship among the project site personnel.

1.31 Right of Way

The land provided for a highway or other public utility or conveyance.

1.32 Screens and Sieves

Have the meanings defined by the ASTM.

### 1.33 Specifications

The directions, provisions, and requirements contained herein, supplemented by such special provisions as may be issued or made pertaining to the method and manner of performing the work or to quantities and qualities of materials to be furnished under the contract. In the event that a technical specification is not included or when additional work is required, the relevant provisions of the TxDOT Standard Specifications will apply. Where the phrases "or directed by the Engineer," "ordered by the Engineer," or "to the satisfaction of the Engineer" occur, it is to be understood that the directions, orders, or instructions to which they relate are within the limitations of, and authorized by the contract. Special provisions will cover work pertaining to a particular project and included in the Bid Proposal but not covered by the Specifications. Where reference is made to specifications of ASTM, AASHTO, or Bulletins and Manuals of the Department, it will be construed to mean the latest standard or tentative standard in effect on the date of the bid.

### 1.34 Storm Water Pollution Prevention Plan ("SWP3")

The portions of the plans and specifications in the bid documents which are included to meet the regulatory requirements of the TCEQ General Permit TXR150000 For Storm Water Discharges From Construction Activities, and corresponding requirements in the Travis County MS4 Permit TXR040327 and Storm Water Management Program ("SWMP") approved by TCEQ. The measures and controls in the SWP3 are required to be implemented by the Contractor to prevent storm water and pollutant discharges from the Project construction activities to the maximum extent practicable ("MEP").

### 1.35 State

The State of Texas.

### 1.36 Superintendent

The representative of the Contractor authorized to receive and fulfill instructions from the Engineer, and who must supervise and direct the construction.

### 1.37 Supplemental Agreements

Written agreements entered into between the Contractor and the County and approved by the Surety, covering alterations and changes in plans which are necessary to the proper completion of the work.

### 1.38 Surety

The corporate body or bodies bound with and for the Contractor for the faithful performance of the work covered by the contract and for the payment for all labor and material supplied in the prosecution of the work.

### 1.39 The Work

The work must include the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all duties and obligations imposed by the contract.

### 1.40 Working Day

A working day is defined as a calendar day, not including Saturdays, Sundays, or legal holidays as authorized and designated by the Commissioners Court, in which weather or other conditions not under the control of the Contractor will

permit the performance of the principal unit of work underway for a continuous period of not less than 7 hours between 7 a.m. and 6 p.m. For every Saturday or legal holiday except the following holidays:

New Years Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve (when it falls on a weekday) and Christmas Day

on which the Contractor chooses to work, one day will be charged against the contract working time when weather conditions will permit 7 hours of work as delineated above. The principal unit of work will be that unit which controls the completion time of the contract. Nothing in this item will be construed as prohibiting the Contractor from working on Saturdays or legal holidays, except those listed above, if it so desires. Work on Sunday and on the legal holidays listed above will not be permitted except in cases of extreme emergency and then only with the written permission of the Engineer. If Sunday work or work on the legal holidays listed above is permitted, working time will be charged on the same basis as weekdays. The Engineer may suspend the work and the "Time Charge," in accordance with Paragraph 8.4, "Temporary Suspension of Work" of Item 8, "Prosecution and Progress," on the day proceeding or following one of the listed holidays if the Engineer and the Contractor mutually agree the Contractor should not work. Such suspension will be based upon past experience as to the volume of holiday traffic that may be expected and the hazard to the traveling public and/or Contractor's employees that project operations would present.

#### 1.41 Working Hours

All construction work must be done between 7:00 a.m. and 6:00 p.m. unless otherwise authorized by the Owner's Representative.

## ITEM 2

### INSTRUCTIONS TO BIDDERS

#### 2.1 Contents of Bid Forms

Upon request, bidders will be furnished with a bid form which will state the location and description of the proposed work, an approximate estimate of the various quantities and kinds of work to be performed or materials to be furnished, a schedule of items for which unit prices are requested, and the time within which the work is to be completed. The standard specifications, special provisions and special specifications are included in the project manual.

#### 2.2 Interpretation of Estimates of Quantities

The quantities listed in the bid form will be considered as approximate and will be used for the comparison of bids. Payments will be made to the Contractor in accordance with Items 4 (Scope of Work) and 9 (Measurement and Payment).

#### 2.3 Examination of Plans, Specifications, Special Provisions, and Site of Work

Before submitting a bid, the bidder must examine carefully the bid form, plans, specifications, special provisions, and the form of contract to be entered into for the work contemplated. The bidder must examine the site of work and satisfy itself as to the conditions which will be encountered relating to the character,

quality, and quantity of work to be performed and materials to be furnished. The submission of a bid by a bidder is conclusive evidence that it has complied with these requirements.

The borings, profile, and water elevations shown on the plans were obtained for use of the County in the preparation of plans, and the Bidder is hereby cautioned that the County assumes no responsibility for the accuracy or completeness of these data. The Bidder, in preparing its bid, must take cognizance of the difficulty of accurately classifying all material encountered in making foundation investigations and any changes in materials not shown by borings, the possible erosion of stream channels and banks after survey data have been obtained, and the unreliability of water elevations other than for the date recorded. A copy of the complete geotechnical report, if any, prepared for this project may be available at the TNR office upon request.

Bidders must promptly notify the County of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or of the site and local conditions. Bidders requiring clarification or interpretation of the Bidding Documents must make a written request which must reach the County at least 7 days prior to the date for receipt of Bids. Any interpretation, correction, or change in the Bidding Documents will be made by Addendum. Interpretations, corrections, or changes in the Bidding Documents in any other manner will not be binding, and Bidders must not rely upon such interpretations, corrections, and changes.

Claims for additional compensation due to variations between conditions actually encountered in construction and as indicated by the plans will not be allowed.

#### 2.4 Preparation of Bid

Each bidder must submit its bid on the form furnished to it by the County. The blank spaces for each item as required in the bid must be filled in by writing in words and numerals in ink. In cases of discrepancy between the price written in words and the price written in numerals, the price written in words will govern. The bidder must submit a unit price for each item for which a bid is requested. If a conflict between the unit price and total contract amount/price exist, the unit price will govern. Bid prices are not to include sales tax on materials to be incorporated into the project or completely consumed at the job site and services required by or integral to the performance of the contract. The bid must be executed with ink in the complete and correct name of the individual, firm, corporation, or combination thereof making the bid and be signed by the person or persons authorized to bind the individual, firm, corporation, or combination thereof.

#### 2.5 Rejection of Bids Containing Alterations, Erasures, or Irregularities

Bids may be rejected if they show any alteration of words or figures, additions not called for, conditional or uncalled for alternate bids, incomplete bids, any alteration of words or figures or erasures not initialed by the person or persons signing the bid, or irregularities of any kind.

#### 2.6 Bid Guaranty

Each bid must be accompanied by a Bid Guaranty of the character and in the amount as indicated in the Bid Proposal.

#### 2.7 Delivery of Bid

Each bidder should complete the Bid Proposal and all accompanying documents, and place these documents in a sealed envelope clearly marked as indicated in

the Contractor's Notice of Construction. Each bidder should also provide an original and two copies of the complete Bid Proposal, all addenda acknowledged, a Bid Bond/Certified Check (original and one copy only), Safety Record Questionnaire and Acknowledgment, Statement of Eligibility regarding HUB Procurement Program, and Affidavit and Acknowledgment regarding Travis County Ethics Requirements. Finally, each bidder must complete and sign the contract (Section V) except for the date of execution, and submit the signed original and two copies with the Bid Proposal.

## 2.8 Revision of Bid

A bidder may change a bid price entered in a bid before it is submitted by changing the price and initialing the revision with ink. In cases where the bid has been submitted, a bidder may change a bid price in its bid provided its request to do so is submitted in writing and is in the hands of the Purchasing Agent prior to the time set for the opening of bids. A request by telephone or telegraph for a change in a unit bid price will not be considered.

## 2.9 Withdrawal of Bid

A bidder may withdraw its bid provided its request in writing to do so is in the hands of the official indicated in the Notice to Contractors by the time set for opening of bid. A request by telephone or telegraph for withdrawal of a bid will not be considered.

## 2.10 Public Opening of Bids

Bids will be opened and read publicly at the time and place indicated in the Contractor's Notice of Construction.

## 2.11 Disqualification of Bidder

More than one bid involving an individual, firm, or corporation, or any combination thereof under the same or different names will not be considered. Reasonable grounds for believing that any bidder is interested in more than one bid for the work contemplated will be cause for the rejection of all bids in which such bidder is interested. Any or all bids will be rejected if there is reason for believing that collusion exists among the bidders, and all participants in such collusion will not be considered in future bids for the same work. Bids in which the prices are obviously unbalanced may be rejected. Bidders may also be disqualified and their bids not considered for any of the following specific reasons: the bidder having an interest in any litigation against Travis County, the bidder being in arrears of any existing contract or having defaulted on a previous contract, uncompleted work which in the judgment of Commissioners Court will prevent or hinder the prompt completion of additional work if awarded, an unacceptable safety record, violation of Travis County's Ethics Policy, or failure to attend a mandatory pre-bid conference. Contracts will be awarded only to responsible and responsive bidders.

## 2.12 Submission of Historically Underutilized Business (HUB) Documentation

All bidders must complete and submit the "HUB PROGRAM SUBCONTRACTING DECLARATION" Form with their bid.

The bidder to whom the contract is awarded ("Contractor") is responsible for the use of the Vendor Tracking System ("VTS"), and must require all subcontractors to be responsible for system reporting. The VTS system tracks payments to all first-tier subcontractors electronically.

### 2.13 Substitute Bid Proposal

If bidders so desire, they may submit their bids using a computerized bid proposal formatted differently from that provided in the Plans and Project Manual. Any computerized bid proposal submitted must contain the identical information (i.e., Bid Item Number, Specification Item Number, Quantity, Unit of Issue, Technical Specification Identifier, Description, Unit Price, Extended Amount, Total Base Bid, Alternate Bid, and Total Alternate Bid) as that contained on the original bid proposal in the Plans and Project Manual. For the purpose of evaluating bids and determining the lowest responsible bidder, the quantities listed in the Plans and Project Manual, along with the unit prices submitted by bidders, must be used. Bidders must also provide a space for acknowledgment of addendum on the substitute Bid Schedule and must acknowledge any addendum in that space.

## ITEM 3

### AWARD AND EXECUTION OF CONTRACT

#### 3.1 Consideration of Bids

For the purpose of award, after the bids are opened and read, the summation of the products of the approximate quantities shown in the bid and the unit prices bid will be considered the amount of the bid. The summations will then be compared and the results made available to the public. Until the award of the contract is made, the County reserves the right to reject any or all bids, or any particular bid items and to waive any such technicalities as may be considered for the best interest of the County.

In determining the amount of the bid as well as computing the amount due for payment of each item under the contract, the County reserves the right to round off all unit bids involving fractional parts of a cent to the nearest one-tenth cent regardless of the fraction involved. A unit bid of less than one-tenth of a cent will be considered as one-tenth of a cent.

#### 3.2 Award of Contract

The award of the contract, if it is to be awarded, will be to the lowest responsible bidder. The award, if made, will be within 90 days after the opening of the bid, except by mutual agreement between the parties or as specified in the Special Provisions. Travis County reserves the right to award either the base bid alone or the base bid plus selected alternate bid(s), if applicable. Bidders agree their Bid Proposals must be valid offers for that time.

#### 3.3 Return of Bid Guaranty

The bid guaranty of the three lowest bidders may be retained until after the contract has been awarded, executed, and bonds made. Bid guaranty of all except the three lowest bidders will be returned within 5 days after the bids are opened.

#### 3.4 Execution of Contract, Bonds, and Certificate of Insurance

Each bidder must sign and furnish to the Commissioners Court the original signed contract with the submittal of the Bid Proposal. Within 7 calendar days of written notification of award of the contract, the lowest responsible bidder must furnish to the County a performance bond (for contracts in excess of \$100,000) and a payment bond (for contracts in excess of \$25,000), each in the full amount of the contract price, executed by a surety company or surety companies

authorized to execute surety bonds under and in accordance with the laws of the State of Texas, and a Certificate of Insurance, naming Travis County as an additional insured, showing coverage in accordance with contract requirements.

The performance bond and payment bond are to be furnished as a guarantee of the faithful performance of the work and for the protection of the claimants for labor and materials as outlined in the Item 1, "Definition of Terms."

When the amount of the contract is \$25,000 or less, a performance bond and payment bond will not be required. When the amount of the contract is \$100,000 or less, a performance bond will not be required.

### 3.5 Award and Approval of Contract

The contract will be approved and signed under authority of the Commissioners Court.

### 3.6 Failure to Deliver Bonds, Certificate of Insurance, or to Submit Trench Excavation Protection System Plan

Should the bidder to whom the contract is awarded refuse or neglect to file the bonds and Certificate of Insurance within 7 calendar days after written notification of the award of the contract, or, when required, to submit to the Engineer a Trench Excavation Protection System Plan, prepared by a Texas-licensed Professional Engineer in compliance with 29 C.F.R. Part 1926 Subpart P, within 21 calendar days after written notification of the award of the contract, the bid guaranty filed with the bid will become the property of the County, not as a penalty, but as liquidated damages. Continued failure to deliver the bonds, Certificate of Insurance, or Trench Excavation Protection Plans will be grounds for the County to declare Contractor in default and to terminate the Contract. A bidder who forfeits its bid guaranty in accordance with this paragraph will not be considered in future bids for the same work unless there has been a substantial change in the design of the project subsequent to the forfeiture of the bid guaranty.

### 3.7 Beginning of Work

The Contractor must commence construction within 14 calendar days after the effective date of the written "Notice to Proceed." The County will prepare the Construction Site Notice ("CSN") required for the SWP3 and give a copy to the Contractor to post on the Project site at least 7 calendar days prior to beginning construction clearing and grading activities. The County will post the CSN initially if necessary for instances when the Notice to Proceed is issued less than 7 days before the commencement of clearing or grading activities. The CSN must remain posted by the Contractor throughout the Project construction in the place where the Contractor posts and maintains other notices and permits required for the Project. Prior to beginning grading and clearing construction activities, the first phase of erosion and sedimentation controls and all tree fencing required in the SWP3 must be installed by the Contractor. A field pre-construction meeting must be held with the Contractor and the County to verify the first phase of these controls is correctly in place prior to the Contractor beginning grading and clearing activities.

### 3.8 Antitrust

The successful bidder, by virtue of signing the contract, assigns to the County any and all claims for overcharges associated with the contract which arise under the antitrust laws of the United States, 15 U.S.C.A., Section 1 et seq.

**ITEM 4****SCOPE OF WORK****4.1 Intent of Plans and Specifications**

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 must furnish all materials, supplies, tools, equipment, supervision, and labor necessary for the proper prosecution and completion of the work.

**4.2 Changes and Alterations**

The Engineer has the right to make changes and alterations in the plans as may be considered necessary or desirable. Such changes and alterations will not be considered as a waiver of any condition of the contract, nor will they invalidate any of the provisions thereof. The Contractor must perform the work as changed or altered.

Necessary work resulting in a substantial change in the character of the work will be, upon demand of either party to the contract, considered as "Extra Work." Changes made for the convenience of the Contractor will not be considered "Extra Work."

A substantial change in the character of the work is defined as:

- (a) A required change in design or specifications which materially affects the unit cost of an item, or
- (b) A required change in the plans which requires the Contractor to repeat work previously completed, or
- (c) A required change in the construction methods for a contract item which significantly increases or decreases the amount of equipment, labor, or subordinate materials required to complete the item of work.

Increases or decreases in the quantity of work or materials to be furnished under an item in the contract and placed in accordance with the contract specifications and plan requirements will not be considered as a change in the character of the work but will be considered under Paragraph 4.13 (Increases and Decreases in Quantity of Work) below.

**4.3 Extra Work**

Work made necessary by changes and alterations of the plans or for other reasons for which no prices are provided in the contract will be defined as "Extra Work" and must be performed by the Contractor in accordance with appropriate specifications and as directed by the Engineer; however, the Contractor must not begin any extra work until the County executes a Change Order, Change Directive, Field Order or Force Account Agreement.

**4.4 Change Orders**

The Owner and the Contractor will execute appropriate written Change Orders to cover: (1) a change in the work; (2) the amount of the adjustment in the Contract Amount, if any; and (3) the extent of the adjustment in the Contract Time, if any. An executed Change Order must show the complete, equitable, and final amount of adjustment in the Contract Amount and/or Contract Time owed to the Contractor or the Owner as a result of the occurrence or event causing the change in the Work encompassed by the Change Order.

#### 4.5 Change Directives

Without invalidating the Contract, Owner may, by written Change Directive, using a mutually agreed basis for adjustment of Contract Amount and Contract Time, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. A Change Directive is for Work where no bid price is available in the Contract or the conditions do not allow time for the process of a formal Change Order. A subsequent Change Order must be processed as soon as the adjusted amount of Work, Contract Amount and Contract Time can be defined; however, in no case will the Change Order be processed later than 7 calendar days after the completion of the changes. A Change Directive must not be used for changes which may result in an increase of more than \$5,000 in Contract Amount unless approved in writing by the Engineer.

#### 4.6 Field Orders

Owner's Representative may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment of the Contract Amount or Contract Time and are compatible with the design concept of the completed project as a functioning whole as indicated by the contract documents. These must be accomplished by written Field Order and will be binding on Owner and on Contractor who must perform the work involved promptly. If Contractor believes that a Field Order would require an adjustment in Contract Amount or Contract Time, Contractor must not perform the work covered by the Field Order until a written Change Directive or Change Order is approved. If the Field Order resulted in changes on the construction drawings, the changes must be redlined on the Inspector's set of construction drawings and incorporated into the final as-built drawings.

#### 4.7 Maintenance of Detours

The Contractor must do such work as may be necessary to provide and maintain detours and facilities for safe public travel in accordance with the plans and these specifications. The Contractor must provide and maintain in passable condition, as specified under Paragraph 7.6 (Public Safety and Convenience) and 7.7 (Barricades and Danger, Warning, and Detour Signs, and Traffic Handling): (1) such temporary roads and structures as may be necessary to accommodate public travel, and (2) temporary approaches and crossings of intersecting highways.

#### 4.8 Rights in and Use of Materials Found on the Right of Way

The Contractor may, if approved by the Engineer, use in the work any suitable stone, gravel, or sand found in the excavation and will be paid for the excavation of such materials at the contract price bid. However, the Contractor must replace, at its own expense, any materials it removed that were intended for use in embankments, backfill, approaches, or elsewhere with other suitable materials. No charge for materials so used will be made against the Contractor unless the Contractor fails to replace the removed materials with other suitable materials. The Contractor must not excavate or remove any material from within the right-of-way or easements which is not within the excavation, as indicated by the slope and grade lines, without prior written authorization from the Engineer.

#### 4.9 Final Cleaning Up

Upon completion of the work and before acceptance and final payment is made, the Contractor must clean, remove rubbish and temporary structures from the right of way and easements, restore in an acceptable manner all property which has been damaged during the prosecution of the work, and leave the site of the

work in a neat and presentable condition throughout. All final cleaning up and site stabilization must be in conformance with the approved SWP3 for the Project.

Upon the completion of any structure, all excess materials, cofferdams, construction buildings, temporary structures, and debris and sediment resulting from construction must be removed. Where work is in a stream, all debris and sediment must be removed to the ground line of the bed of the stream, and the stream channels, structure, and highway left unobstructed and in a neat and presentable condition. Materials cleared from the right of way and deposited on property off the project right-of-way will not be considered as a satisfactory method of disposal, unless approved by the Engineer. A letter provided by the Contractor and signed by the property owner allowing disposal of material is required, as well as documentation that placement of this fill complies with all permitting requirements of the County and any other applicable governmental jurisdictions, before the Engineer will approve the disposal of material on property off the right-of-way. No direct payment will be made for this work, its cost being included in the unit prices bid. The Contractor is responsible for securing all applicable permits.

#### 4.10 Storm Water Pollution Prevention Plan ("SWP3") and Environmental Management

The Contractor must manage and maintain the entire construction site in accordance with the approved SWP3 and all applicable environmental, health, and safety regulations, in order not to negatively impact the environment. The Contractor must employ personnel that have the necessary experience, qualifications, and training to install, inspect, and maintain the controls and measures required in the SWP3. The SWP3 includes sediment controls and other structural and non-structural practices to prevent discharges of sediment and other pollutants to adjacent waterways and off-site areas. The SWP3 also includes delineation of the limits of construction, clearing, temporary spoils storage, permanent spoil disposal, staging areas, and haul roads. Areas where construction has temporarily ceased must be stabilized in accordance with the SWP3 and General Permit. Final stabilization of the Project Site is required, including seeding, watering, and other measures to re-establish grass cover. Preservation and fencing of all trees designated to be saved is required in accordance with the plans. Other SWP3 measures include construction site entrance and exit controls; dust control; solid waste management and disposal; controls for de-watering, concrete truck wash-out, and work adjacent to streams; spill prevention and control; proper industrial and hazardous materials use, storage, and disposal, etc. Other environmental, health, and safety requirements in addition to the SWP3-related items include proper management of site burning and abatement and mitigation of excessive or unnecessary construction noise.

#### 4.11 Removal and Disposal of Structures and Obstructions

All fences, buildings, and structures of any character not necessary to the construction of the work or other obstructions upon or within the limits of the right of way must be removed by the Contractor and disposed of as directed. Unless otherwise provided in the contract, the removal and disposal of such structures and obstructions must be performed by the Contractor at its own expense and will be considered incidental to other items of the contract. However, all utility lines along and across the right of way, must be protected by the Contractor. The respective owners of any utility line in conflict with the work herein provided must remove and/or adjust such line at no cost to the Contractor.

#### 4.12 "Or Equal" Clause

Whenever a material or article required is specified or shown on the plans, by using the name of a proprietary product or of a particular manufacturer or vendor,

any material or article which will perform adequately the duties imposed by the general design will be considered equal and satisfactory, provided the material or article so proposed is of equal substance and function and is approved in writing by the Engineer.

#### 4.13 Increases and Decreases in Quantity of Work

The Engineer will have the right to increase or decrease the quantities of the work, as may be considered necessary or desirable. Such increases or decreases will not be considered as a waiver of any condition of the contract, nor will they invalidate any of the provisions thereof. The Contractor must perform the work as increased or decreased. Payment to the Contractor for contract items will be made for the actual quantities of work done or material furnished at the unit prices set forth in the contract, except as provided (1) in specification items requiring plan quantity payment, (2) for changes in the character of the work, and (3) for overruns and under-runs of major items.

A major item is defined as any individual bid item included in the bid that has a total cost equal to or greater than 5 percent of the original contract or \$100,000, whichever is less.

When the quantity of work to be done or the quantity of material to be furnished under any major item of the contract is more than 120 percent of the quantity stated in the bid, then either party to the contract, upon demand, is entitled to revised consideration on the portion of work above 120 percent of the quantity stated in the bid.

When the final quantity of work done under any major item of the contract is less than 80 percent of the quantity stated in the bid, the adjusted unit price to apply to the final quantity of work performed under the Item will be determined by multiplying the unit bid price by the factor obtained from Table I. In no instance will the product of the adjusted price and the final quantity of work exceed the product of the original contract unit price and 80 percent of the original contract quantity, and in no instance will the unit price be adjusted to more than 125 percent of the original contract unit price.

TABLE I

% Increase	Factor	% Decrease	Factor
20-24	1.01	60	1.13
25-28	1.02	61	1.14
29-32	1.03	62	1.15
33-35	1.04	63	1.16
36-38	1.05	64	1.17
39-41	1.06	65	1.18
42-44	1.07	66	1.19
45-47	1.08	67	1.20
48-50	1.09	68	1.21
51-53	1.10	69	1.22
54-56	1.11	70	1.23
57-59	1.12	71	1.24
		72	and 1.25

## ITEM 5

## **CONTROL OF THE WORK**

### **5.1 Authority of Engineer**

The work will be observed, tested, and inspected by the Engineer and must be performed to his satisfaction, in accordance with the contract, plans, and specifications. The Engineer will decide all questions which may arise as to the quality or acceptability of materials furnished and work performed; the manner of performance and rate of progress of the work; the interpretations of the plans and specifications; and the acceptable fulfillment of the contract on the part of the Contractor. The Engineer's decisions are final, and he has executive authority to enforce and make effective such decisions and orders.

### **5.2 Authority of Construction Administrator**

The Construction Administrator will act on all questions arising under the terms of the contract between the parties thereto, and, along with the Engineer, has authority for the purpose of resolving technical matters. In any case, the decision of the Travis County Commissioners Court is final and binding.

### **5.3 Plans**

The plans will show in detail the work to be accomplished under the contract. When supplementary plans, shop drawings, shop details, erection drawings, working drawings, or other drawings are required, they must be furnished by the Contractor, and approved by the Engineer prior to the beginning of the work involved. These drawings must be in standard English units and must be in the English language. Authorized alterations will be approved by endorsement on the plans or shown on supplementary sheets. The approval by the Engineer of the Contractor's working drawings will not relieve the Contractor of any responsibility under the contract.

It is the responsibility of the Contractor to verify all quantities of materials shown on the plans before ordering same, as payment is provided for acceptable materials completely in place, and materials rejected due to improper fabrication or excess quantity or for other reasons within the control of the Contractor will not be paid for regardless of the quantities or dimensions shown on the plans. The Engineer, when requested, may check any or all material orders prepared by the Contractor, but such check will not relieve the Contractor of responsibility.

### **5.4 Conformity with Plans, Specifications, and Special Provisions**

All work performed and all materials furnished must conform with the lines, grades, cross sections, dimensions, details, gradations, and physical and chemical characteristics of materials in accordance with tolerances shown on the plans or indicated in the specifications and special provisions unless otherwise directed by the Engineer.

In the event the Engineer finds that the work performed or the materials used do not conform with the plans, specifications, and special provisions, the affected material or product must be removed and replaced or otherwise satisfactorily corrected by and at the expense of the Contractor.

Deviations from the plans and approved working drawings as may be required will in all cases be determined by the Engineer and, if approved, will be authorized in writing by the Engineer.

#### 5.5 Coordination of Plans, Specifications, Special Provisions, and Standard Instructions to Bidders

The specifications, accompanying plans, special provisions, standard instructions to bidders, and supplemental agreements are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. In the event that a technical specification is not included or when additional work is required, the relevant provisions of the TxDOT Standard Specifications or City of Austin Standard Detail or Specifications, as dictated by the Engineer, will apply. They are intended to be cooperative and to describe and provide for a complete work. In cases of disagreement, figured dimensions will govern over scaled dimensions, specifications will govern over plans, and special provisions will govern over both specifications and plans.

#### 5.6 Cooperation of Contractor

The Contractor will be supplied with four copies of the plans, specifications, and special provisions, and it must have available at the work site at all times one copy of each. It must give the work its constant attention to facilitate the progress thereof and must cooperate with the Engineer in every way possible. The Contractor must have at all times a satisfactory and competent English-speaking Superintendent at the work site authorized to receive orders and to act for him/her. The Contractor must designate to the Engineer in writing the name of such Superintendent, and he must be furnished by the Contractor regardless of how much of the work may be sublet.

#### 5.7 Control Stakes

It is the responsibility of the Contractor to construct the work to the position and elevations as set out on the plans and approved changes. A fully controlled, referenced, and monumented traverse line and a calculated centerline of the project have been established by the County. Survey information concerning the traverse line will be furnished to the Contractor. It is the Contractor's responsibility to perform centerline staking from reference ties (coordinates) to the control traverse and perform all other surveys required for construction based on the centerline.

The Contractor must provide a qualified and experienced force to perform this work and must keep the Engineer informed a reasonable time in advance of the time and place it intends to work. Copies of all cut sheets must be furnished to the inspector when issued by the Contractor.

The Engineer may, at his option, make spot or complete checks on all construction alignment and grades to determine the accuracy of the Contractor's survey work. These checks will not relieve the Contractor of its responsibility for constructing the work to the positions and elevations as shown on the plans or approved changes. Computations, sketches, and other drawings used in the design and layout of this project made available to the Contractor will not relieve the Contractor of its responsibility as set out above.

The Contractor must furnish all stakes and other materials necessary to set and preserve control points for alignment and grade.

The Contractor is responsible for the preservation of all control and right-of-way points established by the Engineer and if, in the opinion of the Engineer, any stakes or bench marks have been carelessly or willfully destroyed or disturbed by the Contractor, they must be replaced by the Contractor or the cost of replacing them will be charged against the Contractor and deducted from the payment for the work.

No direct payment will be made for this work, but the cost of all labor, equipment, and supplies necessary to perform the work must be included in the contract unit prices bid for the various contract items.

#### 5.8 Storm Water Pollution Prevention Plan (SWP3) Responsibilities and Authority

Travis County is the Operator of the Travis County Municipal Separate Storm Sewer System ("MS4") under MS4 Permit # TXR040327 and the County's MS4 Storm Water Management Program ("SWMP") approved by the Texas Commission for Environmental Quality (TCEQ). SWMP Minimum Control Measure ("MCM") 7 gives Travis County authority to permit its own construction activities in the County MS4 as the Primary Construction Site Operator with operational control over construction plans and specifications. Travis County will provide the Storm Water Pollution Prevention Plan (SWP3) included in the plans; sign a Construction Site Notice (CSN) to be posted and maintained on the Project Site by the Contractor; authorize and direct ongoing revisions and maintenance to the SWP3 by the Contractor as necessary; prepare and sign SWP3 Inspection Reports required by the MS4 Permit # TXR040327, and approve final stabilization and completion of SWP3 items for the Project.

The Contractor is the Primary Construction Site Operator with day-to-day operational control of construction site activities. The Contractor must sign the SWP3 Compliance Agreement and Certification included in this contract and is responsible for implementing and maintaining all SWP3 requirements continuously in accordance with the approved plans, specifications, contract, TCEQ General Permit, and Travis County MS4 Permit and SWMP. The Contractor must employ personnel with the necessary experience, qualifications, and training to install, inspect, and maintain the controls and measures required in the SWP3. The Contractor must post and maintain the County CSN and comply with TCEQ regulations for filing and posting a separate CSN and Notice of Intent (NOI) for the Project. The Contractor is not required to prepare a separate SWP3 document or submit signed SWP3 Inspection Reports to TCEQ for the Project. However, the Contractor must provide weekly written SWP3 inspection reports, in a report format provided by the County, to the County's inspector.

The Contractor must perform inspections, in addition to those required in the construction drawing and project manual, which he or she deems necessary to maintain compliance with the approved SWP3 measures and controls and TCEQ regulations. The cost for performing such inspections will not be paid directly by the Owner but will be considered subsidiary to other bid items. The Contractor's or subcontractor's SWP3-related inspection reports must be submitted to the Owner for inclusion in the Owner's SWP3 report filing.

#### 5.9 Authority and Duties of Inspectors

Inspectors are 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. An Inspector will also report to the Engineer whenever it appears that the materials furnished or the work performed by the Contractor fails to fulfill the requirements of the specifications and contract. The Inspector will 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 and contract.

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 has the authority to reject materials or suspend work until the questions at issue can be

referred to and decided by the Engineer. The Inspector is not authorized to revoke, alter, enlarge, or release any requirement of these specifications; 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.

#### 5.10 Inspection

The Contractor must furnish the Engineer and Inspectors with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the contract. Before the acceptance of the work, the Contractor must, if the Engineer so requests, remove or uncover any portions of the finished work as may be directed. After examination, the Contractor must restore said portion of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing and replacing of the covering or making good of the parts removed will be paid for as "Extra Work;" but should the work so exposed or examined prove unacceptable, the uncovering or removing and the replacing of the covering or making good of the parts removed will be at the Contractor's expense. No work may be done nor materials used without suitable supervision or inspection.

#### 5.11 Federal Inspection

When the United States Government is to pay a portion of the cost of the work covered by the contract, the work is subject to inspection by United States Government representatives. Such inspections do not make the United States Government a party to the contract.

#### 5.12 Removal of Defective and Unauthorized Work

All work which has been rejected must be remedied or removed and replaced in a manner acceptable to the Engineer and must be performed by the Contractor at its own expense. Work done beyond the lines and grades given or as shown on the plans, except as herein provided, or any extra work done without written authority will be considered unauthorized and done at the expense of the Contractor and will not be paid for. Work so done may be ordered removed at the Contractor's expense. Upon failure on the part of the Contractor to comply with any order of the Engineer made under the provisions of this paragraph, the Engineer is authorized to cause defective work to be remedied or removed and replaced and unauthorized work to be removed, and the cost thereof may be deducted from any money due or to become due to the Contractor.

#### 5.13 Final Inspection

Whenever the work provided for, in, and contemplated under the contract has been satisfactorily completed and the final cleaning up performed, the Engineer will make a final inspection. After such final inspection, if the work is found to be satisfactory, the Contractor will be notified in writing of the acceptance of same. No time charge will be made against the Contractor between said date of notification of the Engineer in charge and the date of final inspection of work.

Where the work consists of concrete pavements or concrete base, the "Final Acceptance" does 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 90 days from completion of the pavement.

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

#### 5.14 Final Completion and Acceptance

When the work has been completed or substantially completed, the Contractor must give the Engineer written notice. Within 10 working days after receipt of this notice, the Construction Administrator and the County will inspect the work and if the work is found to be completed in accordance with the Contract Documents, the Construction Administrator must issue to the County and the Contractor his Certificate of Completion. It will then be the duty of the County within 10 working days after receipt of the Certificate of Completion to issue a Certificate of Acceptance of the work to the Contractor or to advise the Contractor in writing of the reason for non-acceptance.

#### 5.15 Existing Structures

The plans show the locations of all known surface and subsurface structures. However, the location of many gas mains, water mains, conduits, sewers, abandoned wells, septic drain fields, landfills, underground storage tanks, etc., are unknown, and the County assumes no responsibility for failure to show any or all of these structures on the plans or to show them in their exact location. It is mutually agreed that such failure will not be considered sufficient basis for any claim for additional compensation for extra work or for increasing the pay quantities or any claim for additional working days 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, in which case the provisions in these specifications for payment of extra work will apply.

#### 5.16 Final Payment

Upon the issuance of the Certificate of Completion, the Engineer will proceed to make final measurements and prepare a final statement for the value of all work performed and materials furnished under the terms of the Agreement and will certify the same to the County, which will pay to the Contractor within 30 days after the date of the Certificate of Acceptance, the balance due the Contractor under the terms of the Contract; and said payment will become due in any event upon said performance by the Contractor. Neither the Certificate of Acceptance nor the final payment will relieve the Contractor of the obligation for fulfillment of any warranty which may be required.

#### 5.17 Guarantee Against Defective Work

Contractor warrants all materials and workmanship and that the work is in conformance with the Project Manual and Plans included in this contract for a period of one year from the date of the Certificate of Final Acceptance of the entire project. Said warranty binds Contractor to correct any work that does not conform with 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 must, at its own expense, correct any such defect within 30 days after receiving written notice of such defect from Owner by repairing the same to the 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 the Contractor's Performance Bond.

**ITEM 6****CONTROL OF MATERIALS****6.1 Sources of Supply and Quality of Materials**

The source of supply of each of the materials must be approved by the Engineer before delivery is started and, at the option of the Engineer, may be sampled and tested for determining compliance with the governing specifications by the Engineer before delivery is started. If the Engineer finds that sources of supply previously approved do not produce uniform and satisfactory products, or if the product from any source proves unacceptable at any time, the Contractor must furnish materials from other approved sources. Only materials conforming to the requirements of these specifications and approved by the Engineer may be used in the work. All materials being used are subject to inspection or testing at any time during their preparation or use. Any material that has been tested and accepted at the source of supply may be subjected to a check test after delivery, and all materials which, when re-tested, do not meet the requirements of the specifications, will be rejected. No material which after approval has in any way become unfit for use may be used in the work. If for any reason the Contractor selects a material which is approved for use by the Engineer by sampling and testing or other means, and then decides to change to a different material requiring additional sampling and testing for approval, the expense for such sampling and testing may be deducted from any monies due or to become due to the Contractor.

Throughout these specifications where reference is made to the Department's Test Procedures, ASTM, AASHTO, or bulletins of the Department for the quality of materials or sampling and testing, the latest standard, tentative standard, or bulletin issued prior to the date of the bid will govern.

If it is the normal trade practice for manufacturers to provide warranties or guarantees for the materials and equipment provided herein, the Contractor must turn the guarantees and warranties over to the Engineer for potential dealing with the manufacturers. The extent of such warranties or guarantees will not be a factor in selecting the successful Bidder.

**6.2 Samples and Tests**

Before being incorporated into the work, all materials will be inspected, tested, and approved by the Engineer, and any work in which materials are used without prior testing and approval or written permission of the Engineer may be ordered removed and replaced at the Contractor's expense. Sampling and testing of all materials proposed to be used will be done by the Engineer. The County will designate the selection of the method of testing. Where tests are required, other than those done in the laboratory for the purpose of control in the manufacture of a construction item, the Contractor must furnish such facilities and equipment as may be necessary to perform the tests and inspection and is responsible for calibration of all test equipment required. When requested, the Contractor must furnish a complete written statement of the origin, composition, and/or manufacture of any or all materials that are to be used in the work.

The County will contract with an independent testing laboratory to perform field testing as required by Item 6, Control of Materials, and the various construction specifications of the contract. Where the Contractor notifies the County of scheduled work requiring sampling and testing and the Contractor cancels the work for any reason whatsoever after the Laboratory personnel have departed their office for the project site, the testing laboratory will bill the County for their time and travel expenses and the County will deduct said charges from amounts due the Contractor. When the Contractor's operations or Saturday work is

scheduled necessitating the payment of overtime, the testing laboratory will bill the County for the time charges, and the County will deduct one-third of said amounts from amounts due the Contractor.

### 6.3 Plant Inspection

If the volume of the work, construction progress, and other considerations warrant, the Engineer may undertake the inspection of materials at the source. It is understood, however, that no obligation is assumed to inspect materials in that manner.

Plant inspection will be undertaken only upon condition that:

- (a) The cooperation and assistance of the Contractor and the producer with whom it has contracted for materials is assured.
- (b) The Engineer and his designated representative have the right to full entry at all times to such parts of the plant as may concern the manufacture or production of the materials ordered.
- (c) When required by the Engineer, the material producer must furnish an approved weatherproof building for the use of the Inspector, such building to be located conveniently near the plant and independent of any building used by the material producer. The building must be adequately lighted, heated, and ventilated. Adequate restroom facilities must be provided.
- (d) Where inspection requirements are such that it is necessary to use scales, measures, and/or other equipment which may be required by the Engineer for the control of production and use of materials, the Contractor will be responsible for furnishing and calibrating such equipment.
- (e) In those cases where inspection of any item is requested for periods other than daylight hours, it must be provided under the following conditions:
  - (1) Continuous production of materials for County use is necessary due to the production volume being handled by the plant.
  - (2) The lighting provided by the plant is approved by the Engineer to be adequate to allow satisfactory inspection of the material being produced.
- (f) Materials produced under County inspections will be for County use only unless released in writing by the Engineer.

### 6.4 Pretested Materials

Subject to conditions established in a written agreement between a supplier and the Engineer, pretested and approved materials may be incorporated into the work.

### 6.5 Storage of Materials

Materials must be so stored as to insure the preservation of their quality and fitness for the work. When considered necessary by the Engineer, they must be placed on wooden platforms or other hard, clean surfaces and not on the ground. They must be placed under cover when so directed. Stored materials must be so located as to facilitate prompt inspection.

When approved by the Engineer, selected materials or products may be pretested and approved for use, provided they are stored in an area meeting the requirements set forth by the Engineer.

#### 6.6 Defective Materials

All materials not conforming to the requirements of these specifications will be rejected and must be removed immediately from the site of the work unless permitted to remain by the Engineer. Rejected materials, the defects of which have been subsequently corrected, must have the status of new material. Upon failure on the part of the Contractor to comply with any order of the Engineer made under the provisions of this item, the Engineer is authorized to remove and replace defective material and to deduct the cost of removal and replacement from any money due or to become due to the Contractor.

#### 6.7 Hauling of Material

Any vehicle, truck, truck-tractor, trailer, semi-trailer, or combination of such vehicles, when used to deliver materials to a project, must 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.

The gross vehicle weight for acceptance purposes under this special provision for various vehicle configurations must be in accordance with State law. In case a vehicle or combination of vehicles exceeds the legal gross weight or the posted load limit by 5% or less, a haul ticket will be issued and payment will be made for the load allowed by the maximum legal weight for the vehicle or vehicles. Continued overloading with a tolerance of 5% will be grounds for rejection of such load.

Any vehicle or combination of vehicles that exceeds the legal gross weight by more than a tolerance of 5% will be rejected.

When the specifications establish measurement of and payment for materials by other than weight, the Engineer may require the weighing of the various types of loaded vehicles used by the Contractor to transport the material. This weight will be used to determine the maximum volume of the material being hauled that each type of vehicle may transport. The cost of such weighing will be considered subsidiary to the pertinent bid item.

The above requirements are applicable to vehicles hauling materials over existing roadbeds and structures within the project limits where the roadbeds or structures will continue in use after project completion except as controlled by specifications and special provisions in the contract. The requirements do not apply to the transportation of materials from a borrow pit or base source, concrete plant, asphalt plant, etc., where the haul route does not require travel over public roads outside the project limits or existing roadbeds or structures within the project limits that will continue in use after project completion.

Construction traffic on existing bridges and direct traffic culverts within the limits of a project, except those to be widened or extended, will be governed by the following:

- (1) Construction vehicles that exceed the legal load limit, which would require a permit to haul over the highway system, will not be authorized across structures. Where a posted load limit exists on either the highway system or off the highway system, construction vehicles that exceed the posted load limit are not permitted.

- (2) Where a detour is not readily available or economically feasible to use, an occasional crossing of a structure with overweight equipment may be permitted for relocating equipment only, but not for hauling material, provided that a structural analysis indicates that no damage will result. The structural analysis must be approved by the Engineer. Temporary matting and/or other requirements may be imposed by the Engineer if an occasional crossing is permitted.
- (3) The Contractor is responsible for protection of existing small structures within the limits of a project. Any such structure damaged by the use of construction equipment must be restored to its original condition or replaced by the Contractor, all at the Contractor's expense. Additional temporary fill may be required by the Engineer for protection of certain structures.

## **ITEM 7**

### **LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC**

#### **7.1 Laws to be Observed**

The Contractor must make itself familiar with and at all times must observe and comply with all Federal, State, and local laws, ordinances, and regulations which in any manner affect the conduct of the work and must indemnify and save harmless the County and its representatives against any claim arising from the violation of any such law, ordinance, or regulations, whether by itself, its employees, its subcontractors, or employees of its subcontractors.

The County and the Contractor specifically agree that none of the provisions of any part of the contract are intended to make the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this contract. The duties, obligations, and responsibilities of the parties to this contract with respect to third parties will remain as imposed by law.

If sites, buildings, and locations of historical, archeological, educational, or scientific interest are discovered after construction operations are begun, operations in that particular area must cease immediately and the sites, buildings, or locations will be investigated and evaluated by the County. An extension of time will be granted, if necessary, for delays caused by these investigations and evaluations.

#### **7.2 Permits, Licenses, and Taxes**

The Contractor must procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incident to the due and lawful prosecution of the work.

#### **7.3 Patented Devices, Materials, and Processes**

If the Contractor is required to or desires to use any design, device, materials, or process covered by letters of patent or copyright, the Contractor must provide for such use by suitable agreement with the patentee or copyright owner. The Contractor and the surety must indemnify and save harmless the County from any and all claims for infringement by reason of the use of any patented design, device, materials, or process, or any trademark or copyright used in connection with the work agreed to be performed under the contract; provided, however, that

Travis County, Texas will assume the responsibility to defend any and all suits brought for the infringement of any patent claimed to be infringed upon by the design, type of construction, or materials specified in the plans furnished the Contractor by Travis County, Texas.

#### 7.4 Insurance Schedules

The Contractor must not commence work under this Contract until it has obtained all the insurance required hereunder and certificates of such insurance have been filed with and reviewed by the Owner. Acceptance of the insurance certificates by the Owner will not relieve or decrease the liability of the Contractor. The Owner must be named as an additional insured on the policies. The Contractor must not change or modify the insurance coverage without prior notice to the Owner.

Unless otherwise provided for in the Contract Documents, the Contractor must provide and maintain, until the Work covered in this Contract is completed and accepted by the Owner, the minimum insurance coverages in the following schedule.

The minimum required limits may be achieved by purchasing an excess liability policy so long as such policy provides coverages at least as broad as the primary insurance.

- A. Worker's Compensation and Employer's Liability Insurance  
Worker's Compensation Insurance must be as required by law and must include an all states or universal endorsement.

Employer's Liability Insurance must be written for not less than \$500,000 each occurrence.

- B. Commercial General  
Minimum Limits:

Per Occurrence	\$1,000,000
Aggregate	\$3,000,000

The following coverage's must be specifically insured and certified with no internal sub limits. A separate aggregate limit is acceptable for the Products/Completed Operations hazard:

- 1) Independent Contractors Contingent Liability
- 2) Products/Completed Operations Liability
- 3) Contractual Liability
- 4) "X, C, U" Hazard Liability (if applicable)
- 5) Personal Injury Liability including claims related to employment
- 6) Broad Form Property Damage Liability and deletion of the "Care, Custody, and Control" exclusion
- 7) Waiver of Defense of Municipal Liability Immunity

Travis County will be named as an additional insured where the County's interest may appear.

- C. Business Automobile Liability Insurance
1. Coverage for all owned, non-owned, and hired vehicles must be maintained with limits of \$1,000,000 written on a per occurrence or combined single limit.
  2. Policy must also include the following endorsements in favor of County;
    - a. Waiver of Subrogation (Form TE 2046A)

- b. Thirty (30) day Notice of Cancellation (Form TE0202A)
- c. County named as an additional insured (Form TE 9901B)

D. **EXCESS LIABILITY**

Excess coverage may be required when limits of insurance are inadequate to cover the risk exposure created by the project.

Excess Liability Limits (\$10,000,000) Appropriate amount to be determined based on project.

Excess Liability Policy will follow form of the underlying general liability and business automobile liability.

This furnishing of the required insurance coverages, as may be modified by special Conditions, is one of the Contractor's initial requirements of the Contract which must be performed before a Notice to Proceed can be issued, and if not provided within 15 calendar days after receipt of the Contract Award, may result in forfeiture of the Contractor's bid security. All insurance policies must be open to inspection by the County, and copies of policies must be submitted to the County upon written request.

The contractual liability is to be written on a blanket basis for all written or oral contracts, or specifically endorsed to acknowledge the contract between the insured and the County of Travis. If included in the general liability policy contractual liability must be specified on the certificate of coverage.

All certificates of insurance must provide that the insurance company must give the County an affirmative statement, with no qualifications, that 30 days prior written notice will be given to the County in the event of policy cancellation, non-renewal or material reduction in coverage provided under the policy, including impairment of any aggregate limits less than \$3,000,000.

A waiver of subrogation in favor of Travis County will be endorsed to all policies. Travis County will be named as an additional insured where the County's interest may appear and where specifically indicated in the schedule of insurance.

The Contractor is responsible for providing the insurance required herein. The Contractor may include the cost of acquiring the insurance within the unit prices bid for the several pay items of the bid.

7.5 Sanitary Provisions

The Contractor must, at its own expense, provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the Texas State Department of Health Services or of other authorities having jurisdiction.

7.6 Public Safety and Convenience

The safety of the public and the convenience of traffic must be regarded as of prime importance. Unless otherwise shown on the plans or except as herein provided, all portions of the highway must be kept open to traffic. It is entirely the responsibility of the Contractor to provide for traffic along and across the highway as well as for ingress and egress to private property.

Ingress and egress to private property must be provided as specified in the plans or as directed by the Engineer. **THE CONTRACTOR MUST PRESERVE**

**ACCESS OF ENTRY AND EXIT FOR LANDOWNERS ADJACENT TO THE PROJECT.** The Contractor may construct detours or cause travel to be circuitous for a landowner, but must not prevent the access of any landowner to the landowner's property.

The Contractor must plan and execute its operations in a manner that will minimize any interference with traffic. The Contractor must secure the Engineer's approval of this proposed plan of operation, sequence of work, and methods of providing for the safe passage of traffic before it is placed into operation. If at any time during construction the approved plan does not accomplish the intended purpose due to weather or other conditions affecting the safe handling of traffic, the Contractor must immediately make necessary changes therein to correct the unsatisfactory conditions. If due to rains or other reasons, the shoulders, slopes, and ditches become unsatisfactory for handling traffic, construction operations must be suspended and the base course or surface area must be opened to traffic. Where the specifications require or the Engineer directs that traffic be carried over or along the proposed work, construction operations must be so prosecuted and new material kept so placed and spread as to allow the passage of traffic in comfort and safety.

Where an Asphalt Surface Treatment is placed for the full width of one operation, traffic may be carried on the shoulder, slopes, and ditches subject to approval by the Engineer. During the operation of placing asphalt and aggregate, the surface or pavement should not be closed to traffic for a period of more than 45 minutes.

During construction of proposed structures, unless otherwise shown on the plans, the Contractor must provide and maintain detours, including temporary structures or crossovers of adequate structural design, as may be required for the safety and convenience of traffic. Unless otherwise provided on the plans, the cost of constructing such temporary detours will be paid for in accordance with Paragraph 4.3, "Extra Work."

At night or otherwise, all equipment not in use must be stored in such manner and at such locations so as not to interfere with the safe passage of traffic.

The Contractor must provide and maintain flaggers at such points and for such periods of time as may be required to provide for the safety and convenience of the public and the Contractor's personnel, and as directed by the Engineer. Flaggers must be English-speaking, courteous, well-informed, physically and mentally able to effectually perform their duties in safeguarding and directing traffic and protecting the work, and must be neatly attired and groomed at all times when on duty. When directing traffic, flaggers must use standard attire, flags, and signals and follow the flagging procedures set forth in the Texas Manual on Uniform Traffic Control Devices for Streets and Highways ("TMUTCD").

## 7.7 Barricades, Danger, Warning, and Detour Signs, and Traffic Handling

The Contractor is solely responsible for providing, installing, moving, replacing, maintaining, cleaning, and removing, upon completion of work, all barricades, warning signs, barriers, cones, lights, signals, and other such types of devices and for handling traffic as indicated in the plans or as directed by the Engineer. All barricades, warning signs, barriers, cones, lights, signals, and other such type devices must conform to details shown on the plans or those indicated in the TMUTCD. All Traffic Control Devices used on this project must comply with the crashworthiness requirements of the National Cooperative Highway Research Program ("NCHRP") Report 350.

The Contractor may provide special signs not covered by plans to protect the traveling public against special conditions or hazards, provided however, that such signs are first approved by the Engineer.

## 7.8 Use of Explosives

Blasting will not be allowed unless rock is encountered and, in the opinion of the Engineer, excavation cannot be accomplished with machines available in the area.

Where, in the opinion of the Engineer, blasting is necessary to complete excavation, all such blasting must be performed by persons licensed by the City of Austin for blasting. All blasting, including methods of storing and handling of explosives and highly inflammable materials, must conform to federal, state, and local laws and ordinances. All City of Austin Ordinances must be complied with even though some or all of the blasting is done outside the city limits of the City of Austin.

The following is a list of requirements in addition to federal, state, and local laws and ordinances:

1. The Contractor must furnish the County with a Certificate of Blasting Insurance in the amount of \$300,000 for each contract, naming Travis County as an additional insured party, at least 24 hours prior to using explosives. A blasting permit must be obtained from the City of Austin at least 5 days prior to use of explosives. If blasting is covered under the Contractor's General Insurance Certificate for each contract, a separate blasting certificate will not be required.
2. The following public utility companies and City Departments must be notified in writing by the Contractor, on every occasion, at least 48 hours prior to the use of explosives: Water and wastewater, electric, gas, telephone, cable TV, and the City Engineering Department.
3. Explosive materials to be used are limited to blasting agents and dynamite, unless prior approval of other materials is obtained in writing from the Engineer.
4. During blasting, all reasonable precautions must be taken to protect pedestrians, passing vehicles, and public or private property. Blasting mats or protective cover must be used when required by the Inspector, the permit, or by safe blasting practices.
5. All explosives must be stored in accordance with the City of Austin Code.
6. The Engineer and his representative have the right to limit the use of explosives and/or blasting methods which, in his opinion, are dangerous to the public or nearby property or anyone or anything.
7. The Contractor, at its expense, must promptly repair or replace all items known to be damaged as a result of the blasting. All claims of damage will be investigated by the County or by consulting firms approved by the County.
8. The Contractor must maintain accurate records throughout the blasting operations showing the type of explosive used, number of holes, pounds per hole, depth of hole, total pounds per shot, delays used, date and time of blast, and initials of the Inspector. The Contractor is fully responsible for all claims resulting from its blasting operation.
9. In advance of doing any blasting work involving the use of electric blasting caps within 200 feet of any railroad track, the Contractor must give at least 24 hours advance notice to the nearest Roadmaster, Section Foreman,

Agent, Signal Maintainer, or Telegraph Operator with the request that his superintendent be advised immediately of the pending use of explosives.

#### 7.9 Protection of Adjoining Property

The Contractor must take proper measures to protect the adjacent or adjoining property which might be injured by any process of construction, and, in case of any injury or damage resulting from any act or omission on the part of or on behalf of the Contractor, the Contractor must restore at its own expense the damaged property to a condition similar or equal to that existing before such injury or damage was done, or the Contractor must make good such injury or damage in an acceptable manner.

#### 7.10 RESPONSIBILITY FOR DAMAGE CLAIMS

**THE CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY AND COUNTY'S AGENTS AND EMPLOYEES FROM ALL SUITS, ATTORNEYS' FEES, ACTIONS, OR CLAIMS AND FROM ALL LIABILITY AND DAMAGES FOR ANY AND ALL INJURIES, DEATH, OR DAMAGES SUSTAINED BY ANY PERSON OR PROPERTY IN CONSEQUENCE OF ANY NEGLIGENCE, ERROR, OR OMISSION IN THE PERFORMANCE OF THE CONTRACT BY THE CONTRACTOR AND FROM ANY CLAIMS OR AMOUNTS ARISING OR RECOVERED UNDER THE TEXAS WORKERS' COMPENSATION LAWS, CHAPTER 101 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE (TEXAS TORT CLAIMS ACT), OR ANY OTHER LAWS REGARDLESS OF WHETHER THE CONTRACTOR IS WHOLLY OR PARTIALLY AT FAULT. THE CONTRACTOR MUST FURTHER SO INDEMNIFY AND BE RESPONSIBLE FOR ANY AND ALL INJURIES, DEATH, OR DAMAGES SUSTAINED BY ANY PERSON OR LIABILITY OR DAMAGES TO PROPERTY OF ANY CHARACTER OCCURRING OR RESULTING FROM ANY ACT, OMISSION, NEGLIGENCE, OR MISCONDUCT ON THE CONTRACTOR'S PART IN THE MANNER OR METHOD OF EXECUTING THE WORK; FROM FAILURE TO PROPERLY EXECUTE THE WORK; OR FROM DEFECTIVE WORK OR MATERIALS.**

**THE CONTRACTOR WILL NOT BE RELEASED FROM THESE RESPONSIBILITIES UNTIL ALL CLAIMS HAVE BEEN SETTLED AND SUITABLE EVIDENCE TO THAT EFFECT FURNISHED TO THE COMMISSIONERS COURT.**

**THE CONTRACTOR EXPRESSLY ACKNOWLEDGES THAT PIPELINES AND OTHER UNDERGROUND INSTALLATIONS THAT MAY BE SHOWN ON THE PLANS HAVE BEEN TAKEN FROM THE BEST AVAILABLE INFORMATION. THERE MAY BE OTHER PIPELINES OR INSTALLATIONS. THE CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE COUNTY FROM ANY AND ALL SUITS OR CLAIMS RESULTING FROM DAMAGE BY THE CONTRACTOR'S OPERATIONS TO ANY PIPELINE OR UNDERGROUND INSTALLATION.**

#### 7.11 Contractor's Responsibility for Work

Until final written acceptance of the project by the Engineer, the Contractor will have the charge and care thereof and must take every precaution against injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the work. The Contractor must rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and must bear the expense thereof except damage to the work due to Acts of God such as earthquakes, tidal waves, tornados, hurricanes, or other cataclysmic phenomena of nature, or acts of the public

enemy or of governmental authorities. In case of suspension of work for any cause, the Contractor will be responsible for the preservation of all materials. The Contractor must provide suitable drainage of the roadway and must erect temporary structures where required. The Contractor must maintain the roadway in good and passable condition until final acceptance, except as outlined below for opening the roadway to traffic.

Whenever in the opinion of the Engineer any roadway or portion thereof is in suitable condition for travel, it must be opened to traffic, as may be directed, and such opening must not be held to be in any way the final acceptance of the roadway or any part of it or as a waiver of any of the provisions of the contract. Where it is considered by the Engineer to be in the public interest and so ordered in writing by him/her, any substantially completed roadway or portion thereof may be opened to traffic when work is suspended for a considerable period of time at the convenience of the County, and the County will assume the responsibility for maintaining the entire roadway during the period of suspension.

The County in assuming responsibility for maintenance under this provision may require the work to be done in accordance with Paragraph 4.3, "Extra Work," or may do it with its own forces; provided, however, this will not change the legal responsibilities set out in Paragraph 7.10, "Responsibility for Damage Claims."

Except for damage by the Contractor or that is caused by the Contractor's operations, the Contractor will not be responsible for repair of damage to existing appurtenances such as guard fences, bridge wings and railings, illumination assemblies, underpass structures, traffic barriers, delineator assemblies, signs, sign bridges, and traffic signals, where such damage is caused by (a) motor vehicle, seacraft, aircraft, or railroad-train collision; or (b) vandalism. Such release from responsibility for damages includes only appurtenances, or portions thereof, which were existing at the beginning of the proposed work and for which no work is proposed under this contract; or for existing appurtenances that do require work under this contract but for which no work has yet begun. The release also includes damage to existing appurtenances and to existing pavement structure and other existing structures which are damaged by fire or by chemical spills which are a result of motor vehicle, seacraft, aircraft, or railroad-train operation or accidents, except for damage caused by the Contractor's operations.

When shown on plans or otherwise authorized by the Engineer, upon completion of all work provided for in the contract for any individual limits, control, or project, the Engineer will make an inspection, and if the work is found to be satisfactory, the Contractor will be released from further maintenance on that portion of the work. Such partial acceptance will be made in writing and will in no way void or alter any terms of the contract.

#### 7.12 Personal Liability of Public Officials

In carrying out the provisions of the contract or in exercising any power or authority granted hereunder, there will be no liability upon the Engineer or his authorized assistants, either personally or otherwise, as they are agents and representatives of the County.

#### 7.13 Responsibilities to the Railroad Companies

If the project crosses or is in close proximity to a railroad, the Contractor must conduct its operations in such manner so as not to interfere with, hinder, or obstruct any railroad company in any manner whatsoever in the use or operation of its trains or other property.

Whether the Contractor's work will be on or in the vicinity of an at-grade railroad crossing, involves incidental work on railroad right of way, or involves

construction of a railroad grade separation structure, the Contractor must notify the Engineer and the railroad company's division engineer at least 3 days prior to the performance of any work on the Railroad right of way, unless otherwise shown in the contract.

During the time this work is in progress the Contractor must assign such responsible supervisory personnel as are necessary to assure that due caution is observed by its workmen to keep the tracks and adjacent areas clear of debris and/or materials and equipment which might damage the tracks and railroad facilities or obstruct the safe passage of trains.

In addition to the above, if the work requires construction, other than paving or surfacing, in the vicinity of the tracks (or shoofly), the railroad company will provide flaggers during the periods when beams are being erected and slab forms are being both constructed and removed over the tracks, when pilings are being driven or shafts drilled adjacent to the tracks and at such other times that the tracks may be subject to obstruction due to the construction operations. This flagging service will be paid for by the County as a Force Account Item with the railroad company and will be at no expense to the Contractor.

In the performance of said work no construction material or equipment may be stored on the railroad's right of way or nearer than 15 feet from the centerline of any tracks. No forms or temporary false-work may be within 8.5 feet horizontally and measured perpendicular to the centerline of any tracks or within 22 feet vertically above the top of rails of any track unless otherwise shown in the plans.

Subject to the above conditions, the Contractor is allowed access on railroad right of way and is authorized to cross the tracks for the purpose of constructing a grade separation structure and approaches if required by the plans.

When permitted by the railroad company, the Contractor will also be allowed to cross the tracks in hauling other roadway material across the tracks at points on the right of way near the structure. The railroad company will furnish and install and later remove standard crossing plank at the expense of the Contractor. If automatic protection devices are required for the temporary crossing as determined by the railroad company and the County, they will be provided without cost to the Contractor. It is the Contractor's responsibility to insure that the tracks are left clear of equipment and debris which would endanger the safe operation of railroad traffic. The Contractor must provide one crossing watchman on each side of the crossing to direct its equipment when it is hauling across the tracks. Any railroad flaggers required by the railroad company for protection of this crossing due to the hauling operations will be paid for by the County as a Force Account Item with the railroad company and will be at no expense to Contractor. Equipment traffic must be halted a safe distance away from the crossing upon the approach of railroad traffic.

The railroad company may require the Contractor to execute an "Agreement for Contractor's Temporary Crossing." If required, it will be the Contractor's responsibility to secure this agreement at no expense to the County.

#### 7.14 Abatement and Mitigation of Excessive or Unnecessary Construction Noise

Throughout all phases of the construction of this project, including the moving, unloading, operating, and handling of construction equipment prior to commencement of work, during the project and after the work is complete, the Contractor must make every reasonable effort to minimize the noise imposed upon the immediate neighborhood surrounding the area of construction. Particular and special efforts must be exercised by the Contractor to avoid the creation of unnecessary noise impacts on adjacent sensitive receptors in the placement of non-mobile equipment such as air compressors, generators, pumps, etc. The placement of temporary parked mobile equipment with the

engine running must be such as to cause the least disruption of normal adjacent activities not associated with the work to be performed by the Contractor.

All equipment associated with the work must be equipped with components designed by the manufacturer wholly or in part to suppress excessive noise and these components must be maintained in their original operating condition considering normal depreciation. Noise-attenuation devices installed by the manufacturer such as mufflers, engine covers, insulation, etc., must not be removed nor rendered ineffectual nor be permitted to remain off the equipment while the equipment is in use.

#### 7.15 Work Near Electrical Power Lines

Any operations by the Contractor which are located near any electrical power lines must be accomplished using established industry and utility safety practices. The Contractor must consult with the appropriate utility company prior to beginning any such work. All associated costs will be the responsibility of the Contractor.

#### 7.16 Disposal of Excess Excavation On-site and Off-site

Permanent and temporary disposal sites for excess excavated materials, if any, are indicated on the approved plans and SWP3. All permanent on-site fill areas for excavated material within the approved project right-of-way or easements must be composed of natural rock and soil material only, and may not include any putrescible, degradable wastes such as trash, metal, wood, trees, brush, construction debris, or municipal solid wastes. All solid wastes and prohibited material must be recycled, if possible, or taken to a permitted landfill. The Contractor must dispose of excess excavated material from this project at sites indicated in the approved plans and SWP3. All excavated or surplus material must be leveled and graded to a neat and uniform line and grade that will not obstruct natural drainage or pond any surface water. The Contractor must place on-site temporary stockpiled materials at locations indicated on the approved plans and SWP3 or approved by the Engineer which are not blocking drainage, not around waterways, not underneath tree driplines, not on unauthorized property or locations, and not on any environmentally sensitive areas.

Any off-site disposal of excess excavated material from this project must comply with all permitting requirements of the County and any other applicable governmental jurisdictions. City of Austin has enforcement authority over water quality issues within its ETJ. A City of Austin permit will be required for disposal site within City of Austin's ETJ, as well as a County Development Permit in unincorporated Travis County. An approved Storm Water Pollution Prevention Plan will also be required for the disposal site. Prior to off-site disposal, the Contractor must inform the project inspector of such disposal and provide proper project documentation or permits, or the Contractor will recommend revisions to the SWP3 that the Contractor believes are required for the disposal location.

#### 7.17 Work in Waters of the United States

Work in waters of the United States or adjacent wetlands may require a U.S. Army Corps of Engineers Section 404 Permit or Authorization under a 404 Nationwide Permit (NWP). The County will obtain any required 404 Permits or Authorization prior to commencement of construction and include any applicable construction mitigation measures in the project SWP3. The Contractor must adhere to any agreements, mitigation plans, and best management practices required by the Permit or NWP Authorization. If the Contractor makes changes in a project construction method that would result in changes of project impacts to waters of the United States or its adjacent wetlands, the Contractor will be responsible for obtaining any new required Section 404 Permit or Authorization and recommending appropriate revisions to the project SWP3. Only the County is authorized to make changes to the SWP3.

### 7.18 Work in Navigable Waters

Any operations by the Contractor relating to the placement of embankment or structures, or the rehabilitation of structures in or over the navigable waters of the U.S. may require a U.S. Army Corps of Engineers Permit. The County will obtain any required Permit prior to the commencement of construction and include any applicable construction mitigation measures in the project SWP3. The Contractor will be required to adhere to the stipulations and associated best management practices of the Permit and SWP3. If the Contractor makes any changes in a project construction method that would result in changes of project impacts to navigable waters of the U.S., the Contractor will be responsible for obtaining any new required Permit and for obtaining the County's approval of the Contractor's recommended revisions to the project SWP3.

### 7.19 Work in the Edwards Aquifer Zone

If the Project includes work over the Transition Zone, Recharge Zone, or Contributing Zone of the Edwards Aquifer, or any other regulated aquifers as defined and delineated by the Texas Commission on Environmental Quality ("TCEQ"), the Contractor must follow best management practices and use and maintain those sedimentation and water pollution control devices, as required by the Engineer and the approved project SWP3. The Contractor must make every reasonable effort to minimize the degradation of water quality resulting from construction impacts.

If a Water Pollution Abatement Plan is required by the TCEQ, any modifications to the approved Plan will require the Engineer's approval and will be coordinated through TCEQ by the County.

### 7.20 Storm Water Pollution Prevention Plan (SWP3), Erosion and Sedimentation Control ("ESC"), and Waterway Protection

The SWP3 includes specified sediment controls and other structural and non-structural practices to prevent off-site discharges of sediment and other pollutants to adjacent waterways and off-site areas for the project. The Contractor must install and maintain the ESC and other controls until final stabilization is completed. The Engineer may direct the Contractor to adjust plan locations or add footage to the approved SWP3 and ESC plan in areas where it is observed to be inadequate to prevent off-site discharges and sedimentation. This responsibility for sediment control applies only to areas disturbed by the project construction activities and does not include upstream or pre-existing erosion conditions.

Prior to beginning any construction, the first phase of the temporary ESC measures and all required tree fencing must be installed by the Contractor. Prior to the installation of this first phase, the Engineer will meet the Contractor in a field pre-construction conference to direct precise locations of controls for maximum effectiveness. Minor adjustments to plan locations and additional footage will be paid for at the contract unit price. The second phase of ESC will consist of controls placed during or after rough cut and fill operations as specified in the plans and SWP3, with precise locations approved by the Engineer.

The Contractor must inspect the sediment and other SWP3 controls on an on-going basis, and after every significant rainfall, to determine if the controls are intact and functioning and to observe if sedimentation has exceeded specifications. The Contractor must perform and complete all necessary repairs and remove excess sediment to designated spoil areas within 48 hours of inspection or County notification, or as soon as conditions begin to dry after rainfall. Repair and maintenance of temporary ESC must be the first work performed after rainfall events as regular operations resume.

The Contractor will be paid by the linear footage of controls installed and measured in place. All maintenance and repair of ESC due to construction and runoff disturbance and all sediment removal will be subsidiary to ESC bid items unless designated as a separate line item for bid and payment in the Schedule of Items.

The Contractor is also responsible for following the limits of construction, clearing, temporary spoils storage, permanent spoil disposal, staging areas, and haul roads required in the approved plans and SWP3, and for limiting these areas to the minimum necessary to perform the required work. The Contractor must utilize only on-site area(s) outside the 100-year flood plain as designated on the approved plans for temporary stockpiling and staging areas during construction, or as approved by the Engineer. Additional temporary ESC and re-vegetation will be required for these areas.

The Contractor must not discharge pumped water containing suspended solids from excavations or stream crossings off-site or into waterways without control measures to prevent sedimentation of the waterway. Care must be taken when conducting any construction operations adjacent to a flowing stream or body of water to avoid sedimentation of the waterway. Special controls for de-watering activities may be required in the Special Provisions. The Contractor must also implement controls as required for construction site entrance and exits, concrete truck wash-out, and spills of industrial materials.

The Contractor must implement temporary stabilization of areas where construction has temporarily ceased as required, and final site stabilization measures as specified, including seeding, watering, and mulching to re-establish grass cover for permanent erosion control. When permanent re-vegetation and final site stabilization is deemed complete by the Engineer, the controls and accumulated sediment must be removed by the Contractor except for any controls that are directed to remain by the Engineer.

#### 7.21 Tree Preservation

Trees on the project must be saved in accordance with the approved plans and County Code Chapter 108 for Tree Preservation. All trees designated to be saved must be protected with specified fencing to prevent damage from construction activities and root zone compaction. The Contractor, at the direction of the Engineer, must attempt to save any trees on the project that may not have been indicated for preservation, but need not be removed in order to construct the project. The Contractor must maintain the tree fencing in place until construction is completed and perform all work in a manner that will not damage trees and undisturbed areas to be preserved.

Any trees removed which are deemed by the Engineer to be infected with oak wilt disease must be disposed of using acceptable methods to prevent the spread of the disease to adjacent areas.

#### 7.22 Measures to Control Dust

Throughout all phases of the construction of this project, including detour construction, excavation, embankment, hauling, stockpile, and topsoil placement, the Contractor must make every reasonable effort to control and minimize the dust resulting from construction operations and traffic movement. Control measures must follow the approved SWP3 for the project and must include, but are not limited to, authorized application of water or asphalt emulsion on construction sites, detours, haul road, stockpiles, or other areas specifically associated with this project. It is the Contractor's continuous responsibility at all times, including nights, holidays, and weekends until acceptance to maintain the project site relatively free of dust in a manner which will cause the least

inconvenience to the public. All costs of measures to control dust will be considered subsidiary to the various items of the Contract.

### 7.23 Site Burning

Site burning will not be permitted without the explicit written consent of the Engineer and must comply with all applicable Texas Air Quality Control Board regulations and local fire and water pollution control requirements.

### 7.24 Hazardous and Solid Waste Management

Any hazardous materials brought on to the project site for use by the contractor or any subcontractor, such as fuel, explosives, automotive fluids, and batteries must be used, transported, stored, and disposed of in accordance with all federal, state, and local requirements and in accordance with the approved SWP3 for the Project. Any hazardous material spills committed by the Contractor or any subcontractor must be cleaned up by the Contractor or subcontractor in accordance with all applicable laws and regulations, and written notification must be given to the Engineer as soon as practical. If large quantities of hazardous materials are involved, or waterways or storm sewers are impacted, such spills may require written notification by the Contractor or subcontractor to local or state emergency response personnel.

Any and all trash, including any solid waste and construction debris, generated by the Contractor or any subcontractor or Project must be strictly controlled by the Contractor and disposed of in accordance with all federal, state, and local requirements and the approved SWP3 for the Project.

### 7.25 Differing Site Conditions

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

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

7.25.3 No Contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.

7.25.4 No Contract adjustment will be allowed under this clause for any effects caused on unchanged work.

### 7.26 Changes.

The Contractor must inform County regarding the following changes:

7.26.1 problems, delays, or adverse conditions which will materially affect or impair the ability of Contractor or any of its subcontractors to meet project or schedule goals or objectives; and

7.26.2 favorable development that enables meeting time schedules or objectives sooner or at less cost than anticipated and favorable developments that produce more beneficial results than originally planned.

## ITEM 8

### PROSECUTION AND PROGRESS

#### 8.1 Subletting or Assigning of Contract

The Contractor must not assign, sell, transfer, or otherwise dispose of the contract or any portion thereof, or its rights, title, or interest therein without the approval of the Commissioners Court. The Contractor must not sublet any portion of the contract without the written approval of the Purchasing Agent upon recommendation from the Engineer. No subcontract will, in any case, relieve the Contractor of its responsibility under the contract and bond.

The Contractor must perform with its own organization and with the assistance of workmen under its immediate superintendent, work of a value not less than 50 percent of the value of all work encompassed by the contract exclusive of items not commonly found in contracts for similar work, or which require highly specialized knowledge, craftsmanship, and/or equipment not ordinarily available in the organizations of contractors performing work of the character encompassed by the contract. The Contractor must give assurance that not less than the minimum wage for labor and not more than the maximum amount to be deducted for board, if furnished, as stated in the governing provisions will apply to labor performed on all work sublet, assigned, or otherwise disposed of in any way. Written consent to sublet, assign, or otherwise dispose of any portion of the contract will not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.

The Contractor is required to pay not less than the wage scale of the various classes of labor as shown on the "Prevailing Wage Schedule" provided by the Owner. The specified wage rates are minimum rates only, and the Contractor is encouraged to pay all laborers, workmen, and mechanics employed on this job no less than the living wage as established by Travis County at the time of contract award, even if the living wage exceeds the wages set forth in the minimum wage scale. However, the Owner will not consider any claims for additional compensation made by the Contractor because of payment by the Contractor of any wage rates in excess of the applicable minimum rate contained in the Prevailing Wage Schedule.

#### 8.2 Prosecution of Work

Prior to beginning construction operations, the Contractor must submit to the Engineer a schedule in accordance with Paragraph 8.12 ("Contractor's Proposed Schedule"). The Contractor must begin the work to be performed under the contract within 14 calendar days after receiving a written "Notice to proceed" and must continuously prosecute same with such diligence as will enable it to complete the work within the time limit specified. The Contractor must notify TNR's Project Manager at least 24 hours before starting construction operations at any point. It must not open up work to the detriment of work already begun. The beginning, sequence, and prosecution of the work will be governed by the orders of TNR's Project Manager, and the Contractor must conduct its operations so as to minimize any interference to traffic.

In the event of damage to existing appurtenances, etc., which are not shown on the construction plans, marked on the ground or visible in the field, the County

may (1) require the damage to be repaired in accordance with Paragraph 4.3, "Extra Work;" (2) repair it with its own forces; or (3) award another contract for the repair; provided, however, this will not change the legal responsibilities set out in Paragraph 7.10, "Responsibility for Damage Claims."

The Contractor must plan and prosecute its work so as not to interfere with or hinder the completion of the work required for this damage repair.

The observance of this provision is an essential part of the work to be done under the contract. No direct compensation will be allowed for fulfilling this requirement as such work is considered subsidiary to the various bid items of the contract.

An extension of time will be granted, if necessary, for delays caused to the Contractor by this damage-repair work. It is specifically understood, however, that delays caused by this damage-repair work will not be considered as a basis for a claim by the Contractor.

Where applicable, if the utility construction and/or adjustment of existing utilities will not be completed before the Contractor on this project begins construction operations, then the Contractor must coordinate with and work in conjunction with the utility companies during their reallocations if and when necessary to maintain the progress of the work.

It is the responsibility of the Contractor on this project to stockpile materials and prosecute the work in such a manner and sequence that there will be no interference with the utility work. The Contractor must also allow utility owners free ingress and egress over the right of way.

No additional compensation or delay damages will be allowed or considered for any hindrance or delay in construction operations that may be attributed to this utility work, to the acquisition of necessary right of way and easements, or to observance of the requirements herein outlined

### 8.3 Workers and Equipment

All workers employed by the Contractor must have such skill and experience as will enable them to properly perform the duties assigned them. Any person employed by the Contractor or a subcontractor who, in the opinion of the Engineer, does not perform its work in a proper and skillful manner, or who is disrespectful, intemperate, disorderly, or otherwise objectionable, must at the written request of the Engineer be forthwith discharged and must not be employed again on any portion of the work without the written consent of the Engineer. In the pre-construction conference, the Contractor must submit the names and phone numbers of an English-speaking superintendent and a trench safety "Competent Person" as certified by OSHA pursuant to 29 C.F.R. Part 1926 Subpart P. The superintendent and Competent Person can be the same person. The Contractor must furnish such suitable machinery, equipment, and construction forces as may be necessary, in the opinion of the Engineer, for the proper prosecution of the work, and failure to do so may cause the Engineer to withhold all estimates which have or may become due, or the Engineer may suspend the work until his requests are complied with.

Ensure that all employees of Contractor, as well as all employees of subcontractors of any tier, who perform any portion of the Work have completed the 10-hour minimum OSHA construction safety-training course prior to commencement of the Work. Contractor shall submit a copy of all training certificates to the Project Safety Manager prior to commencement of the Work.

#### 8.4 Temporary Suspension of Work

The Engineer has the authority to suspend the work, wholly or in part, for such period as he may consider necessary, and the "Time Charge" will be suspended during such period. Notice of such suspension with the reasons therefor will be given to the Contractor in writing. The Contractor must not suspend work without the written authority of the Engineer.

#### 8.5 Computation of Contract Time for Completion

The Contractor must complete the work within the number of days stated in the contract. For the purpose of computation, the time will begin on the date of the Notice to Proceed.

On or before the first day of each month, the Construction Administrator will furnish the Contractor a monthly contract time statement on forms furnished by the County, showing the number of working days charged up to and including the 25th day of the preceding month, total number of working days allowed in the contract, and the working days remaining under the contract. The Contractor will be allowed 10 calendar days in which to protest the correctness of the statement. This protest must be in writing and must show cause. Not filing a protest within the allowed 10 days for any time statement will indicate the Contractor's approval of the time charges as shown on that time statement and future consideration of that statement will not be permitted. If the satisfactory completion of the contract will require unforeseen work or work and materials in greater amounts than those set forth in the contract, then additional working days or suspension of the time charge will be allowed the Contractor equal to the time which, in the opinion of the Engineer, the work as a whole is delayed.

A Monthly Contract Time Statement must be submitted with each Partial Payment Request. A Partial Payment Request will be rejected if the monthly Contract Time Statement is not submitted. If the Monthly Contract Time Statement is being protested by the Contractor, a copy of the written protest letter must be included in the Partial Payment Request. Once a previously protested Contract Time Statement has been approved by the County, the Contractor must submit the approved statement with its next Partial Payment Request.

When any period of time is stated in this contract, the time will be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Travis County has declared a holiday for its employees, these days will be omitted from the computation. All hours stated in this contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o'clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.

#### 8.6 Failure to Complete Work on Time

If the Contractor fails to complete the contract in the contract time specified, the time charge will be made for each working day, thereafter as defined herein.

Time is of the essence in the performance of this contract. The time set forth in the bid for the completion of the work is an essential element of the contract. For each working day under the conditions described in the preceding paragraph that any work remains uncompleted after the expiration of the contract time specified in the contract, together with any additional working days allowed, the amount per day given in the following schedule will be deducted from the money due or to become due the Contractor, not as a penalty, but as liquidated damages. In

the event of the failure of the Contractor to timely complete the work, it is agreed that the County's actual damages would be extremely difficult, impractical, or impossible to calculate and, therefore, the amount of liquidated damages set forth herein is agreed to be a reasonable estimate of the County's actual damages and will be retained by the County as liquidated damages and not as a penalty.

For Amount of Contract		Amount of Liquidated Damages per Working Day
From More than	To and Including	
\$ 0	\$ 100,000	\$ 200
100,000	500,000	450
500,000	1,000,000	550
1,000,000	2,000,000	700
2,000,000	5,000,000	850
5,000,000	10,000,000	1,300
10,000,000	15,000,000	1,700
over 15,000,000		2,000

If the Contractor fails to complete the Work within the contract time specified or if the project is suspended because of action of a third party, the Contractor assumes all risks and must bear all costs for its labor, machinery, materials in place or in inventory, environmental mitigation, and traffic rerouting which may be impacted by the failure to complete the project in a timely manner.

#### 8.7 Abandonment of Work or Default of Contract

If the Contractor fails to begin the work within the time specified, fails to perform the work with sufficient workmen and equipment, has insufficient materials to insure the completion of the work within the contract time, performs the work unsuitably, neglects or refuses to remove materials or perform anew such work as may have been rejected as being defective or unsuitable; discontinues the prosecution of the work without authority; becomes insolvent or is declared bankrupt; commits any act of bankruptcy or insolvency; or makes an unauthorized assignment for the benefit of any creditor; or from any other cause whatsoever does not carry on the work in an acceptable manner, the Purchasing Agent, upon recommendation of the Construction Administrator, may give notice in writing to the Contractor and its Surety of such delay, neglect, or default, specifying the same. If the Contractor within a period of 10 days after such notice does not proceed in accordance therewith, then the County will, upon written certification from the Purchasing Agent of the fact of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority, without violating the contract, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of work) that has been delayed, to take the prosecution of the work out of the hands of the Contractor and to appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and enter into an agreement for the completion of the contract according to the terms and provisions thereof or use such other methods as in the County's opinion may be required for the completion of the contract in an acceptable manner. All costs and charges incurred by the County, together with the cost of completing the work under contract, will be deducted from any money due, or which may become due, the Contractor. In case the cost so incurred by the County is less than the amount which would have been payable under the contract if it had been completed by the Contractor, the Contractor will be entitled to receive the difference. In case such cost exceeds the amount which would have been payable under the contract, then the Contractor and the Surety will be liable and must pay to the County the amount of such excess.

## 8.8 Termination of Contract

In the event of a national emergency and work to be performed under a contract is stopped directly or indirectly because of the freezing or diversion of materials, equipment, or labor, as the result of an order or a proclamation of the President of the United States and/or an order of any federal authority, or if during the budget planning and adoption process the Travis County Commissioners Court fails to provide funding for this contract for the County's fiscal year following the beginning of this Contract or if there has not been another issuance of bonds to fund the completion of this or other Capital Improvement Projects in Travis County, or in the event of a court order directly prohibiting further construction activities, or in the event of any third party actions preventing County from allowing construction to continue, and the circumstances or conditions are such that it is impossible within a reasonable time to proceed with a substantial portion of the work, as determined by the Engineer, then the County may, by written agreement, subject to the following conditions, terminate said contract or any part thereof.

When contracts, or any portion thereof, are definitely terminated or canceled, and the Contractor released before all items of work included in its contract have been completed, payment will be made for the actual number of units of items of work completed at contract unit prices and no claim for loss of anticipated profits will be considered. Reimbursement for organization of the work and moving equipment to and from the job will be considered where the volume of the work completed is too small to compensate the Contractor for these expenses under the contract unit prices, the intent being that an equitable settlement will be made with the Contractor, as determined by the Engineer.

Acceptable materials obtained by the Contractor for the work that have been inspected, tested, and accepted by the Engineer, and that are not incorporated in the work may, at the option of the Engineer, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Engineer.

If such terms and conditions of cancellation of all or any part of a contract cannot be agreed upon, the original contract will remain in full force and effect.

Termination of a contract, as stated above will not relieve the Contractor or its surety of the responsibility for replacing defective work as required by the contract.

## 8.9 Railroad Construction

When work to be done within the limits of a project involves a railroad company, the Contractor will be required to plan and prosecute its own work to avoid interference with, or hindrance to, that portion of the work that is the responsibility of the railroad company. The observance of this is an essential part of the work to be done under the contract. No direct compensation will be allowed for fulfilling this requirement as such work is considered subsidiary to the various bid items of the contract.

An extension of time will be granted, if necessary, for delays caused to the Contractor by the railroad company. It is specifically understood, however, that delays caused by the railroad company will not be considered as a basis for a claim by the Contractor.

## 8.10 Hazardous Materials.

Materials utilized in the project must be free of any hazardous materials

When the Contractor encounters existing materials on sites owned or controlled by the County or in required material sources that are suspected by visual observation or smell to contain hazardous materials, the Contractor must immediately notify the Engineer. The County will be responsible for the testing, removal, or disposition of any existing hazardous materials on sites owned or controlled by the County. The Engineer may suspend the work wholly or in part during the testing, removal, or disposition of hazardous materials on sites owned or controlled by the County.

When materials delivered to the project are suspected by visual observation or smell to contain hazardous materials, they must be tested for contamination. All testing must be by a commercial laboratory approved by the Engineer. When materials delivered to the project are found to be contaminated, the material must be removed and disposed of by the Contractor. The testing for and removal or disposition of hazardous materials delivered to the project by the Contractor will be at the Contractor's expense. No suspension of the "Time Charges" and no extensions of working time will be granted to the Contractor resulting from hazardous material delivered at the direction of the Contractor.

The Contractor must indemnify and save harmless the County and its representatives for the generation and/or disposition of hazardous materials generated by the Contractor on all work done by the Contractor on County-owned or controlled sites. Further, the Contractor must indemnify and save harmless the County and its representatives from any liability or responsibility arising out of the generation or disposition of any hazardous materials obtained, processed, stored, shipped, etc., on sites not owned or controlled by the County. Should the County be required to make any payments or pay any costs or fees or make restitution as a result of the Contractor's actions, the Contractor must reimburse the County for any and all payments of moneys.

The rules, regulations, policies, procedures, standards, applications, and reports of the various state agencies including but not limited to the Texas Commission on Environmental Quality (TCEQ), the Texas Water Well Drillers Board (TWWDB) and the Railroad Commission (RRC), and of all applicable federal departments and agencies including, but not limited, to the Environmental Protection Agency (EPA), Department of Energy (DOE), Department of Transportation (DOT) and the Occupational Safety and Health Administration (OSHA) will apply to all operations of the Contractor, including but not limited to the following: sampling, plugging, cleaning, testing, removing, disposing, and backfilling.

#### 8.11 Failure to Maintain Storm Water Pollution Prevention Plan (SWP3) Controls

The Contractor is required to maintain erosion and sediment controls, tree fencing, and other storm water discharge structural and non-structural controls in accordance with the approved plans, specifications, and SWP3 on a regular basis. These controls must be maintained and repaired within the time frames specified in the SWP3 Inspection Report provided weekly or bi-weekly to the Contractor by the County in order to accomplish their intended purpose. In case of failure to maintain such controls as directed by the Engineer, the Engineer reserves the right to employ outside assistance to provide the necessary corrective measures. Such incurred direct costs plus project engineering costs will be deducted from any money due or to become due to the Contractor.

#### 8.12 Contractor's Proposed Schedule

The Contractor must prepare and submit to the Engineer for approval a schedule in Microsoft Project format, unless otherwise approved by the Engineer, that is on a Critical Path Method (CPM) form, and the schedule must be consistent with the latest proven construction scheduling techniques. The Proposed Schedule must be consistent with the Sequence of Construction in the approved plan.

CPM diagrams must show the order and interdependence of activities and the sequence in which the work is to be accomplished as planned by the Contractor. The basic concept of the CPM schedule will be to show how the start of a given activity is dependent on the completion of preceding activities and how its completion restricts the start of subsequent activities.

The Contractor must participate in a review and evaluation of the proposed schedule with the Engineer, if required. Any revisions necessary as a result of this review must be resubmitted for approval within 10 calendar days after the review meeting. The approved schedule will then be the schedule to be used by the Contractor for planning, organizing, and performing the work. If the Contractor thereafter desires to make changes in its method of operating and scheduling, it must meet with the Engineer to discuss the proposed changes. A change may be considered major if the revised time is changed from the original plan to the degree that it affects the contract completion date. Changes in activities originally having slack time and normally not affecting the contract completion may be considered minor. However, if the cumulative effect of several minor changes affects the contract completion date, these may be considered major. The construction schedule may need to be revised if major changes are to be made. Major changes can only be approved by execution of Change Orders. Within 10 calendar days after the proposed changes are approved by the Owner, the Contractor must submit to the Engineer for final review and approval a revised schedule that incorporates these changes. Once the proposed changes are approved by the Change Order, the Contractor within 10 calendar days must submit a revised schedule incorporating these changes for final review and approval by the Engineer.

The Contractor must plan and prosecute its work so as not to interfere with or hinder the completion of the work in progress on adjoining projects. The Contractor must furnish two copies of all schedules and progress reports to the Engineer.

If, in the sole opinion of the Engineer, the Contractor's progress falls behind the approved construction schedule, the Contractor must take the appropriate steps as may be necessary to improve the Contractor's progress.

### 8.13 Contractor's Progress Reporting

The Contractor must, within 30 days after the date of contract award, prepare and submit to the Engineer for approval, the Contractor's Progress Reporting System which must include at least the following:

Monthly Progress Report – At the beginning of each month during the contract time, the Contractor must provide a report to the Engineer that includes the following information regarding the preceding month: (1) a summary narrative of on-site activities and accomplishments, (2) information regarding any problems anticipated in the upcoming month, and (3) activities scheduled for the following month. This report must also include the following:

Construction Schedule and Progress Chart - A current construction schedule that reflects a breakdown by activity of all contract work. The progress must be updated based on actual percentage of work physically completed for each activity.

A Construction Schedule and Progress Chart must be submitted with each monthly Partial Payment Request. A Partial Payment Request will be rejected if the submitted Construction Schedule and Progress Chart is not in compliance with this provision.

**ITEM 9****MEASUREMENT AND PAYMENT****9.1 Measurement of Quantities**

All work completed under the contract will be measured by the Engineer according to United States Standard Measures unless otherwise specified. All longitudinal measurements for surface area will be made along the actual surface of the roadway and not horizontally, and no deduction will be made for structures in the roadway having an area of 9 square feet or less. For all transverse measurements for areas of base courses, surface courses, and pavements, the dimensions to be used in calculating the pay areas will be on the neat dimensions and must not exceed those shown on plans or ordered in writing by the Engineer. All materials which are specified for measurement by the cubic yard in vehicles must be hauled in approved vehicles and measured therein at the point of delivery on the roadway. Vehicles for this purpose may be of any type or size satisfactory to the Engineer provided that the body is of such type that the actual contents may be readily and accurately determined. Each approved vehicle must bear an identification mark indicating specific approval by the Engineer and also a permanent, plainly legible number. The Inspector may reject all loads not hauled in such approved vehicles.

In those items which provide for payment by "Plan Quantity," the measurement of such quantities must be made by standard methods of calculation, using the methods described in the governing specification, and may or may not represent the exact quantity of material moved, handled, or placed in the roadway or structure during the execution of the contract.

The quantities shown on the plans, adjusted in accordance with the governing specification when required, will be the quantity paid for.

When the Engineer and Contractor agree in writing, the final payment for the pay items of sprinkling, rolling, overhaul, additional quarter mile haul, stripping, scraper work, disking, blading, bulldozer work, road grader work, or mobilization may be fixed at plan quantity if the bid quantity multiplied by the unit bid price is less than \$250. This provision will apply regardless of whether the final quantity required is greater than or less than the quantity stated in the bid.

**9.2 Scope of Payment**

The Contractor must accept the compensation, as provided in the contract, in full payment for furnishing all materials, supplies, labor, tools, and equipment necessary to complete the work under the contract; for any loss or damage which may arise from the nature of the work, from the action of the elements, and from any unforeseen difficulties which may be encountered during the prosecution of the work, until the final acceptance by the Engineer, except where there is conclusive evidence that such damage is due to inadequate design and not to improper prosecution of the work; for all risks of every description connected with the prosecution of the work; for all expenses and damages which might accrue to the Contractor by reason of delay in the initiation and prosecution of the work for any cause whatsoever; for any infringement of patent, trademark, or copyright; and for completing the work according to the plans and specifications. The payment of any current or partial estimate does not in any way affect the obligation of the Contractor at its own cost to repair or renew any defective parts of the construction and to be responsible for all damages due to such defects if such defects or damages are discovered on or before the final inspection and acceptance of the work.

### 9.3 Payment for Extra Work

Extra work ordered, performed, and accepted will be paid for according to the terms of Change Orders, Change Directives or on the "Force Account" basis as directed by the Engineer.

### 9.4 Force Account

When extra work is ordered to be performed on the "Force Account" basis, the Contractor will be paid "actual field cost" plus 15 percent. "Actual field cost" is hereby defined to include Contractor's cost for workers, such as foreman, timekeepers, mechanics, and laborers, and materials, supplies, trucks, rentals on machinery and equipment for time actually employed or used on such extra work, plus actual equipment, for time actually employed or used in such extra work plus actual transportation charges necessarily incurred, together with all power, fuel, lubricants, water, and similar operating expenses, and 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, Property Damage, workers' compensation, and other insurance as may be required by any law or ordinance or as directed by the County, or as agreed to by the County and the Contractor. The County may direct the form in which accounts of "actual field cost" will be kept, and records of those accounts must be made available to the County. The charges for (1) materials which are tangible personal property incorporated into the project or completely consumed at the job site, and (2) services required by or integral to the performance of the contract must be separated from all other charges, including the cost of labor, overhead, and materials which do not become part of the finished project or are not completely consumed at the job site. Unless otherwise specified, prices for use of machinery and equipment will be determined by using 80 percent of the latest schedule of Equipment Ownership Expense adopted by Associated General Contractors of America. Where practicable, terms and prices for use of machinery and equipment must be incorporated in a change order. Fifteen Percent of "actual field cost" to be paid to the Contractor will cover and compensate it for its profit, overhead, general superintendent, field office expense, and all other elements of cost and expense not embraced within "actual field cost" as herein defined, save that where the Contractor's field office must be maintained primarily on account of such extra work, in which case the cost to maintain and operate the same will be included in the "actual field cost."

The compensation, as herein provided for, will be received by the Contractor as payment in full for extra work done on the "Force Account" basis. The Contractor's representative and the Inspector must compare records of extra work done on the "Force Account" basis at the end of each day. Copies of these records will be made upon suitable forms provided for this purpose by the County and signed by both the County's and the Contractor's representatives, one copy being forwarded to the Construction Administrator and one to the Contractor. All claims for "Extra Work" performed on the "Force Account" basis must be submitted to the Engineer by the Contractor upon certified statements to which must be attached certified copies of invoices covering the cost of, and the freight charges on, all materials used in such work, and such statements must be filed not later than the tenth day of the month following that in which the work was actually performed. The statements must separate charges for materials, incorporated into the project or completely consumed at the job site and services required by or integral to the performance of the contract, from all other charges.

When extra work is ordered to be performed on the "Force Account" basis, and the estimated cost is less than \$500, payment of same may be made on the basis of an invoice submitted to the Engineer by the Contractor. The invoice must include the Contractor's actual cost for materials, labor, equipment, and incidentals necessary to complete the extra work. The invoice must separate

charges for materials incorporated in the project or completely consumed at the job site and services required by or integral to the performance of the contract, from all other charges.

The invoice must also include additional compensation specified above, in this Paragraph 9.4, as well as the cost of the Contractor's bond on the extra work.

#### 9.5 Partial Payments

On or before the first day of each month, the Contractor must submit to the Construction Administrator a statement showing the total value of the work performed up to and including the 25th day of the preceding month. The statement must also include the value of all sound materials delivered to the job site and to be included in the work and partially completed work whether bid as a lump sum or a unit item which in the opinion of the Engineer is acceptable. The statements must separate charges for materials which are tangible personal property incorporated into the project or completely consumed at the job site and services required by or integral to the performance of the contract from all other charges. The Engineer will examine and approve or modify and approve such statement. To facilitate County tracking of minority purchasing goals, the Contractor must specify in its statement each month, and again in the Contractor's final billing, the dollar amount of the statement which can be attributed to a subcontractor qualified as a Historically Underutilized Business (HUB) under the Travis County HUB Program Purchasing Requirements.

In addition to the above, and upon presentation of copies of invoices and freight bills, an estimate must be made and included for the invoice the cost of acceptable reinforcing steel, structural steel, pre-cast concrete members, stone, gravel, sand, or any other nonperishable materials delivered on the work or in acceptable storage places and which have not been used in the work prior to such estimate.

For acceptable structural components (structural steel, concrete members, piling, etc.) fabricated in accordance with details shown on the plans and stored in any location approved by the Engineer, an estimate must be made and included for the invoice cost, exclusive of any transportation costs, of the material involved after the Contractor has furnished the Engineer with a copy of the invoice. Only materials which are completely constructed and/or fabricated on the Contractor's order for a specific project, and are so marked, and on which an approved Test Report has been issued, are eligible for inclusion in the Contractor's Partial Payment Request. This will also include the following items: concrete traffic barriers, pre-cast-concrete box culverts, concrete piling, reinforced-concrete pipes, and illumination poles. Written approval must be obtained from the Engineer before any repairs are made to fabricated material that has been approved for storage, and the Contractor must bear all expenses of the repairs. After material has been fabricated and placed in acceptable storage and has been paid for based on a monthly estimate, the Contractor must furnish the Engineer, within 30 days of date of payment, a copy of the paid invoice. If this is not furnished, partial payment for fabricated material in acceptable storage will be omitted from the next estimate.

For pre-cast concrete products which may be completely fabricated or constructed by the Contractor for which invoice or freight bills are not pertinent, and which have been stored in acceptable storage places, and which have not been used in the work, an estimate will be made and included for 60 percent of the unit price bid for the specified products.

Partial payments for material on hand or in acceptable storage must not exceed the bid price.

For temporary erosion controls and tree fencing, the Contractor will be paid by the linear footage of controls installed and measured in place, including additional footage and placement that varies from the original approved plan.

Within 30 days after receipt of an acceptable invoice, the County will either (1) notify the Contractor in writing of any objections which the County has or (2) pay the Contractor the amount invoiced, less 5 percent of the amount thereof, which 5 percent will be retained until final payment, and further less all previous payments and all sums that may be retained by the County under the terms of this Agreement. It is understood, however, that in case the whole work is near completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the Contractor, the County may pay a reasonable and equitable portion of the retained percentage to the Contractor; or the Contractor at the County's option, may be relieved of the obligation to fully complete the work and, thereupon the Contractor will receive payment of the balance due him/her under the contract subject only to the conditions stated under Paragraph 5.16, "Final Payment". Partial estimates showing an amount of work performed since the last preceding estimate of less than \$1,000 may be withheld until the amount of work performed on a partial estimate is at least \$1,000.

In order to be considered acceptable, an invoice must include: (1) the name, address, telephone number of the Contractor and similar information in the event payment is to be made to a different address, (2) the County contract number, (3) the Purchase Order number, (4) a Schedule of Values as outlined in the Contract, (5) any additional payment information which may be called for by this Contract.

#### 9.6 Acceptance and Final Payment

When the work provided for in the contract has been completed by the Contractor, and all parts of the work have been approved and accepted by the Engineer, a final estimate showing the amount of the work and the amount due the Contractor under the contract will be prepared by the Engineer. The amount of the final estimate, less any sums previously paid under the contract will be paid to the Contractor.

Neither the final payment nor the remaining retained percentage will become due until the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) if required by the Owner, another date establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Construction Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify Owner against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor must refund to the Owner all monies that the latter may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

The acceptance of final payment constitutes a waiver of all claims by the Contractor.

#### 9.7 Plan Quantity Measurement.

When plan quantity measurement is specified for an item, adjustment of quantities will be made according to the following:

If the quantities measured as outlined under "Measurement" vary from those shown in the proposal and on the "Estimate and Quantity" sheet by more than 5% (or as stipulated under the measurement article for the Item), either party to the contract may request, in writing, an adjustment of the quantities by each separate bid item, except that when stated in the particular item, the adjustment will be made based upon a designated element shown in the Item. The party to the Contract which requests the adjustment must present, to the other, one copy of field measurements and calculations showing the revised quantities in question. These revised quantities, when approved by the Engineer, together with all other quantities under the same bid item, will constitute the final quantity for which payment will be made.

When quantities are revised by a change in design, the "Plan Quantity" will be increased or decreased by the amount involved in the design change.

Payment for revised quantities will be paid for at the unit price bid for that bid item, except as provided for in Paragraph 4.13, "Increases and Decreases in Quantity of Work."

#### 9.8 Disbursements to Persons with Outstanding Debts Prohibited.

In accordance with Section 154.045 of the Local Government Code, the County hereby notifies the Contractor that if a notice of indebtedness has been filed with the County Auditor or County Treasurer evidencing the indebtedness of the Contractor to the State, the County, or a salary fund, a warrant may not be drawn on a County fund in favor of the Contractor, or an agent or assignee of the Contractor, until: (1) the County Treasurer notifies the Contractor in writing that the debt is outstanding; and (2) the debt is paid.

"Debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the County.

The County may apply any funds the County owes the Contractor to the outstanding balance of any debt for which notice has been made under Paragraph 9.8 if the notice includes a statement that the amount owed by the County to the Contractor may be applied to reduce the outstanding debt.

#### 9.9 Interest on Overdue Payments.

Accrual and payment of interest on overdue payments will be governed by Chapter 2251 of the Texas Government Code.

#### 9.10 Contractor must promptly pay Subcontractors.

The Contractor must promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount of which said Subcontractor is entitled, reflecting the percentage actually retained, from payments to the Contractor on account of such Subcontractor's Work. The Contractor must, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner. All payments to Subcontractors and Sub-subcontractors must be made within 10 days of receipt of payment for Work claimed in an Application for Payment that Subcontractor or Sub-subcontractor performed. Such Application for Payments must designate the dollar amount of Work which Subcontractor or Sub-subcontractor provided to allow for the Owner's tracking of Historically Underutilized Business (HUB) requirements.

The Owner may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentage of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner on account of Work done by such Subcontractor.

The Owner has no obligations to pay or to see to the payment of any monies to any Subcontractor except as may otherwise be required by law.

None of the following constitutes an acceptance by the County of any Work not done in accordance with the Contract Documents: approval of Application for Payment, a Progress Payment, or partial or entire use or occupancy of the Project.

## **ITEM 10**

### **MAINTENANCE OF AND RIGHT OF ACCESS TO RECORDS**

- 10.1 The Contractor agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the Project, for a period of five years after final payment for completed services and all other pending matters concerning this Contract have been closed.
- 10.2 The Contractor further agrees that the County or its duly authorized representatives will have access to any and all books, documents, papers and records of the Contractor, which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

## **ITEM 11**

### **TAXPAYER IDENTIFICATION**

- 11.1 The Contractor must provide the County with an Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor before any funds are payable under this Contract.

## **ITEM 12**

### **CERTIFICATION OF ELIGIBILITY**

- 12.1 This provision applies if the anticipated contract exceeds \$25,000. By signing this Agreement, the Contractor certifies that it is not on the federal government's list of suspended, ineligible, or debarred contractors. In the event of placement on the list while this Agreement is in effect, the Contractor must notify the Travis Purchasing Agent. Failure to do so may result in terminating the contract for default.

**SCOPE AND TECHNICAL SPECIFICATIONS**  
CONTRACT NO: 4400002232

ASPHALT REJUVENATION PROGRAM

## SCOPE AND TECHNICAL SPECIFICATIONS

### I. GENERAL

#### A. Scope of Work

The Contractor shall furnish all labor, material and equipment to perform all operations for the application of an asphalt-rejuvenating agent to Hot Mix Asphalt Concrete (HMAC) at various locations for Travis County. The rejuvenation of surface courses will be by spray application of a cationic rejuvenating agent composed of petroleum oils and resins (containing no VOCs) emulsified with water. All work will be in accordance with the specifications and subject to the terms and conditions of this contract.

#### B. Qualifications

A project superintendent knowledgeable and experienced in application of the asphalt-rejuvenating agent must be in control of each day's work.

#### C. Submittals with Bid

The Contractor must submit with its proposal the manufacturer's certification that the material proposed for use is in compliance with the specification requirements. The Contractor must submit with its proposal previous use documentation and test data conclusively demonstrating that the rejuvenation agent has been used successfully for a period of five (5) years by governmental agencies (cities, counties etc.) and that the asphalt rejuvenating agent has been proven to perform, as required by this contract, through field testing by the governmental agency as to the required change in the asphalt binder viscosity and penetration number.

Testing data must be submitted that indicates such product performance on a sufficient number of projects, each being tested for a minimum period of three years to insure reasonable longevity of the treatment, as well as product consistency.

#### D. Warranty

The Contractor shall provide workmanship and labor warranty for a period of at least 12 months from the date of application.

The material warranty shall be as offered by the manufacturer.

### II. PRODUCT

#### A. Material Specifications

The asphalt-rejuvenating agent must be an emulsion composed of a petroleum resin oil base uniformly emulsified with water. Contractor must submit with its proposal a certified statement from the asphalt rejuvenator manufacturer showing that the asphalt rejuvenating emulsion conforms to the required physical and chemical requirements.

<u>Tests</u>	<u>Test Method</u> ASTM	<u>ASHTO min.</u>	<u>Requirements</u>	
			min	max
<u>Tests on Emulsion</u>				
Viscosity @25°C, SFS	D-244	T-59	15	40
Residue, %W	D-244 mod	T-59 mod	60	65
Miscibility Test	D-244 mod	T-59 mod	No coagulation	
Sieve Test, %W	D-244 mod	T-59 mod	-	0.1
Particle Charge Test	D-244	T-59	Positive	
Percent Light	D-244 mod	T-59 mod		
Transmittance	GB	GB	-	30
<u>Tests on Residue from Distillation</u>				
Flash Point, COC 0 deg	D-92	T-48	196	
Viscosity @ 60°C, cSt	D-445	-	100	200
Asphaltenes, %W	D-2006-70	-	-	1.00
Maltene Dist. Ratio	D-2006-70	-	0.3	0.6
PC/S Ratio	D-2006-70		0.5	-
Saturated Hydrocarbons	D-2006-70 -		21	28

Testing Notes

- For Residue, ASTM D-244 Modified Evaporation Test for percent of residue is made by heating a 50-gram sample to 149°C (300°F) until foaming ceases, then cool immediately and calculate results.
- For Miscibility Test, the test procedure is identical with ASTM D-244-60 except that .02 Normal Calcium Chloride solutions will be used in place of distilled water.
- For Sieve Test, the test procedure is identical with ASTM D-244 except that distilled water will be used in place of two percent sodium oleate solution.

B. Material Performance

The rejuvenating agent must have a record of at least five (5) years of satisfactory service as asphalt rejuvenating agent and in-depth sealer. Satisfactory service will be based on the capability of the material to decrease the viscosity and increase the penetration value of the asphalt binder as follows. The viscosity must be reduced by a minimum of 45% and the penetration value must be increased by a minimum of 25%. Test data must be performed on extracted asphalt cement from a pavement to a depth of three eighths of an inch (3/8"). In addition, the pavement must be in-depth sealed to the intrusion of air and water.

C. Acceptable Material

RECLAMITE®, manufactured by Golden Bear Oil Specialties, is a product of known quality and accepted performance. Contractor may use another product that has been proven to be functionally equivalent. The provision of equality of material is the responsibility of the Contractor, and the decision of the Engineer-of-Record is final.

#### D. Products Standards and Alternates

The product "Reclamite®" for the asphalt rejuvenating agent as manufactured by Golden Bear Oil Specialties is the standard for these specifications.

#### E. Application Equipment

- The distributor for spreading the emulsion must be self-propelled, and must have pneumatic tires. The distributor must be designed and equipped to distribute the asphalt rejuvenating agent uniformly on variable widths of surface at readily determined and controlled rates from 0.05 to 0.5 gallons per square yard of surface, and with an allowable variation from any specified rate not to exceed 5% of the specified rate.
- Distributor equipment must include full circulation spray bars; pump tachometer, volume measuring device and a hand hose attachment suitable for application of the emulsion manually to cover areas inaccessible to the distributor. The distributor must be equipped to circulate and agitate the emulsion within the tank.
- A check of distributor equipment as well as application rate accuracy and uniformity of distribution must be made when directed by the Engineer.
- The truck used for sanding must be equipped with a spreader that allows the sand to be uniformly distributed onto the pavement. The spreader must be able to apply ½ pound to 3 pounds of sand per square yard in a single pass. The spreader must be adjustable so as not to broadcast sand onto driveways or lawns.
- The sand to be used must be free flowing, without any leaves, dirt, stones, etc. Any wet sand must be rejected from the job site.

### III. EXECUTION

#### A. Application Temperature and Weather Limitations

The temperature of the asphalt rejuvenating emulsion, at the time of application, must be as recommended by the manufacturer. The asphalt-rejuvenating agent must be applied only when the existing surface to be treated is thoroughly dry and when it is not threatening to rain. The asphalt-rejuvenating agent must not be applied when the ambient temperature is below 40°F.

#### B. Handling of Asphalt Rejuvenating Agent

Contents in tank cars or storage tanks must be circulated at least 45 minutes before withdrawing any material for application. When loading the distributor, the asphalt rejuvenating agent concentrate must be loaded first and then the required amount of water must be added. The water must be added into the distributor with enough force to cause agitation and thorough mixing of the two materials. To prevent foaming, the discharge end of the water hose or pipe must be kept below the surface of the material in the distributor, which must be used as a spreader. The distributor truck will be cleaned of all of its asphalt materials, and washed out to the extent that no discoloration of the emulsion may be perceptible. Cleanliness of the spreading equipment is subject to the approval and satisfaction of the Engineer-of-Record.

### C. Resident Notification

The Contractor must distribute, by hand, a typed/printed notice to all residences and businesses on the street to be treated. The notice will be delivered no more than 24 hours prior to the treatment of the road. The notice will have a local phone number that residents may call to ask questions. The notice must be of the door hanger type, which secures to the door handle of each dwelling. Unsecured notices will not be allowed. The contractor must also place the notice on the windshield of any parked cars on the street. Hand distribution of this notice will be considered incidental to the contract.

### D. Application of Rejuvenating Agent

- The asphalt-rejuvenating agent must be applied by a distributor truck at the temperature recommended by the manufacturer and at the pressure required for the proper distribution. The emulsion must be so applied that uniform distribution is obtained at all points of the areas to be treated. Distribution must be commenced with a running start to insure full rate of spread over the entire area to be treated. Areas inadvertently missed must receive additional treatment as may be required by hand sprayer application.
- Application of asphalt rejuvenating agent must be on one-half width of the pavement at a time. When the second half of the surface is treated, the distributor nozzle nearest the center of the road must overlap the previous application by at least one-half the width of the nozzle spray. In any event the centerline construction joint of the pavement must be treated in both application passes of the distributor truck.
- Before spreading, the asphalt-rejuvenating agent must be blended with water at the rate of two parts rejuvenating agent to one part water, by volume or as specified by the manufacturer. The combined mixture of asphalt rejuvenating agent and water must be spread at the rate of 0.05 to 0.10 gallons per square yard, or as approved by the Engineer following field-testing.
- Where more than one application is to be made, succeeding applications must be made as soon as penetration of the preceding application has been completed and approval is granted for additional application by the Engineer-of-Record.
- Grades or super elevations of surfaces that may cause excessive runoff, in the opinion of the Engineer-of-Record, must have the required amounts applied in two or more applications as directed.
- After the street has been treated, the area within one foot of the curb line on both sides of the road must receive an additional treatment of the asphalt rejuvenating emulsion. Said treatment must be uniformly applied by a method acceptable to the Engineer-of-Record.
- After the rejuvenating emulsion has penetrated, a coating of dry sand must be applied to the surface in sufficient amount to protect the traveling public as required by the Engineer-of-Record.
- The Contractor must furnish a quality inspection report showing the source, manufacturer, and the date shipped, for each load of asphalt rejuvenating agent.

#### E. Street Sweeping

- The Contractor is responsible for sweeping and cleaning of the streets prior to, and after treatment when required. Prior to treatment, the street will be cleaned of all standing water, dirt, leaves, foreign materials, etc. This work must be accomplished by brooming, power blowing, or other approved methods.
- All sand used during the treatment process must be removed no later than 48 hours after treatment of the street if required. This must be accomplished by mechanical sweeping. All turnouts, cul-de-sacs, etc. must be cleaned of any material to the satisfaction of the Engineer-of-Record. Street sweeping will be considered subsidiary to the proposal Price submitted by the Contractor.

#### F. Traffic Control

- The Contractor must schedule its operations and complete the work in a manner that will cause the least disruption/disturbance or interference with the normal flow of traffic in the areas being treated. Treated portions of the pavement surfaces must be kept closed and free from traffic until penetration has become complete and the area is suitable for traffic.
- When, in the opinion of the Engineer-of-Record, traffic must be maintained at all times on a particular street, then the Contractor must apply asphalt-rejuvenating agent to one lane at a time. Traffic must be maintained in the untreated lane until the traffic may be switched to the completed lane.
- The Contractor is responsible for all traffic control and signing required to permit safe travel. The Contractor must notify the appropriate emergency agencies (TCSO, ESD, etc.) and school districts as to the areas to be treated and present a schedule of treatment.
- If, in the opinion of the Engineer-of-Record, proper signing is not being used, the Contractor must stop all operations until all safe signing and traffic controls measures have been put in place or operation.

#### G. Method of Measurement

Asphalt rejuvenating agent will be measured by the square yard as provided for in the Contract Documents.

#### H. Basis for Payment

The accepted quantities, measured as provided for above, will be paid for at the contract unit price for asphalt rejuvenating agent. Asphalt rejuvenating agent will be paid for PER SQUARE YARD, which will be full compensation for furnishing all materials, equipment, labor and incidentals to complete the work as specified and required.