



BURNET COUNTY COMMISSIONERS COURT

Jim Luther, Jr
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

An agenda packet containing detailed information on the items listed below is distributed to the County Judge, Commissioners, and County Clerk the Friday preceding the meeting. The agenda packet is also posted on the county website at www.burnetcountytexas.org, under Public Meetings. A hard copy of the agenda packet is available in the County Clerk's office. Our Mission Statement: The mission of Burnet County is to maintain overall efficient and effective management of county resources while providing the services mandated by state and federal law and desired by the citizens of Burnet County.

REGULAR SESSION MEETING DATE: Tuesday SEPTEMBER 24, 2024

MEETING TIME: 9:00 a.m.

MEETING PLACE: 2nd Floor Courtroom located at 220 S. Pierce, Burnet, Texas

1. Call to Order
2. Invocation and Pledge of Allegiance to the Flags
3. Public Comments - Pursuant to Texas Government Code 551.007 (b), any person may make comment on any item appearing on the agenda. Any comments made will not be addressed by the Commissioners Court during the Public Comments agenda item. Public Comments are limited to three (3) minutes per person.
4. Discussion and/or action concerning a Resolution of the Burnet County Commissioners Court regarding its objection to the issuance of a TCEQ Air Quality Standards Permit for a rock and concrete crusher facility to be located at 3221 FM 3509, Burnet County, Texas (Oakley)

Attachments
Resolution

5. Presentation from the Texas Housing Foundation, Allison Milliorn, CPA- Chief Executive Officer (Oakley)
6. Discussion and/or action regarding the adoption of preliminary allocation of Series 2024 Tax Note proceeds (Oakley)

Attachments
Tax Note Budget Amendment

7. Discussion and/or action regarding rescinding a revision to Employee Personnel Policy, Section 3.07 concerning Comp. Time/Overtime (Oakley)
See minutes 9/25/2018, Item #11, Policy #3.07
See minutes 2/14/2023, Item #8, Policy #3.07
See minutes 5/23/2023, Item #6, Policy #3.07

Attachments
Comp/Overtime

8. Discussion and/or Presentation from District Attorney Sonny McAfee regarding his office's investigation into Sheriff Department overtime allegations and comments made by Judge James Oakley on Item 20 during the August 13, 2024, Commissioners Court meeting (Beierle)
9. Discussion and/or action concerning a burn ban for the unincorporated areas of Burnet County (Oakley)
10. Discussion and/or action concerning the replat of lots 165 and 166, Buena Vista, Sec. 3, to be known as lot 165A, Buena Vista, Sec. 3, a combination of two lots into one (Luther)
11. Discussion and/or action concerning the preliminary plat approval for The Ranch on Lake LBJ, Phase 3, a private subdivision consisting of 20 lots on 13.36 acres located in the 200 block of Lexi Lane (Luther)
12. **Executive Session.** Discussion with Burnet County Commissioner's Court and the County Civil Attorney(s) and/or the County Attorney in accordance with Texas Government Codes 551.071. The Commissioners Court reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters as authorized by the Texas Government Code including, but not limited to, Sections: 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues), 551.0725 (Contracts being negotiated).
13. Reconvene in Open Session.
14. Discussion and/or action regarding items discussed in Executive Session.
15. Acknowledgement of Receipt:
 - a. TCEQ Notice of Permit
 - b. Railroad Commission of Texas Hearings Division notice
 - c. MIS Summary

Attachments

TCEQ

Railroad Notice

MIS Summary

16. Discussion and/or action regarding contracts, agreements or grants to be approved and/or ratified:
 - a. County Choice Silver (retiree health) renewal
 - b. Approval of Creative Decor Holiday Lighting to perform holiday lighting installation services
 - c. Acknowledgment and acceptance of the changes made to the Jail On-Site Dental Services Contract
 - d. Agreement between Burnet County and The Central Texas Water Coalition FY2024
 - e. Agreement between Burnet County and The Central Texas Water Coalition FY2025
 - f. Approval of the Tourism/Marketing Services Contract with Victory Media Marketing
 - g. Approval of agreement with Motorola for LPR's for HOTATTf. The cost for a year of service is \$0.00 for 12 months once service has started
 - h. Approval of a contract for Meals on Wheels Senior Nutrition Program with Opportunities for Williamson and Burnet Counties
 - i. Approval to apply for a grant for VETRIDE from 2025-2026 Texas Veterans Commission Fund for Veterans General Assistance. The grant period is 7/1/2026-6/30/2026. The amount is \$75,000
 - j. Approval of a renewal contract with TourTexas.com
 - k. Approval of an agreement with Reliable Tire for the tire trailer for the HHW Collection Event scheduled for October 19, 2024
 - l. Approval of the Second Amendment to the contract for Emergency Medical Services between the City of Burnet and Burnet County
 - m. Approval of the Temporary Raw Water Contract Burnet County - Lake Buchanan with LCRA

- n. Approval of the maintenance contract with Vista.Com
- o. Acknowledge the Peace Officer Reimbursement Acknowledgment Agreement
- p. Approval of the Professional Services Agreement for Vetrade Administrator
- q. Approval of the Google Workspace Ordering Document for Burnet County Sheriff's Office
- r. Approval of the Google Workspace Ordering Document for Burnet County
- s. Annual renewal for the Advertising Contract with Highland Lakes Weekly DBA Hallowell Media, LLC
- t. Acknowledgment of the executed contract for Co. Road 420 Paving Project with KC Engineering
- u. Approval of the Second Amendment to the contract for Emergency Medical Services between Marble Falls Area EMS and Burnet County
- v. Interlocal Agreement with Bluebonnet Trails Community Services for Mental Health Jail Based Services

Attachments

Silver Contract
 Holiday lighting
 On site dental
 CTWC 2024
 CTWC 2025
 Victory media
 Motorola
 Meals on Wheels
 Tour Texas
 Reliable tire
 EMS City of Burnet
 Texas Raw Water/LCRA
 Vista Com
 Peace officer Acknowledgment
 Vetrade Admin
 Google workspace Sheriff
 Google workspace County
 Hallowell Advertising tourism
 CR 420 contract
 EMS Marble Falls
 Bluebonnet Trails

- 17. Discussion and/or action concerning calling for Bids and Bid openings, request for proposals/qualifications and related openings:
 - a. Go out for bids on hot mix asphalt
 - b. Go out for bids on road striping
 - c. Award of bid for the road work to be performed on CR 114

Attachments

CR 114 Bid Award

- 18. The following items are part of the Consent Agenda and require no deliberation by the Commissioner's Court. Any item from this agenda may be considered separately:
 - a. Consideration and approval of any pending personnel issues within the policy.
 - b. Consideration and approval concerning budget amendments.
 - c. Consideration and approval concerning budget line item transfers.
 - d. Consideration and authorization of payment of claims previously approved by the County Auditor.
 - e. Acceptance of reports of County Officials as required by LGC 115.02 previously examined by the

County Auditor

- f. Consideration and approval regarding Departmental equipment requests and/or property transfers.
- g. Correspondence.

19. Calendar Review.

20. Adjournment

The Commissioners' Court reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters as authorized by the Texas Government Code including, but not limited to, Sections: 551.071 (Consultation with Attorney) 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations) Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues). Compliance with the Americans with Disabilities Act, Burnet County will provide for reasonable accommodations for persons attending Commissioners' Court. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Ms. Stephanie McCormick, Commissioners' Court Coordinator, at (512) 715-5276. Please note, the location of the meeting is subject to change based upon availability of the Courtroom. If meeting location is changed, notice at the above meeting location shall be posted to ensure public access to meeting is granted.

Posted by 5:00 o'clock P.M. on the 20th day of September, 2024
COMMISSIONERS COURT, BURNET COUNTY, TEXAS

CLERK OF THE COURT

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

Regular Session

4.

Meeting Date: 09/24/2024

Subject

Discussion and/or action concerning a Resolution of the Burnet County Commissioners Court regarding its objection to the issuance of a TCEQ Air Quality Standards Permit for a rock and concrete crusher facility to be located at 3221 FM 3509, Burnet County, Texas (Oakley)

Attachments

Resolution

**RESOLUTION OF THE BURNET COUNTY COMMISSIONERS COURT REGARDING ITS OBJECTION TO THE
ISSUANCE OF A TCEQ AIR QUALITY STANDARDS PERMIT FOR A ROCK AND CONCRETE CRUSHER
FACILITY TO BE LOCATED AT 3221 FM 3509, BURNET COUNTY, TEXAS**

Whereas, The Texas Commission on Environmental Quality (TCEQ) has provided notice that an Air Quality Standards Permit application for a rock and concrete crusher facility at 3221 FM 3509 in Burnet County has been made (TCEQ permit #176835); and

Whereas, such application will comprise of a quarry operation to be located within a population area that will be negatively affected. Such area includes recreation and tourism locations, business locations, and natural resource locations; and

Whereas, a quarry operation negatively affects the health and safety of those in the immediate vicinity as pollutants and particles are emitted into the air, damaging air quality; and

Whereas, the proposed quarry operation will utilize groundwater located in a geographic area in which groundwater is limited, especially under drought conditions currently affecting Burnet County; and

Whereas, the proposed quarry operation will generate a large amount of heavy truck traffic in a general rural area, negatively affecting tourism to the business and recreation areas in the immediate vicinity, cause further air pollution as such vehicles move quarried material in the area, and deteriorate roadways; and

Whereas, the proposed quarry operation truck traffic will overwhelm existing roadways in the immediate vicinity and pose a safety risk to others operating on such roadways; and

Whereas, the Burnet County Commissioners Court wishes to express its deep concern to an approval of the applied Air Quality Standard Permit and wishes to ensure that TCEQ fully understands its opposition to this permit application.

NOW THEREFORE, LET IT BE RESOLVED BY THE BURNET COUNTY COMMISSIONERS COURT:

The Burnet County Commissioners Court is opposed to the issuance of an Air Quality Standards Permit for a rock and concrete crusher facility proposed to be located at 23221 FM 3509 in Burnet County (TCEQ permit #176835).

The Burnet County Commissioners Court authorizes any of its members to appear before any hearings of the TECQ, any hearings that may arise by the Texas Office of Administrative Hearings, or before other associated entities to convey its opposition to this specific permit application (TCEQ permit #176835).

APPROVED on this ____ day of _____, 2024.

Jim Luther, Pct. #3
Commissioner

Damon Beierle, Pct. #2
Commissioner

Billy Wall, Pct. #3
Commissioner

Joe Don Dockery, Pct. #4
Commissioner

James Oakley
County Judge

ATTEST:

Vicinta Stafford
Burnet County Clerk

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

Regular Session

6.

Meeting Date: 09/24/2024

Subject

Discussion and/or action regarding the adoption of preliminary allocation of Series 2024 Tax Note proceeds (Oakley)

Attachments

Tax Note Budget Amendment



BUDGET AMENDMENT REQUEST
THE COUNTY OF BURNET
BURNET, TEXAS 78611

FY2024

DATE: Sept, 24, 2024
(Commissioners Court Date)

TO : HONORABLE COMMISSIONERS COURT OF BURNET COUNTY

FROM: FY24 TAX NOTE

I SUBMIT TO YOU FOR YOUR CONSIDERATION THE FOLLOWING BUDGET AMENDMENT:

<u>FUND/DEPT</u>	<u>LINE ITEM</u>	<u>LINE ITEM#</u>	<u>AMOUNT</u>
FROM:	FY24 TAX NOTE		
TO:			
FUND 724	Election Equipment	742-4900-5760	\$ 900,000
FUND 724	Building Repairs & Maint - Atty/Client Room - Jail	742-4090-5300	\$ 615,000
FUND 724	Building Repairs & Maint - Crthouse Basement Repairs	742-4090-5300	\$ 350,000
FUND 724	Building Repairs & Maint - Jail Chillers	742-4090-5300	\$ 200,000
FUND 724	ROW Utility Relocation		\$ 1,000,000
FUND 724	R&B #1		\$ 564,600
FUND 724	R&B #2		\$ 385,810
FUND 724	R&B #3		\$ 423,450
FUND 724	R&B #4		\$ 508,140
FUND 724	Issuance Cost		\$ 53,000
			<u>\$ 5,000,000</u>

REASON: County Auditor certifies receipt of the FY24 tax note in the amount of \$5,000,000. Rcpt #45783

DEPARTMENT HEAD OR AUTHORIZED OFFICIAL
(Department Head required for interdepartment transfers only)

APPROVED: COMMISSIONERS COURT

ATTEST: COUNTY CLERK

Road & Bridge Distribution 2024 Tax Note

	FY25	Pct #1	Pct #2	Pct #3	Pct #4
New R&B Revenue*	1,882,000.00	35.00% 658,700.00	16.00% 301,120.00	20.00% 376,400.00	29.00% 545,780.00
50% Evenly Distributed	941,000.00	235,250.00	235,250.00	235,250.00	235,250.00
50% Based on Valuation	941,000.00	329,350.00	150,560.00	188,200.00	272,890.00
Carry over from excess fund balance	-	-	-	-	-
Total New Revenue		564,600.00	385,810.00	423,450.00	508,140.00

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

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James Oakley
County Judge

Billy Wall
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Joe Don Dockery
Precinct 4

Regular Session

7.

Meeting Date: 09/24/2024

Subject

Discussion and/or action regarding rescinding a revision to Employee Personnel Policy, Section 3.07 concerning Comp. Time/Overtime (Oakley)

See minutes 9/25/2018, Item #11, Policy #3.07

See minutes 2/14/2023, Item #8, Policy #3.07

See minutes 5/23/2023, Item #6, Policy #3.07

Attachments

Comp/Overtime

In Commissioners Court on 9/25/2018, Item # 11, Employee Personnel Policy 3.07, approved removing Comp Time from the Policy and replaced it with Overtime Compensation, as follows:

3.07 OVERTIME COMPENSATION Overtime compensation is due to employees as follows:

7-day work weekafter 40 hours

14-day work period.....after 86 hours

Vacation leave, sick leave, personal leave, emergency leave and designated county holidays will not be counted as actual hours worked toward the calculation of overtime, but will be calculated as straight time.

If a full-time employee who is subject to the overtime provisions of the Fair Labor Standards Act is required to work extra hours during a workweek in which he or she has used banked leave, the leave time should be reduced to prevent overtime. Leave time may be counted towards hours worked for overtime purposes in the event of an emergency (safety or security) as determined by the department head.

Flex time or equal time off in the same work period may result in changes to the time record.

Non-exempt employees will be paid at one and one-half times their regular rate of pay for each hour actually worked in a work week or work period above their respective limits as listed above (all overtime must be approved by the department head ahead of time).

In Commissioners Court on 2/14/2023, Item # 8, Employee Personnel Policy 3.07, approved an implementation of Comp Time Leave In lieu of Overtime Pay to be effective on June 1, 2023.

In Commissioners Court on May 23, 2023, Item # 6, Employee Personnel Policy 3.07, approved an extension of implementation of Comp Time Leave In lieu of Overtime Pay to be effective September 30, 2023.

The Comp Time Leave In lieu of Overtime Pay was never implemented. The above Overtime Compensation Policy 3.07, approved on September 25, 2018 is in the Employee Personnel Policy and has been continuously followed since that date.

The recommendation for implementation of Comp Time on February 14, 2023 was submitted to lessen the burden of overtime pay that was far exceeding budgeted amounts. That issue has corrected itself and I ask the court to rescind the recommendation dated 2/14/23 along with the extension dated 5/23/23.

G. Lally

9/25/18

It is being proposed that Bumet County return to a policy of monetary compensation only for overtime work.

Under our current policy, SO shift employees are accruing comp time in lieu of paid overtime. This proposed change in policy would do away with that comp time and replace it with paid overtime.

Current policy:

3.07 OVERTIME COMPENSATION

Overtime compensation (either in the form of pay or compensatory leave) is due to employees as follows:

7-day work weekafter 40 hours
14-day work period.....after 86 hours

Vacation leave, sick leave, personal leave, emergency leave and designated county holidays will not be counted as actual hours worked toward the calculation of overtime, but will be calculated as straight time.

If a full time employee who is subject to the overtime provisions of FLSA is required to work extra hours during a workweek in which he or she has used banked leave, the leave time should be reduced to prevent overtime. Leave time may be counted towards hours worked for overtime purposes in the event of an emergency (safety or security) as determined by the department head.

Flex time or equal time off in the same work period may result in changes to the time record.

Compensation Options: Non-exempt employees will be compensated for overtime by one of the following methods:

- 1) Overtime pay - Employees will be paid at one and one-half times their regular rate of pay for each hour actually worked in a work week or work period above their respective limits as listed above, (all overtime must be approved by the department head ahead of time) or
- 2) Compensatory time - Compensatory time off in lieu of cash payment for all licensed Peace Officers and Corrections Officers employed by departments that are open and working twenty-four (24) hours per day and will be calculated at the rate of one and one-half hours for each hour actually worked.
- 3) Comp Time Leave. An employee who has accumulated comp time may request to take it, and such comp time leave must be given within a reasonable amount of time so long as it does not unduly disrupt the department's operations. Comp time must be taken in the fiscal year it is earned. Department Heads can dictate employee schedules in order to avoid overtime worked. However, the Department Head is mandated to require employees to fill out time sheets to reflect actual hours worked. At the end of each fiscal year, all accumulated comp time will be paid to the employee and reset for the next fiscal year. NO CARRY OVERS WILL BE GRANTED.

Comp Time Leave. An employee who has accumulated comp time may request to take it, and such comp time leave must be given within a reasonable amount of time so long as it does not unduly disrupt

the department's operations. Comp time must be taken in the fiscal year it is earned. Department Heads can dictate employee schedules in order to avoid overtime worked. However, the Department Head is mandated to require employees to fill out time sheets to reflect actual hours worked. At the end of each fiscal year, all accumulated comp time will be paid to the employee and reset for the next fiscal year. NO CARRY OVERS WILL BE GRANTED

Proposed Revision

3.07 OVERTIME COMPENSATION

Overtime compensation (either in the form of pay or compensatory leave) is due to employees as follows:

7-day work weekafter 40 hours
14-day work period.....after 86 hours

Vacation leave, sick leave, personal leave, emergency leave and designated county holidays will not be counted as actual hours worked toward the calculation of overtime, but will be calculated as straight time.

If a full time employee who is subject to the overtime provisions of FLSA is required to work extra hours during a workweek in which he or she has used banked leave, the leave time should be reduced to prevent overtime. Leave time may be counted towards hours worked for overtime purposes in the event of an emergency (safety or security) as determined by the department head.

Flex time or equal time off in the same work period may result in changes to the time record.

Non-exempt employees will be paid at one and one-half times their regular rate of pay for each hour actually worked in a work week or work period above their respective limits as listed above, (all overtime must be approved by the department head ahead of time).

02/14/2023:ComCt

Item #8:
Section 3.07
Personnel Policy

The court discussed Review/Update to Section 3.07 (Overtime Compensation) of the Burnet County Personnel Policy to allow for compensatory time in lieu of paid overtime as compensation for hours worked in excess of a regularly scheduled work period. Sara Ann Luther, Human Resources, spoke informing the court that state and local governments can use **Comp Time**, but not as a private employer. Ms. Luther spoke saying that eventually that time will have to be paid if that employee leaves or retires and the county cannot replace the position until the **Comp Time** has been paid out. Ms. Luther recommended that this go into effect April 1, 2023. Karin Smith, County Auditor, recommended this be pushed out to June 1, 2023. Alan Trevino, Chief Deputy Sheriff, spoke stating the state's process was you could only bank 11 hours of **Comp Time** in a month period. Ms. Luther informed the court that if employee retires and uses the full 480 hours, then that position may not be filled until the hours are paid to the employee that retires. Judge Oakley said as for now the recommendation is effective June 1, 2023.

Item #6:

Extension of Policy for comp time

The court discussed an extension for implementation of a comp. time in lieu of overtime policy

Sara Ann Luther, Human Resources Director, addressed the court about the overtime policy.

Motion is made by: Commissioner Precinct 3 Billy Wall, Seconded by: Commissioner Precinct 1 Jim Luther, Jr. to approve the extension for implementation of a comp. time in lieu of overtime policy through September 30, 2023

Vote: 4 - 0 Passed - Unanimously

5/23/23

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

Regular Session

15.

Meeting Date: 09/24/2024

Subject

Acknowledgement of Receipt:

- a. TCEQ Notice of Permit
 - b. Railroad Commission of Texas Hearings Division notice
 - c. MIS Summary
-

Attachments

TCEQ

Railroad Notice

MIS Summary

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



9/24 cc
AK
GA

NOTICE OF RECEIPT OF APPLICATION AND INTENT TO OBTAIN WATER QUALITY PERMIT RENEWAL

PERMIT NO. WQ0001369000

APPLICATION. Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767, which owns a natural gas-fired combined cycle electric power generating facility, has applied to the Texas Commission on Environmental Quality (TCEQ) to renew Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001369000 (EPA I.D. No. TX0057576) to authorize the discharge of treated wastewater and stormwater at a volume not to exceed a daily average flow of 435,000,000 gallons per day. The facility is located at 2001 Ferguson Road, near the city of Horseshoe Bay, in Llano County, Texas 78657. The discharge route is from the plant site to Lake Lyndon B. Johnson. TCEQ received this application on July 30, 2024. The permit application will be available for viewing and copying at Llano County Library, 102 East Haynie Street, Llano, in Llano County, Texas prior to the date this notice is published in the newspaper. The application, including any updates, and associated notices are available electronically at the following webpage:

<https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-98.371388,30.5575&level=18>

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at:

<https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

El aviso de idioma alternativo en español está disponible en

<https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. **Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.**

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public

interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application.** If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period and, the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period. TCEQ may act on an application to renew a permit for discharge of wastewater without providing an opportunity for a contested case hearing if certain criteria are met.**

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at <https://www14.tceq.texas.gov/epic/eComment/>, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from Lower Colorado River Authority at the address stated above or by calling Ms. Wendy Schreiber, Manager, Plant Environmental Support, at 512-767-3560.

Issuance Date: August 30, 2024

Comisión de Calidad Ambiental del Estado de Texas



AVISO DE RECIBO DE LA SOLICITUD Y EL INTENTO DE OBTENER PERMISO PARA LA CALIDAD DEL AGUA RENOVACION

PERMISO NO. WQ0001369000

SOLICITUD. Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767, propietaria de una planta de generación de energía eléctrica de ciclo combinado alimentada con gas natural, ha solicitado a la Comisión de Calidad Ambiental del Estado de Texas (TCEQ) para renovar el Permiso No. WQ0001369000 (EPA I.D. No. TX0057576) del Sistema de Eliminación de Descargas de Contaminantes de Texas (TPDES) para autorizar la descarga de aguas residuales tratadas y aguas pluviales en un volumen que no sobrepasa un flujo promedio diario de 435,000,000 galones por día. La planta está ubicada 2001 Ferguson Road, cerca de la ciudad de Horseshoe Bay, en el Condado de Llano, Texas 78657. La ruta de descarga es del sitio de la planta al Lago Lyndon B. Johnson. La TCEQ recibió esta solicitud el 30 de julio de 2024. La solicitud para el permiso estará disponible para leerla y copiarla en Biblioteca del Condado de Llano, 102 East Haynie Street, Condado de Llano, Texas antes de la fecha de publicación de este aviso en el periódico. La solicitud (cualquier actualización y aviso inclusive) está disponible electrónicamente en la siguiente página web:

<https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

Este enlace a un mapa electrónico de la ubicación general del sitio o de la instalación es proporcionado como una cortesía y no es parte de la solicitud o del aviso. Para la ubicación exacta, consulte la solicitud.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-98.371388,30.5575&level=18>

AVISO DE IDIOMA ALTERNATIVO. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes-applications>.

AVISO ADICIONAL. El Director Ejecutivo de la TCEQ ha determinado que la solicitud es administrativamente completa y conducirá una revisión técnica de la solicitud. Después de completar la revisión técnica, el Director Ejecutivo puede preparar un borrador del permiso y emitirá una Decisión Preliminar sobre la solicitud. **El aviso de la solicitud y la decisión preliminar serán publicados y enviado a los que están en la lista de correo de las personas a lo largo del condado que desean recibir los avisos y los que están en la lista de correo que desean recibir avisos de esta solicitud. El aviso dará la fecha límite para someter comentarios públicos.**

COMENTARIO PUBLICO / REUNION PUBLICA. Usted puede presentar comentarios públicos o pedir una reunión pública sobre esta solicitud. El propósito de una reunión pública es dar la oportunidad de presentar comentarios o hacer preguntas acerca de la solicitud. La TCEQ

realiza una reunión pública si el Director Ejecutivo determina que hay un grado de interés público suficiente en la solicitud o si un legislador local lo pide. Una reunión pública no es una audiencia administrativa de lo contencioso.

OPORTUNIDAD DE UNA AUDIENCIA ADMINISTRATIVA DE LO CONTENCIOSO. Después del plazo para presentar comentarios públicos, el Director Ejecutivo considerará todos los comentarios apropiados y preparará una respuesta a todo los comentarios públicos esenciales, pertinentes, o significativos. **A menos que la solicitud haya sido referida directamente a una audiencia administrativa de lo contencioso, la respuesta a los comentarios y la decisión del Director Ejecutivo sobre la solicitud serán enviados por correo a todos los que presentaron un comentario público y a las personas que están en la lista para recibir avisos sobre esta solicitud.** Si se reciben comentarios, el aviso también proveerá instrucciones para pedir una reconsideración de la decisión del Director Ejecutivo y para pedir una audiencia administrativa de lo contencioso. Una audiencia administrativa de lo contencioso es un procedimiento legal similar a un procedimiento legal civil en un tribunal de distrito del estado.

PARA SOLICITAR UNA AUDIENCIA DE CASO IMPUGNADO, USTED DEBE INCLUIR EN SU SOLICITUD LOS SIGUIENTES DATOS: su nombre, dirección, y número de teléfono; el nombre del solicitante y número del permiso; la ubicación y distancia de su propiedad/actividad con respecto a la instalación; una descripción específica de la forma cómo usted sería afectado adversamente por el sitio de una manera no común al público en general; una lista de todas las cuestiones de hecho en disputa que usted presente durante el período de comentarios; y la declaración "[Yo/nosotros] solicito/solicitamos una audiencia de caso impugnado". Si presenta la petición para una audiencia de caso impugnado de parte de un grupo o asociación, debe identificar una persona que representa al grupo para recibir correspondencia en el futuro; identificar el nombre y la dirección de un miembro del grupo que sería afectado adversamente por la planta o la actividad propuesta; proveer la información indicada anteriormente con respecto a la ubicación del miembro afectado y su distancia de la planta o actividad propuesta; explicar cómo y porqué el miembro sería afectado; y explicar cómo los intereses que el grupo desea proteger son pertinentes al propósito del grupo.

Después del cierre de todos los períodos de comentarios y de petición que aplican, el Director Ejecutivo enviará la solicitud y cualquier petición para reconsideración o para una audiencia de caso impugnado a los Comisionados de la TCEQ para su consideración durante una reunión programada de la Comisión. La Comisión sólo puede conceder una solicitud de una audiencia de caso impugnado sobre los temas que el solicitante haya presentado en sus comentarios oportunos que no fueron retirados posteriormente. Si se concede una audiencia, el tema de la audiencia estará limitado a cuestiones de hecho en disputa o cuestiones mixtas de hecho y de derecho relacionadas a intereses pertinentes y materiales de calidad del agua que se hayan presentado durante el período de comentarios. Si ciertos criterios se cumplen, la TCEQ puede actuar sobre una solicitud para renovar un permiso sin proveer una oportunidad de una audiencia administrativa de lo contencioso.

LISTA DE CORREO. Si somete comentarios públicos, un pedido para una audiencia administrativa de lo contencioso o una reconsideración de la decisión del Director Ejecutivo, la Oficina del Secretario Principal enviará por correo los avisos públicos en relación con la

solicitud. Además, puede pedir que la TCEQ ponga su nombre en una o mas de las listas correos siguientes (1) la lista de correo permanente para recibir los avisos de el solicitante indicado por nombre y número del permiso específico y/o (2) la lista de correo de todas las solicitudes en un condado específico. Si desea que se agregue su nombre en una de las listas designe cual lista(s) y envía por correo su pedido a la Oficina del Secretario Principal de la TCEQ.

INFORMACIÓN DISPONIBLE EN LÍNEA. Para detalles sobre el estado de la solicitud, favor de visitar la Base de Datos Integrada de los Comisionados en www.tceq.texas.gov/goto/cid. Para buscar en la base de datos, utilizar el número de permiso para esta solicitud que aparece en la parte superior de este aviso.

CONTACTOS E INFORMACIÓN A LA AGENCIA. Todos los comentarios públicos y solicitudes deben ser presentadas electrónicamente vía <http://www14.tceq.texas.gov/epic/eComment/> o por escrito dirigidos a la Comisión de Texas de Calidad Ambiental, Oficial de la Secretaría (Office of Chief Clerk), MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Tenga en cuenta que cualquier información personal que usted proporcione, incluyendo su nombre, número de teléfono, dirección de correo electrónico y dirección física pasarán a formar parte del registro público de la Agencia. Para obtener más información acerca de esta solicitud de permiso o el proceso de permisos, llame al programa de educación pública de la TCEQ, gratis, al 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

También se puede obtener información adicional de la Lower Colorado River Authority a la dirección indicada arriba o llamando a Sra. Wendy Schreiber, Gerente, Apoyo Medioambiental de las Plantas al 512-767-3560.

Fecha de emisión el 30 de agosto de 2024

CHRISTI CRADDICK, CHAIRMAN
WAYNE CHRISTIAN, COMMISSIONER
JIM WRIGHT, COMMISSIONER



DANA AVANT LEWIS, DIRECTOR

RAILROAD COMMISSION OF TEXAS HEARINGS DIVISION

August 29, 2024

9/24 CC
APK
A.C.

The Honorable James Oakley
Burnet County Judge
220 S. Pierce
Burnet, Texas 78611

RE: OS-24-00017471, *Statement of Intent of Texas Gas Service Company, a Division of ONE Gas, Inc., to Change Gas Utility Rates Within the Unincorporated Areas of the Central-Gulf Service Area*

Dear Judge Oakley:

Enclosed is the Notice of Hearing for the above-referenced gas utility docket at the Railroad Commission of Texas. This Notice of Hearing was issued on August 28, 2024, and is being provided to you, as governing body of an affected county, in accordance with the Texas Utilities Code.¹

Contact for Additional Information – In accordance with Tex. Gov't Code § 2001.061 and 16 Tex. Admin. Code § 1.6, *ex parte* communications with the Administrative Law Judges, Examiners, and Commissioners are prohibited. Any persons or entities desiring additional information may contact the Commission by writing to the Director, Hearings Division, Railroad Commission of Texas, 1701 North Congress Avenue, P. O. Box 12967, Capitol Station, and Austin, Texas 78711-2967. Any persons or entities having clerical questions, such as questions regarding the number of copies of filings, the service list or reviewing the record, may contact Docket Services, at (512) 463-6848.

Sincerely,

A handwritten signature in black ink, appearing to read "John Dodson", is written over a horizontal line.

John Dodson
Administrative Law Judge

Enclosure

¹ See Tex. Util. Code § 104.105(c) ("The regulatory body shall give reasonable notice of the hearing, including notice to the governing body of each affected municipality and county.").

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

STATEMENT OF INTENT OF TEXAS	§	
GAS SERVICE COMPANY, A DIVISION	§	
OF ONE GAS, INC., TO CHANGE	§	OS-24-00017471
GAS UTILITY RATES WITHIN THE	§	
UNINCORPORATED AREAS OF THE	§	
CENTRAL-GULF SERVICE AREA	§	

NOTICE OF HEARING

Summary of the Proceeding and Factual Matters Asserted. On June 3, 2024, Texas Gas Service Company, a Division of ONE Gas, Inc. (“TGS”), filed with the Commission a statement of intent to change gas utility rates within the unincorporated areas of its Central-Gulf Service Area (the “SOI”). The SOI was docketed as OS-24-00017471. In its SOI, TGS requests that the Commission approve a schedule of rates for customers consistent with those proposed in its SOI, along with other related relief, and also approve recovery by TGS of its reasonable rate case expenses associated with this docket.

Subsequently, the presiding Administrative Law Judge severed the consideration of rate case expense amounts associated with the SOI into a separate docket, OS-24-00017803, to be adjudicated separately and on a different procedural track from this docket.

Intervening Parties. Three parties intervened and participated throughout this docket—Staff of the Railroad Commission (“Commission Staff”), who intervened “to assert its interest in assuring that the rules and regulations of the Railroad Commission of Texas, together with the appropriate statutes, have been followed,” along with two separate coalitions of municipalities: Cities Served by Texas Gas Service Company (“TGS Cities”); and Steering Committee of Cities (“SCC”).

NOTICE IS HEREBY GIVEN THAT a public hearing will be held, at the time and place set out below, to consider all issues of fact and law raised in—or relevant to—TGS’s requested relief. The scope of the hearing may be limited to a partial or total settlement by the parties, if applicable, and may include the consideration of recovery by the parties of their associated rate case expenses, as well as any appeals of related municipal actions.

Legal Authority and Jurisdiction. The Commission has, or may have, jurisdiction over TGS and the matters at issue in this proceeding pursuant to Texas Utilities Code Sections 102.001 (Railroad Commission Jurisdiction), 103.003 (Surrender of Municipal Jurisdiction to Railroad Commission; Reinstatement of Jurisdiction), 103.051 (Appeal by Party), 103.052 (Appeal by Residents), 103.053 (Appeal by Ratepayers Outside Municipality), and 104.001 (Authorization to Establish and Regulate Rates).

The presiding Administrative Law Judge shall conduct the hearing pursuant to the requirements of Chapter 2001 (Administrative Procedure) of the Texas Government Code, and pursuant to Title 16, Part 1 (Railroad Commission of Texas), of the Texas Administrative Code.



Texas Wildlife Services Program - State Office

Street Address

5730 Northwest Parkway
Suite 700
San Antonio, Texas 78249-3378

Telephone: (210) 472-5451

Fax: (210) 561-3846

Mailing Address

P.O. Box 690170
San Antonio, TX 78269-0170

9/24 CC
AIR GR

August 27, 2024

Dear Cooperator:

The enclosed MIS Monthly Summary contains the activities performed by the WS Technician assigned within your county during October 1, 2023 through July 31, 2024.

If you have any questions, please contact the appropriate District Office.

Sincerely,
Mary Ann Rendon
MIS Data Technician

Land Involved In This Summary

Land Type	Uom	Total	Person-day-visits
COUNTY OR CITY LAND	ACRE	8,509	37
FISH AND WILDLIFE SRVC	ACRE	160	25
PRIVATE LAND	ACRE	59,339	470
	Total	68,008	

Agreement/Property Summary

Total Agreements/Properties Worked: 56/56

Total Person-day-visits: 532

Agreement Common Name	Time	Person-day-visits
4s ranch llc	49 : 00	23
708 ranch	2 : 00	2
bar h bar land and cattle co	29 : 00	6
bar w ranch	3 : 00	2
bible ranch	72 : 00	26
bishop ranch	8 : 45	3
brown ranch	10 : 00	9
burnam ranch	14 : 00	6
burnet	30 : 20	3
campbell ranch llc	6 : 42	3
cedar ridge	15 : 15	12
city of marble falls	12 : 00	2
clear springs ranch	47 : 30	16
cockrell ranch	14 : 30	8
creek	22 : 00	18
crutchfield place	3 : 30	5
d-cross ranch	27 : 00	11
ebling ranch	44 : 00	22
elliott ranches	9 : 30	7
estes ranch	47 : 00	18
evans ranches	36 : 00	16
fowler ranch	2 : 00	1
frazier ranch	19 : 30	10
g bar m	15 : 36	3
green pasture ranch	14 : 00	7
hamilton ranch	10 : 30	10
hardin ranch	22 : 35	18
inks dam national fish hatchery	31 : 46	25
kingma place	3 : 30	4

Agreement Common Name	Time	Person-day-visits
knobelsdorf ranch	2 : 45	5
las animas ranch	2 : 00	1
legends golf course	6 : 05	3
mcandrew ranch	10 : 00	4
morelands	51 : 00	20
morris ranch	18 : 00	12
oak alley ranch	11 : 00	6
owens ranch	4 : 00	3
panther creek/ double creek ranch	15 : 00	3
park ranch	3 : 30	4
petterson place	12 : 30	12
shifflett ranch	41 : 25	32
simmons m. pasture	24 : 00	12
sunnymark ranch	1 : 00	1
t moore ranch	20 : 00	12
taylor home place	26 : 00	19
taylor ranch	0 : 10	0
thompson ranch	37 : 30	14
three creek ranch	37 : 00	13
tnt ranch	8 : 30	9
ussery ranch	5 : 30	4
v700 ranch llc	13 : 45	6
wagon springs ranch	11 : 00	6
watson place	14 : 00	6
wolf creek ranch	37 : 00	25
woolley kirick ranch	2 : 55	0
zack and dawn`s ranch	3 : 45	4

Employee Summary - Total includes converted Hobbs

	FIELD WORK	AERIAL	OUTREACH	admin LEAVE	ADMIN	TOTAL
	hrs : mins	hobbs	hrs : mins	hrs : mins	hrs : mins	hrs : mins
<u>Dimler, Michael</u>	22 : 30					22 : 30
<u>Fidler, Dennis</u>	7 : 00					7 : 00
<u>Flach, Chad</u>	12 : 00					12 : 00
<u>Flanigan, Patrick</u>	87 : 00				4 : 00	91 : 00
<u>Mcniel, Trenton</u>	866 : 46		31 : 45			898 : 31
<u>Sandoval, Rafael</u>	3 : 00					3 : 00
<u>Taylor, Cole</u>		7.8				7 : 48
Total	998 : 16	7.8	31 : 45	0 : 00	4 : 00	1,041 : 49

Take Summary

Target Intentional

	Killed Euthanized	Transfer Custody	Relocated	Removed Destroyed	Freed Released	Dispersed	Surveyed	Immobilized	Collared	Treated
<u>Armadillos, Nine-Banded</u>										
traps, cage	1									
Total	1									
<u>Bobcats</u>										
snares, neck	1									
Total	1									
<u>Coyotes</u>										
calling device, electronic	1									
m-44 cyanide capsule	22									
snares, neck	102									
Total	125									
<u>Dogs, Feral, Free-Ranging And Hybrids</u>										
snares, neck	3									
Total	3									
<u>Foxes, Gray</u>										
m-44 cyanide capsule	3									
snares, neck	6									
Total	9									
<u>Foxes, Red</u>										
snares, neck	1									
Total	1									
<u>Raccoons</u>										
snares, neck	7									
Total	7									
<u>Swine, Feral</u>										
firearms	5									
helicopter	73									
snares, neck	12									
traps, cage	211									
Total	301									
<u>Vultures, Black</u>										
firearms	5									

	Killed Euthanized	Transfer Custody	Relocated	Removed Destroyed	Freed Released	Dispersed	Surveyed	Immobilized	Collared	Treated
traps, cage	134									
Total	139									
Bottom Line Total	587									

Target Un-Intentional

no take data of this type.

Non-Target Un-Intentional

	Killed Euthanized	Transfer Custody	Relocated	Removed Destroyed	Freed Released	Dispersed	Surveyed	Immobilized	Collared	Treated
Deer, White-Tailed (Wild)										
snare, neck	1									
Total	1									
Bottom Line Total	1									

Damage Summary

Loss Reported

Resource	Species	Damage	WTs (Occurs)	Proj Starts	Loss	Value
AGRICULTURE						
Commercial Game Animals (Pen-Raised)						
mammals, deer, axis	coyotes	predation	3	0	14 ea	\$23,064
Commercial Game Animals (Pen-Raised) Sub Total			3	0	14 ea	\$23,064
Field Crops						
grasses/sod	swine, feral	damage threat	1	1	1 in	\$0
Field Crops Sub Total			1	1	1 in	\$0
Livestock						
cattle calves (beef)	coyotes	predation	2	0	2 ea	\$1,763
goats, meat (kids)	coyotes	damage threat	5	5	5 in	\$0
goats, meat (kids)	coyotes	predation	4	2	34 ea	\$3,094
goats, z-(other adults)	coyotes	damage threat	1	1	1 in	\$0
goats, z-(other adults)	coyotes	predation	2	0	14 ea	\$2,615

Resource	Species	Damage	WTs (Occurs)	Proj Starts	Loss	Value
goats, z-(other kids)	coyotes	predation	2	0	15 ea	\$1,365
sheep (lambs)	coyotes	predation	2	2	10 ea	\$2,009
Livestock Sub Total			18	10	75 ea 6 in	\$10,846
Range/Pasture						
pasture	swine, feral	damage threat	1	1	1 in	\$0
rangeland	swine, feral	damage	1	1	20 acre	\$20,000
rangeland	swine, feral	damage threat	1	1	1 in	\$0
Range/Pasture Sub Total			3	3	20 acre 2 in	\$20,000
AGRICULTURE Sub Total			25	14	20 acre 89 ea 9 in	\$53,910
HEALTH AND SAFETY						
Human Health And Safety						
hlth/sfty, human z-(general)	coyotes	damage threat	1	1	1 in	\$0
hlth/sfty, human z-(general)	dogs, feral, free-ranging and hybrids	damage threat	3	3	3 in	\$0
hlth/sfty, human z-(general)	geese, canada	damage threat	1	1	1 in	\$0
Human Health And Safety Sub Total			5	5	5 in	\$0
HEALTH AND SAFETY Sub Total			5	5	5 in	\$0
PROPERTY						
Animal						
pets (companion/hobby animals)	coyotes	damage threat	1	1	1 in	\$0
pets (companion/hobby animals)	dogs, feral, free-ranging and hybrids	damage threat	3	3	3 in	\$0
Animal Sub Total			4	4	4 in	\$0
Landscaping, Turf And Gardens						
golf courses	geese, canada	damage	1	1	5 acre	\$10,000
turf and/or flowers	swine, feral	damage threat	1	1	1 in	\$0
Landscaping, Turf And Gardens Sub Total			2	2	5 acre 1 in	\$10,000
Structures						
dikes/dams/impoundments	vultures, black	damage threat	2	2	2 in	\$0
Structures Sub Total			2	2	2 in	\$0
PROPERTY Sub Total			8	8	5 acre 7 in	\$10,000
Total			38	27	25 acre 89 ea 21 in	\$63,910

Loss Verified

Resource	Species	Damage	WTs (Occurs)	Proj Starts	Loss	Value
AGRICULTURE						
Commercial Game Animals (Pen-Raised)						
mammals, deer, axis	coyotes	predation	3	0	3 ea	\$4,942
mammals, deer, white-tailed ag	coyotes	predation	1	0	1 ea	\$9,000
mammals, z-exotic game (other)	coyotes	predation	1	0	1 ea	\$500
Commercial Game Animals (Pen-Raised) Sub Total			5	0	5 ea	\$14,442
Range/Pasture						
pasture	swine, feral	damage	1	0	10 acre	\$13,900
Range/Pasture Sub Total			1	0	10 acre	\$13,900
AGRICULTURE Sub Total			6	0	10 acre 5 ea	\$28,342
PROPERTY						
Landscaping, Turf And Gardens						
turf and/or flowers	swine, feral	damage	1	1	1 in	\$3,000
Landscaping, Turf And Gardens Sub Total			1	1	1 in	\$3,000
Structures						
buildings, residential	vultures, black	damage	1	1	1 ea	\$10,000
dikes/dams/impoundments	vultures, black	damage	1	0	1 ea	\$150,000
Structures Sub Total			2	1	2 ea	\$160,000
PROPERTY Sub Total			3	2	2 ea 1 in	\$163,000
Total			9	2	10 acre 7 ea 1 in	\$191,342

Distinct Species/Resource Conflict Counts by Form Type

Total distinct TA Species/Resource conflicts: 15

Total distinct DC (all non TA) Species/Resource conflicts: 48

Samples Summary

Species/Disease	Sample Type	Samples
swine, feral	Total Sampled 12	
e.coli	tissue	5
Total Samples		5
Total Bottom Line		5

TA/Outreach by Species Summary

	1=consultation, personal, 2=consultation, written/telephone, 3=consultation, hotline, 4=instructional session, 5=radio/tv personal appearance, 6=radio/tv public service announcement, 7=newspaper/periodical article, 8=exhibit, 9=bait distribution program, 10=information transfer, ws, 11=info. transfer, gen. wildlife management, 12=site visit, 13=web hits															
Species	1	2	3	4	5	6	7	8	9	10	11	12	13	Total	Parties	Leaflets
<u>covotes</u>	7	4												11	12	
<u>dogs. feral. free-ranging and hybrids</u>	1	1		1										3	11	
<u>geese. canada</u>		2												2	2	
<u>swine. feral</u>	2	4												6	6	
<u>vultures. black</u>	2	1												3	3	
Total	12	12	0	1	0	0	0	0	0	0	0	0	0	25	34	0

*1 distinct instructional sessions (which can contain more than one species or no species indicated).

TA/Outreach by Employee Summary

	1=consultation, personal, 2=consultation, written/telephone, 3=consultation, hotline, 4=instructional session, 5=radio/tv personal appearance, 6=radio/tv public service announcement, 7=newspaper/periodical article, 8=exhibit, 9=bait distribution program, 10=information transfer, ws, 11=info. transfer, gen. wildlife management, 12=site visit, 13=web hits															
	1	2	3	4	5	6	7	8	9	10	11	12	13	Total	Parties	Leaflets
Mcniel,Trenton	12	12		1										25	34	
Total	12	12	0	1	0	0	0	0	0	0	0	0	0	25	34	0

Chemicals Summary**CHEMICALS: EPA-REGULATED**

Component	Reg. Num.	Use Type	Qty	Uom	WTs
m-44 cyanide capsule	56228-15	fired	63	ea	38

CHEMICALS: EXPLOSIVE

no EXPLOSIVE chemical data.

CHEMICALS: I/E DRUGS

no I/E DRUGS chemical data.

CHEMICALS: NON-REGULATED*no NON-REGULATED PRDCT chemical data.***BIOLOGICS***no BIOLOGICS chemical data.***Equipment Loaned/Distributed/Sold Summary***no data.***Conflict Project Start Button Summary**

Resource	Species	Proj Start Button	WTs (Occurs)
boat docks/marinas	vultures, black	0	16
buildings, residential	vultures, black	1	1
cattle adult (beef)	coyotes	0	2
cattle calves (beef)	coyotes	0	81
designated natural areas	swine, feral	0	1
dikes/dams/impoundments	vultures, black	2	26
feed, livestock	swine, feral	0	1
fish, z-(other)	vultures, black	0	1
goats, meat (kids)	coyotes	7	52
goats, meat (kids)	raccoons	0	17
goats, z-(other adults)	coyotes	1	5
goats, z-(other kids)	coyotes	0	34
goats, z-(other kids)	foxes, gray	0	18
goats, z-(other kids)	raccoons	0	4
goats, z-(other kids)	swine, feral	0	2
golf courses	geese, canada	1	4
grasses/sod	armadillos, nine-banded	0	1
grasses/sod	swine, feral	1	1
hayfields, mixed species	swine, feral	0	41
hlth/sfty, human z-(general)	coyotes	1	1
hlth/sfty, human z-(general)	dogs, feral, free-ranging and hybrids	3	3
hlth/sfty, human z-(general)	foxes, gray	0	63
hlth/sfty, human z-(general)	foxes, red	0	14
hlth/sfty, human z-(general)	geese, canada	1	2
hlth/sfty, human z-(general)	raccoons	0	46
hlth/sfty, human z-(general)	swine, feral	0	9
mammals, deer, axis	coyotes	0	118
mammals, deer, axis	foxes, gray	0	35
mammals, deer, axis	foxes, red	0	17
mammals, deer, axis	raccoons	0	25
mammals, deer, fallow	coyotes	0	4

Resource	Species	Proj Start Button	WTs (Occurs)
mammals, deer, white-tailed ag	bobcats	0	14
mammals, deer, white-tailed ag	coyotes	0	35
mammals, z-exotic game (other)	coyotes	0	7
mammals, z-exotic game (other)	dogs, feral, free-ranging and hybrids	0	7
mammals, z-exotic game (other)	foxes, gray	0	5
mammals, z-exotic game (other)	raccoons	0	7
pasture	swine, feral	1	105
pets (companion/hobby animals)	coyotes	1	3
pets (companion/hobby animals)	dogs, feral, free-ranging and hybrids	3	3
rangeland	swine, feral	2	88
sheep (adult)	coyotes	0	23
sheep (adult)	dogs, feral, free-ranging and hybrids	0	23
sheep (lambs)	caracaras, northern crested	0	1
sheep (lambs)	coyotes	2	2
sheep (lambs)	foxes, red	0	13
sheep (lambs)	raccoons	0	13
sheep (lambs)	vultures, black	0	2
sheep (lambs)	vultures, turkey	0	1
turf and/or flowers	swine, feral	2	15

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

Regular Session

16.

Meeting Date: 09/24/2024

Subject

Discussion and/or action regarding contracts, agreements or grants to be approved and/or ratified:

- a. County Choice Silver (retiree health) renewal
- b. Approval of Creative Decor Holiday Lighting to perform holiday lighting installation services
- c. Acknowledgment and acceptance of the changes made to the Jail On-Site Dental Services Contract
- d. Agreement between Burnet County and The Central Texas Water Coalition FY2024
- e. Agreement between Burnet County and The Central Texas Water Coalition FY2025
- f. Approval of the Tourism/Marketing Services Contract with Victory Media Marketing
- g. Approval of agreement with Motorola for LPR's for HOTATTF. The cost for a year of service is \$0.00 for 12 months once service has started
- h. Approval of a contract for Meals on Wheels Senior Nutrition Program with Opportunities for Williamson and Burnet Counties
- i. Approval to apply for a grant for VETRIDE from 2025-2026 Texas Veterans Commission Fund for Veterans General Assistance. The grant period is 7/1/2026-6/30/2026. The amount is \$75,000
- j. Approval of a renewal contract with TourTexas.com
- k. Approval of an agreement with Reliable Tire for the tire trailer for the HHW Collection Event scheduled for October 19, 2024
- l. Approval of the Second Amendment to the contract for Emergency Medical Services between the City of Burnet and Burnet County
- m. Approval of the Temporary Raw Water Contract Burnet County - Lake Buchanan with LCRA
- n. Approval of the maintenance contract with Vista.Com
- o. Acknowledge the Peace Officer Reimbursement Acknowledgment Agreement
- p. Approval of the Professional Services Agreement for Vetrade Administrator
- q. Approval of the Google Workspace Ordering Document for Burnet County Sheriff's Office
- r. Approval of the Google Workspace Ordering Document for Burnet County
- s. Annual renewal for the Advertising Contract with Highland Lakes Weekly DBA Hallowell Media, LLC
- t. Acknowledgment of the executed contract for Co. Road 420 Paving Project with KC Engineering
- u. Approval of the Second Amendment to the contract for Emergency Medical Services between Marble Falls Area EMS and Burnet County
- v. Interlocal Agreement with Bluebonnet Trails Community Services for Mental Health Jail Based Services

Attachments

Silver Contract
Holiday lighting
On site dental
CTWC 2024
CTWC 2025
Victory media
Motorola
Meals on Wheels
Tour Texas
Reliable tire
EMS City of Burnet
Texas Raw Water/LCRA

Vista Com
Peace officer Acknowledgment
Vetride Admin
Google workspace Sheriff
Google workspace County
Hallowell Advertising tourism
CR 420 contract
EMS Marble Falls
Bluebonnet Trails



Transamerica Life Insurance Company & Retiree Rx Care 2025 Renewal Notice and Benefit Confirmation

Group: Burnet County
Return to TAC by: September 30, 2025

Below are the new renewal rates for TPLIC medical and Retiree RxCare prescription drug coverages. Please initial and complete each section below. An authorized signature on last page is required to confirm and accept your group's renewal. Email renewals to CCS@county.org.

MEDICAL + PRESCRIPTION PLAN

Current Plan: Plan F, Rx Option 1

Current Med + Rx Rate
\$553.15

New Med + Rx Rate Effective 1/1/2025
\$559.39

- ☒ **Renew and keep** current plan. OR
- ☐ **Change to a Package Option** (select only one from the list below):

PACKAGE OPTIONS

- | | | |
|---|---|---|
| ☐ Package 1 | ☐ Package 2 | ☐ Package 3 |
| • Med Only: \$279.08 | • Med Only: \$155.45 | • Med Only: \$255.43 |
| • Med +Rx: \$559.39 | • Med+ Rx: \$242.33 | • Med+Rx: \$515.82 |
| • MedAdvantage:
\$392.96 | • MedAdvantage:
\$305.52 | • MedAdvantage:
\$305.52 |

_____ Initial to accept 2025 retiree Medical plan and Rx option or package options rates.

MANAGE MY HEALTH (OPTIONAL)

- ☐ Add Manage My Health for an additional \$10 per retiree per month.

_____ Initial to accept Manage My Health.

CountyChoice Silver
Member Contact Designations
Burnet County

Contracting Authority: As specified in the Interlocal Participation Agreement, each Member hereby designates and appoints a Contracting Authority of department head rank or above and agrees that TAC HEBP shall not be required to contact or provide notices to any other person. Further, any notice to, or agreement by, a Member's Contracting Authority, with respect to service or claims hereunder, shall be binding on the Member. Each Member reserves the right to change its Contracting Authority from time to time by giving written notice to TAC HEBP. Please complete each category below:

Please list changes and/or corrections below

Name/Title: Shirley Bullard/HR Director
Address: 220 S. Pierce Street
Burnet, TX 78611
Phone: (512) 756-5489
Fax:
Email: sbullard@burnetcountytexas.org

Primary Contact: Main contact for daily matters pertaining to retiree benefits.

Please list changes and/or corrections below

Name/Title: Shirley Bullard/HR Director
Address: 220 S. Pierce Street
Burnet, TX 78611
Phone: 512-756-5489
Fax:
Email: sbullard@burnetcountytexas.org

Billing Contact: Responsible for receiving all invoices relating to retiree benefits. (Not applicable if Direct Bill).

Please list changes and/or corrections below

Name/Title:
Address:

Phone:
Fax:
Email:

Signature of County Judge or Contracting Authority



2/2024

James Oakley, County Judge

Please PRINT Name and Title

CONTRACT BETWEEN

CREATIVE DEOCR HOLIDAY LIGHTING AND BURNET COUNTY, TEXAS

This Contract is executed by and between Creative Decor Holiday Lighting and Burnet County, Texas, hereinafter called CONTRACTOR and COUNTY, respectively,

Contract # **BC - 2405**

It is AGREED and UNDERSTOOD that this Contract is for installation of holiday lighting.

The CONTRACTOR shall provide all services included in the purchase of materials and installation per attached Exhibit A: Quote dated 9-12-24.

It is AGREED and UNDERSTOOD that this Contract includes Exhibit B: Burnet County Standard Terms and Conditions attached herein.

The CONTRACTOR responsibilities shall include the following:

Scope of Work described in Exhibit A attached herein and including the following:

- CONTRACTOR shall perform cleanup of work areas on a daily basis.
- CONTRACTOR shall store project materials, supplies, and equipment in a neat and orderly manner so as not to unduly interfere with the operation and work of County business.
- CONTRACTOR shall be responsible for cleanup and removal of all equipment, surplus material, trash and debris related to this project upon completion of this project from the premises.
- Job project will not be paid until COUNTY is satisfied with completion.

Insurance

- A. The CONTRACTOR shall carry Workman's Compensation and Unemployment Insurance as required by law.
- B. The CONTRACTOR shall carry liability insurance as required in Exhibit B: Burnet County Standard Terms and Conditions.
- C. The CONTRACTOR shall supply a copy of proof of insurance coverage to COUNTY upon request and/or upon any change in coverage.

Termination Provisions

This contract is effective beginning **September 24, 2024** until job completion; except that in a case of default by the CONTRACTOR by failure to meet conditions set forth in this contract, whereby the COUNTY shall have the right to cancel this contract by giving ten (10) days written notice to the CONTRACTOR. The COUNTY agrees to give the CONTRACTOR written notice within five (5) days of any noncompliance and allow reasonable time for correction of the discrepancies prior to notifying the CONTRACTOR of its intention to cancel the contract. In the event of cancellation or termination then COUNTY shall not be required nor obligated to pay for services beyond the effective date of the cancellation of the contract.

Early Termination of Contract and Late Fees

In the event that COUNTY cancels before contract matures, a prorated statement will be sent showing cost of services to date less the amount paid to date. Statements are due upon receipt. Any amount not paid within thirty (30) days is past due.

Contract Amendments

- A. This contract may be amended by mutual agreement of both the CONTRACTOR and the COUNTY.
- B. All amendments shall be in writing and approved by the COUNTY and the CONTRACTOR'S authorized representative.

Payment Terms

The COUNTY shall pay to the CONTRACTOR its fee of price not to exceed \$38,000.00 for providing the services as submitted in Exhibit A, attached hereto and incorporated herein for all purposes. The COUNTY will make payment to CONTRACTOR within thirty (30) days of the statement date or otherwise pursuant to Texas law for the making of payments by local government entities.

Criminal Background Checks

If requested, CONTRACTOR shall provide information, including, but not limited to, name, date of birth, and driver's license number for each individual who will be performing work on Burnet County property.

If required by Burnet County, CONTRACTOR'S personnel who perform work on Burnet County property must submit to and pass a Sheriff's Department Criminal Background Check. The Burnet County Juvenile Board will determine what it means by "pass" a criminal background check, and the County reserves the right to exclude any worker from access to the facility for security purposes, within the sole discretion. That status, within the County's sole discretion, must be maintained by all of CONTRACTOR's personnel entering COUNTY buildings for the duration of the contract.

The COUNTY reserves the right to conduct additional Criminal Background Checks as it deems necessary.

Bonds

The CONTRACTOR shall submit bonds as required by Texas Government Code 2253.

Warranty

The work performed by CONTRACTOR includes a one-year workmanship warranty. If any item manufactured by CONTRACTOR fails under normal wear and tear then it will be replaced at the cost of the CONTRACTOR.

SPECIAL CONDITIONS

The CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, services, insurance, and all water, light, power, fuel, transportation and other facilities necessary for the execution and completion of the work covered by the contract Documents. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. The CONTRACTOR shall if required, furnish satisfactory evidence as to the kind and quality of materials.

RIGHT OF ENTRY. The COUNTY reserves the right to enter the property or location on which the work herein is contracted for by such agent or agents as he may elect, for the purpose of inspecting the work, or for the purpose of constructing or installing such collateral work as said COUNTY may desire.

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

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

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

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

PROTECTION AGAINST CLAIMS OF SUB-CONTRACTORS, LABORERS,

MATERIALMEN AND FURNISHERS OF MACHINERY, EQUIPMENT AND SUPPLIES. The CONTRACTOR agrees that it will indemnify and save the COUNTY harmless from all claims growing out of the lawful demands of sub-contractors, laborers, workmen, mechanics, material men and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. When so desired by the COUNTY, the CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the CONTRACTOR fails so to do, then the COUNTY may at the option of the CONTRACTOR either pay directly any unpaid bills, of which the COUNTY has written notice, or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payments to the CONTRACTOR shall be resumed in full, in accordance with the

terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligation upon the COUNTY by either the CONTRACTOR or his Surety.

FINAL COMPLETION AND ACCEPTANCE. Within ten (10) days after the CONTRACTOR has given the OWNER written notice that the work has been completed, or substantially completed, the COUNTY shall inspect the work and within said time, prepare and send a list of deficiencies. If there are no deficiencies found then COUNTY will process the final payment.

FINAL PAYMENT. The COUNTY, who shall pay to the CONTRACTOR on or before the 35th day, after the date of Project Completion, the balance due the CONTRACTOR under the terms of this Agreement, provided he has fully performed his contractual obligations under the terms of this contract.

PAYMENTS WITHHELD. The COUNTY may, on account of subsequently discovered evidence, withhold payment to such extent as may be necessary to protect itself from loss on account of:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims.
- (c) Failure of the CONTRACTOR to make payments properly to subcontractors or for Material or labor.
- (d) Damage to another contractor.
- (e) Reasonable doubt that the work can be completed for the unpaid balance of the contract amount.
- (f) Reasonable indication that the work will not be completed within the contract time.

CHANGE ORDERS: Without invalidating this Agreement, the COUNTY may, at any time or from time to time, order deletions or revisions to the work; such changes will be authorized by Change Order to be prepared by the COUNTY after formal approval of Burnet County. The Change Order shall set forth the basis for any change in contract price, as hereinafter set forth for Extra Work, and any change in contract time which may result from the change.

EXAMINATION OF SITE OF PROJECT. CONTRACTOR shall make a careful examination of the site of the project, soil and water conditions to be encountered, improvements to be protected, disposal sites for surplus materials not designated to be salvaged materials, and methods of providing ingress and egress to private properties and of handling traffic during construction of the entire project.

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

BARRICADES, LIGHTS, AND WATCHMEN. Where the work is carried on in or adjacent to any street, alley or public place, the CONTRACTOR shall at his own cost and expense furnish and erect such barricades, fences, lights, and danger signals, shall provide such watchmen, and shall provide such other

precautionary measures for the protection of persons or property and of the work as are necessary. Barricades shall be painted in a color that will be visible at night. From sunset to sunrise the CONTRACTOR shall furnish and maintain at least one light at each barricade and sufficient number of barricades shall be erected to keep vehicles from being driven on or into any work under construction. The CONTRACTOR will be held responsible for all damage to the work due to failure of barricades, signs, lights, and watchmen to protect it, and whenever evidence is found of such damage, the COUNTY may order the damaged portion immediately removed and replaced by the CONTRACTOR at its cost and expense. The CONTRACTOR'S responsibility for the maintenance of barricades, signs, and lights, and for providing watchmen shall not cease until the project shall have been accepted by the COUNTY.

RESTORATION OF SITE & CLEANUP. Upon completion of the project (or major portions thereof) the CONTRACTOR shall restore the site to its original condition or better. Driveways and streets shall be compacted and resurfaced as originally found. All private property disrupted during construction including fences, patios, retaining walls, sidewalks, wooden decks, etc. shall be mended or repaired to their original condition. At the conclusion of the work, all tools, temporary structures and materials belonging to the Contractor shall be promptly removed, and all dirt, rubbish and other foreign substances shall be disposed of. The CONTRACTOR shall thoroughly clean all equipment and materials installed by and shall deliver over such materials and equipment in an undamaged, clean condition.

SAFETY.

- In accordance with generally accepted construction practices, the CONTRACTOR alone will be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours.
- The duty of the COUNTY to conduct construction review of the CONTRACTOR'S performance is not intended to include review of the adequacy of the CONTRACTOR'S safety measures, in, on, or near the construction site.

EXISTING UTILITIES AND SERVICE LINES. The CONTRACTOR shall be responsible for the protection of all existing utilities or service lines crossed or exposed by construction operations. Where existing utilities or service lines are cut, broken or damaged, the CONTRACTOR shall replace or repair the utilities or service lines with the same type of original material and construction, or better, at CONTRACTOR'S cost and expense.

PROTECTION OF PROPERTY. The CONTRACTOR shall, at no additional expense to the COUNTY, protect by false work, braces, shoring or other property along the line of work or affected directly by CONTRACTOR work, against damage and shall repair the damages or repay the injured COUNTY if such damage occurs. The CONTRACTOR shall exercise care to protect from injury all water pipes, sanitary sewer pipes, gas mains, telephone cables, electric cables, service pipes, and other utilities or fixtures which may be encountered during the progress of the work. All utilities and other service facilities or fixtures if damaged, shall be repaired by the CONTRACTOR without additional compensation. Protection is CONTRACTOR'S responsibility and CONTRACTOR must satisfy as to the existence and location of all utilities and structures.

CONTRACTS IN DEFAULT. The COUNTY may declare a contract in default for any one or more of the following reasons:

- Failure to complete the work within the contract period or any extension thereof.

- Failure or refusal to comply with an order of the COUNTY within a reasonable time.
- Failure or refusal to remove rejected materials.
- Failure or refusal to perform any defective or unacceptable work.
- Bankruptcy or insolvency, or the making of an assignment for the benefit of creditors.
- Failure to provide a qualified superintendent, competent workmen or subcontractors to carry on the work in an acceptable manner or failure to prosecute the work according to the agreed schedule of completion.
- Disregard or violation of any other important provisions of the Contract Documents as determined by the COUNTY.

INDEMNITY: CONTRACTOR shall indemnify and hold COUNTY harmless from any and all damages, injuries, lawsuits, administrative actions and other claims whether such claims are based on contract, statute or common law theories of recovery. This indemnity and hold harmless provision applies to all acts of alleged negligence, gross negligence and intentional acts *on the part of any party* to this contract, any officers, contractors, employees, elected employees, appointed employees, volunteers or reserve officers.

INTERPRETATION OF CONTRACT AND EXHIBIT B: “Burnet County Standard Terms and Conditions” have traditionally been made part of every Burnet County Contract. To the extent that the “Burnet County Terms and Conditions” are found to be in direct conflict with any of the terms and conditions of this document, the terms of this document will control. Otherwise, the Parties agree that this contract should be interpreted so that the provisions of both documents supplement and support each other, with the greatest protections interpreted in favor of the County.

APPROVED:

BURNET COUNTY:

Burnet County, Texas

Creative Décor Holiday Lighting

Date

Date

CreativeDecor
Holiday Lighting

166 Danny clay DR
San Antonio to 78228

DATE	Estimate
9/12/2024	

NAME/ADDRESS
Court House
Burnet Texas

		REP	PROJECT	
ITEM	DESCRIPTION	QTY	RATE	TOTAL
	22 Tree Wrap main branches			\$21,000.00
	14 court house /5 old Jail/3 annex building Adding new icicles on 14 Trees at the court house			\$4,000.00
	C9 and icicle roof line			\$3,000.00
	Green lights bush canopy			\$2,500.00
	3 Wreaths			\$1,500.00
	28ft Christmas tree installation			\$4,000.00
	NEW red tip canopy lights red lights			\$1,000.00
	Library Roofline/light /icicles			\$1,000.00
Total price includes Install and strike and repair		SUBTOTAL		\$38,000.00
		SALES TAX		
		TOTAL		\$38,000.00

**EXHIBIT B
STANDARD PURCHASE TERMS AND CONDITIONS
DEPARTMENT OF PURCHASING
BURNET COUNTY, TEXAS**

Seller and Buyer agree as follows:

1. **SELLER TO PACKAGE GOODS** - Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (a) Seller's name and address; (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED** - Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.

3. **TITLE & RISK OF LOSS** - The title and risk of loss of the goods shall not pass to Buyer until Buyer actually accepts the goods at the point or points of delivery.

4. **FOB POINT** - Delivery of all products under this contract shall be made Free On Board to final destination, at the address shown in this contract or as indicated on each Delivery Order placed against this contract. The title and risk of loss of the goods shall not pass to Burnet County until receipt and acceptance takes place at the F.O.B. point.

5. **NO REPLACEMENT OF DEFECTIVE TENDER** - Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may seasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

6. **PLACE OF DELIVERY** - The place of delivery shall be that set forth in the block of the purchase order release entitled "Ship To". Any change thereto shall be effected by modification as provided for in Clause 20, "Modifications", hereof. The terms of this agreement are "no arrival, no sale".

7. INVOICES AND PAYMENTS

a. Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number and the supply agreement number, if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable, should be attached to the invoice. Mail to: Burnet County Auditor's Office, 133 E. Jackson St, Burnet, Texas 77806. Payment shall not be due until the above instruments are submitted after delivery. Suppliers should keep the Auditor's Office advised of any changes in your remittance addresses.

b. Buyer's obligation is payable only and solely from funds available for the purpose of this purchase. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to Seller by Buyer.

c. Do not include Federal Excise, State, County, or City Sales Tax. The County shall furnish tax exemption certificate upon request.

8. **GRATUITIES** - The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of Burnet County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

9. **SPECIAL TOOLS & TEST EQUIPMENT** - If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

10. WARRANTY PRICE

a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative. Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense.

b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

11. **. PRODUCT WARRANTIES** - Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specifications, drawings, and descriptions listed in the bid invitation, and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

12. **SAFETY WARRANTY** - Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event the Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at Seller's expense.

13. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS** - Seller warrants that all applicable patents and Copyrights which may exist on items bid upon have been adhered to and further warrants that Burnet County shall not be liable for any infringement of those rights. Seller agrees to defend Burnet County in any legal cause of action resulting from any violations to existing patents, licenses, or copyrights applicable to items sold hereunder.

14. **RIGHT OF INSPECTION** - Buyer shall have the right to inspect the goods at delivery before accepting them.

15. **CANCELLATION** - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if Seller

becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

16. **TERMINATION** - The performance of work under this order may be terminated in whole or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Buyer set forth in Clause 15, herein.

17 **FORCE MAJEURE** - If, by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemies, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

18. **. ASSIGNMENT DELEGATION** - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

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

20. **. MODIFICATIONS** - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

21. **. INTERPRETATION PAROL EVIDENCE** - This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

22. **. APPLICABLE LAW** - This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.

23. **ADVERTISING** - Seller shall not advertise or publish, without Buyer's prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.

24. **. RIGHT TO ASSURANCE** - Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

25. **VENUE** - Both parties agree that venue for any litigation arising from this contract shall be in Burnet County, Texas.

26. **INSURANCE** - Construction and professional service providers shall purchase and maintain the following insurance the entire term of the contract. 1. Worker's Compensation in accordance with statutory requirements. 2. Commercial General Liability Insurance with a combined minimum of \$1,000,000 per occurrence. 3. Automobile Liability Insurance, covering owned, hired and non-owned vehicles with combined minimum limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence; or separate limits of \$250,000 for bodily injury (per person), \$500,000 bodily injury (per accident), and \$100,000 for property damage.

27. POTENTIAL CONFLICTS OF INTEREST - An outside consultant or contractor is prohibited from submitting a bid for services on a Burnet County project of which the consultant or contractor was a designer or other previous contributor, or was an affiliated, subsidiary, joint venturer or was in any other manner associated by ownership to any party that was a designer or other previous contributor. If such a consultant or contractor submits a prohibited bid, that bid shall be disqualified on the basis of conflict of interest, no matter when the conflict is discovered by Burnet County. Potential bidders are advised that they may have disclosure requirements pursuant to Texas Local Government Code, Chapter 176. This law requires persons desiring to do business with the County to disclose any gifts valued in excess of \$250.00 given to any County Official or the County Official's family member during the preceding twelve (12) month period. The disclosure questionnaire must be filed with the Burnet County Clerk. Refer to Texas Local Government Code, Chapter 176 for the details of this law.

28. By accepting this Purchase Order, the seller verifies that it does not boycott Israel and will not boycott Israel during the term of the contract with Burnet County.

BETWEEN

Burnet County

AND

Nikki T. Tran, DMD, PLLC d/b/a Austin Dental Cares

FOR

ON-SITE DENTAL SERVICES

At the Burnet County Jail Facility

STATE OF TEXAS 5
COUNTY OF Burnet 5

PROFESSIONAL SERVICES AGREEMENT
FOR ON-SITE DENTAL SERVICES

This Agreement is entered into by the following Parties: Burnet County, a corporate and political subdivision of the State of Texas, ("County") and Nikki T. Tran, DMD, PLLC d/b/a Austin Dental Cares, ("Austin Dental Cares" of "Contractor").

WHEREAS, County desires to obtain the services of a qualified contractor to provide onsite dental services for the County at the Burnet County Jail facility and;

WHEREAS, Contractor has the professional ability and expertise, and any necessary professional degrees, licenses, and certifications to provide these services;

NOW, THEREFORE, County and Contractor agree as follows:

- **DEFINITIONS**

In this Agreement,

- "Commissioners Court" means Burnet County Commissioners Court.

- "Contractor" means, Austin Dental Cares.
- "County Auditor" means, Burnet County Auditor.
- "Director" means, Jail Captain at the Burnet County Jail, Captain Matt Kimbler or his successor working at all times under the authority of the Burnet County Sheriff.
- "Fiscal Year" means the County fiscal year, currently that period beginning on October 1 of one year and continuing through September 30 of the following year.
- "Key Contracting Person" means any person or business listed in Exhibit 1 to Attachment D of this Agreement and marked as the Ethics Sworn Declaration.
- "Parties" mean Burnet County, Texas and Contractor.
- "Purchasing Agent" means Burnet County Purchasing Agent, Karin Smith, or her successor.
- **EMPLOYMENT OF CONTRACTOR**
- The Purchasing Agent acts as County's overall agreement administrator. The Purchasing Agent may designate representative to transmit and receive information.
- Authority. The Director or designee will act on behalf of County with respect to the work to be performed under this Agreement. The Director shall have complete authority to interpret and define in writing County's policies and decisions with respect to Contractor's services. The Director may designate representatives to transmit instructions and receive information. The Director shall perform these actions under the guidance of the Burnet County Sheriff.
- **TERM**
- Initial Term. The Initial Term of this Agreement shall commence upon complete execution by all Parties and shall continue through September 30, 2025, unless sooner terminated as provided herein.
- Renewal Term(s). Subject to continued funding by the Commissioners Court, this Agreement shall automatically renew October 1, hereafter for four (4) consecutive twelve (12) month terms ending on September 30, 2029, unless sooner terminated by either Party as provided herein.
- Termination. Either party may terminate this Agreement with or without cause upon thirty (30) days written notice.

CONTRACTOR'S RESPONSIBILITIES

- Scope of Services. Contractor shall perform, in a timely manner, the services and activities described in the Scope of Services set forth as Attachment A to this Agreement, which is expressly incorporated herein and made a part hereof.
- Ethical Standards. Contractor shall perform all services and exercise all discretionary powers in a manner consistent with applicable canons of professional ethics and Contractor's best professional judgment. Contractor shall use at least that standard of care which a reasonably prudent professional in Travis County, Texas would use in similar circumstances.
- Professional Qualifications. At all times during the term of this Agreement, Contractor's personnel performing services under this Agreement shall maintain in good standing their professional licenses, certifications, and accreditations applicable to services. Contractor shall provide Director documentation that the provider's license is in good standing with the licensing entity. Contractor shall perform all acts reasonably necessary to maintain and improve its professional competence and training. Contractor shall notify County within two (2) working days if any adverse action related to its professional license or accreditations occurs.
- Subcontracting. Except as otherwise specifically provided herein, Contractor is prohibited from hiring or subcontracting with any other person to perform any of Contractor's obligations under this Agreement. 1099 Providers functioning on behalf of Austin Dental Cares shall be specifically excluded from this limitation.
- Civil Rights and Equal Opportunity in Employment. Contractor agrees, during the performance of the services under this Agreement, that Contractor shall provide all services and activities required in a manner that complies with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933], and all other federal and state laws, rules, regulations, and orders pertaining to equal opportunity in employment, as if Contractor were an entity bound to comply with these laws. Contractor shall not discriminate against any applicant for employment, employee, or other person on the basis of race, color, religion, sexual orientation, gender identity/expression, age, national origin or handicapped condition and shall provide reasonable accommodations for disabilities as required by the Americans with Disabilities Act as amended. in accordance with Title VI of the Civil Rights Act of 1964.
- Compliance with Regulations: Contractor shall comply with the requirements relative to nondiscrimination in Federally Assisted programs, including but not limited to Title VI of the 1964 Civil Rights Act (42 USC Section 2000d, et. seq.), and 49 CFR Part 21, both as explained in Federal Transit Administration (FTA) Circular 4702.1B, as they may be amended (the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.
- Nondiscrimination: Regarding the work performed by Contractor under this Agreement, it shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Seller shall not participate either directly or

indirectly in the discrimination prohibited by section 21.5 in 49 CFR Part 21, including employment practices.

- Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- Sanctions for Noncompliance: If Contractor does not comply with the nondiscrimination provisions of this Agreement, County shall impose sanctions including, but not limited to, withholding of payments to Contractor under the Agreement until Contractor complies, or until cancellation, termination or suspension of the Agreement, in whole or in part.
- Incorporation of Provisions: Contractor shall include the provisions of section 4.5 (regarding nondiscrimination) and 7.3 (regarding reports) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant to them.
- List of Pertinent Nondiscrimination Authorities: During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to: Pertinent Nondiscrimination Authorities:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. 5 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 5 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Federal-Aid Highway Act of 1973, (23 U.S.C. S 324 et seq.), (prohibits discrimination on the basis of sex);
 - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 5 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
 - The Age Discrimination Act of 1975, as amended, (42 U.S.C. 5 6101 et seq.), (prohibits discrimination on the basis of age);
 - Airport and Airway Improvement Act of 1982, (49 U.S.C. 5 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. 5 1213112189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. 5 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI,
 - you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq)
- Verification of Non-Discrimination Against Specified Entities. In compliance with Texas Government Code, chapter 2271 and relevant sections of chapter 2274, Contractor's signature on this Agreement serves as written verification that Contractor complies with the following sections:
 - a. Contractor does not boycott Israel and will not boycott Israel during the Agreement Term;
 - b. Contractor does not boycott energy companies and will not boycott energy companies during the Agreement Term; and
 - c. Contractor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the Agreement Term.
- Legal Compliance. Contractor shall comply with all federal, state, county, and city laws, rules, regulations and ordinances applicable to the provision of the services described herein and the performance of all obligations undertaken pursuant to this Agreement.
- Insurance Requirements. Contractor shall comply with the insurance requirements set out in Attachment C, "Insurance Requirements", which is incorporated by reference and made a part of this Agreement.

- Federal Funds. Contractor warrants that no Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- Communications. Contractor may communicate all requests for direction and factual information relating to services performed pursuant to this Agreement to the Director and may rely on all factual information supplied by the Director in response to these requests. However, Director shall not serve as the agent of County or the Commissioners Court or any elected official of County for any other purpose than conveying factual information.
- Contractor expressly acknowledges that, in entering into this Agreement, County has relied on the representations of Contractor about the persons who will be performing the services and their qualifications, and that any other person must be approved by Commissioners Court before providing services under this Agreement. Contractor warrants that all work done will be done by the employees or members of Contractor that are presented as performing the services in Contractor's scope of services.
- Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion from Participation in Contracts Exceeding \$25,000.00.

Contractor certifies, by entering into this Agreement, that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor shall include this certification requirement in all subcontracts to this agreement that exceed \$25,000.00.

4.12 Disqualifying Criminal History.

4.12.1 Contractor agrees to provide documentation to Director or designee that a criminal background check has been completed on any employee, intern, volunteer, subcontractor, agent and/or consultant of Contractor, or Contractor, whose duties in connection with this Agreement may include contact with youth referred under this Agreement. To comply with this requirement, a criminal background check shall include a fingerprint-based criminal history search of criminal information databases maintained by the Federal Bureau of Investigation and by the State of Texas ~~and shall have been conducted within two years prior to assignment of services under this Agreement.~~ Should County have any questions, it reserves the right to conduct a criminal background check on any Contractor employee, associate, agent, volunteer, or subcontractor that enters into the Burnet County Jail.

In addition to the required criminal background check, the Director or designee will consult any child abuse registry maintained by the State or locality in which any employee, intern, volunteer,

subcontractor, agent and/or consultant of Contractor, or Contractor, will work those duties in connection with this Agreement may include contact with youth referred under this Agreement. Any employee, intern, volunteer, subcontractor, agent, and/or consultant of Contractor, or Contractor, whose name appears on any child abuse registry will be disqualified from providing services to youth referred under this Agreement.

4.12.2 Contractor shall not assign or allow any employee, intern, volunteer, subcontractor, agent and/or consultant of Contractor, or Contractor, to provide services to youth referred under this Agreement whose criminal background check reflects a disqualifying criminal history. To comply with this requirement, a disqualifying criminal history includes: any felony conviction or deferred adjudication within the past ten years; any jailable misdemeanor conviction or deferred adjudication within the past five years; any current felony or jailable misdemeanor deferred adjudication, probation, or parole; or the requirement to register as a sex offender.

4.12.3 Contractor shall not assign or allow any employee, intern, volunteer, subcontractor, agent and /or consultant of Contractor, or Contractor, to provide services to youth referred under this Agreement who have:

4.12.3.1 Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

4.12.3.2 Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

4.12.3.3 Been civilly or administratively adjudicated to have engaged in the activity described in 4.12.3.2 of this section.

COMPENSATION, BILLING AND PAYMENT

- Fees. For and in consideration of the satisfactory performance by Contractor of the services described in Attachment A, Scope of Services, and Contractor's compliance with the terms and conditions of this Agreement, County shall pay Contractor in accordance with the Fee Schedule ~~which is attached~~ hereto as Attachment B and made a part hereof.
- Not to exceed amount: As Needed Basis
- Additional Fees: None
- Satisfactory Completion of Services. County shall not be responsible for the costs of any services under this Agreement that are not performed to County's

reasonable satisfaction and given County's approval, which shall not be unreasonably withheld. County's obligation to make any payment to Contractor is dependent upon completion of the services invoiced in a timely, good and professional manner and at a standard acceptable in Contractor's profession.

- Timely Payment. County shall pay Contractor within thirty (30) days after the receipt of a complete and correct invoice by County Department. Accrual and payment of interest on overdue payments shall be governed by Chapter 2251 of the Texas Government Code.
- Invoicing. Contractor shall invoice County monthly for services performed pursuant to this Agreement. Contractor is an independent contractor and County shall not pay any customary Travis County benefits, including, but not limited to taxes, worker's compensation, health and retirement benefits, sick leave and vacation and holiday. Invoices shall be submitted by the 10th of the month immediately following the month in which the services were rendered.
- County shall pay by ACH/EFT or check upon satisfactory delivery and acceptance of items and submission of a correct and complete invoice to the address below:

Karin Smith
Burnet County Auditor

Preferably via e-mail to:

ksmith@burnetcountvtexas.org or

Via mail to: 220 South Pierce St.
Burnet, Texas 78611

Contractor may contact the Auditor's Office at (512) 756-5495 for assistance with setting up electronic payment through ACH, which deposits payments directly into Contractor's account.

To be "correct and complete," an invoice must include at least the following information:

- Name, address, and telephone number of Contractor, and the name should match the name shown on the W-9 that Contractor submitted to the Auditor's Office;
- Name and address where the payment is to be sent, if payment is by check;
- County Contract Number and County Purchase Order Number; • Identification of items or services as outlined in the Agreement*;
- Quantity or quantities, applicable unit prices, total prices by item, and total invoice amount, and
- Any additional payment information that may be called for by the Agreement*.

*Note: Information reflecting Protected Health Information (PHI) or Personally Identifiable Information (PII) must be properly

redacted before submission of an invoice to the Auditor's Office to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and other privacy regulations.

Invoices with improperly redacted PHI or PII will not be processed for payment and they will be permanently deleted from our files. For payment to be made, an invoice must be resubmitted. The re-submitted invoice must have all PII/PHI information redacted and appropriately disclosed.

- Additional Copy of Invoice: In addition, Contractor shall email a copy of the invoice to:

Matt Kimbler <mkimbler@burnetsheriff.com>

If email is not possible, please send via postal mail to:

Burnet County Jail Captain

Burnet County Jail

P.O. Box 1249

Burnet, TX 78611

If payment is based on percentage of completion, Contractor shall also submit a statement showing the percentage of completion of the work as at the date of the invoice with each invoice, and any additional written information requested by County to document the progress of the work.

- Overpayment. Contractor shall refund to County any money which has been paid to Contractor by County, which County determines has resulted in overpayment to Contractor. Such refund shall be made by Contractor to County within thirty (30) days after the refund is requested by County. If County enters into any subsequent Agreement with Contractor and Contractor fails to refund any money owed to County within thirty days of request, County may offset the difference against the next advance or payment payable to Contractor.
- Taxpayer Identification. Contractor shall provide County with an Internal Revenue W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor before any Contract funds are payable.
- Delinquent Property Taxes. Notwithstanding anything to the contrary herein, if Contractor is delinquent in the payment of property taxes at the time of invoicing, Contractor hereby assigns any payments to be made for services rendered hereunder to the Travis County Tax Assessor-Collector for the payment of said delinquent taxes.
- Disbursements to Persons with Outstanding Debt.

- In accordance with Section 154.045 of the Local Government Code, If notice of indebtedness has been filed with the County Auditor or County Treasurer evidencing the indebtedness of Contractor to the State, the County or a salary fund, a warrant may not be drawn on a County fund in favor of Contractor, or an agent or assignee of Contractor until:
 - the County Treasurer notifies Contractor in writing that the debt is outstanding; and
 - the debt is paid.
- "Debt" includes delinquent taxes, fines, fees, and indebtedness arising from written agreements with the County.
- County may apply any funds County owes Contractor to the outstanding balance of debt for which notice is made under section 6.8.1.1 above, if the notice includes a statement that the amount owed by the County to Contractor may be applied to reduce the outstanding debt.
- Period of Services. County shall not be liable for costs incurred or performances rendered by Contractor before or after the term of this Agreement.
- Funding Out. Notwithstanding anything to the contrary herein, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Agreement for the following fiscal year of County, County may terminate this Agreement after giving Contractor twenty (20) days written notice that this Agreement is terminated due to the failure to fund it.

RECORDS CONFIDENTIALITY AND ACCESS

- - Confidentiality. Contractor shall establish a method to secure the confidentiality of records and other information relating to residential treatment services in accordance with the applicable federal, state and local laws, rules and regulations, and applicable professional ethical standards. This provision shall not be construed as limiting the right of County access to client information. Upon authorization from County to render client files anonymous, Contractor agrees to mask information identifying clients in a way that will not obstruct County's monitoring and evaluation duties in any way.
 - Records Maintenance. Contractor shall create, maintain, and retain, and shall make reasonably available to County, all necessary and appropriate records, information, and documentation (including all accounting records) relating to

services provided under the terms of this Agreement for a period of seven (7) years after the provision of the services, or until any litigation concerning any of the services has been satisfactorily resolved, whichever occurs later. Contractor shall provide copies of such records to County upon written request to Contractor at a cost mutually agreed to by County and Contractor.

- Access to Records. Contractor further agrees that upon reasonable notice the County or its duly authorized representatives shall have access to any and all books, documents, papers, reports and records of Contractor, which the County deems are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions, and to ascertain compliance with federal and state employment discrimination laws. Contractor shall provide all information and reports required by Title VI of the 1964 Civil Rights Act (42 USC Section 2000d, et. seq.) and any regulations or directives issued pursuant to them. Contractor shall permit access to its books, records, accounts, other sources of information and its facilities as County may determine to be pertinent to ascertain compliance with these regulations, orders, and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor shall so certify to the County, as appropriate, and shall state what efforts it has made to obtain the information.
- Right to Contractual Material. County is entitled to copies of all work products produced under this Agreement including programming, reports, charts, schedules, or other appended documentation to any responses, inquiries, correspondence, and related material submitted by Contractor, which will become the property of the County.

AMENDMENTS / MODIFICATIONS

- General. Unless specifically provided otherwise in this Agreement, any change to the terms of this Agreement or any attachments to it shall be in writing and signed by each Party. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY TO CHANGE THE TERMS OF THIS AGREEMENT OR ANY ATTACHMENTS TO IT UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY COMMISSIONERS COURT.
- Requests for Changes. Contractor shall submit all requests for changes to the terms of this Agreement or any attachment to it to the Director with a copy to the Purchasing Agent.
- Purchasing Agent Authority. Contractor understands and agrees that the Purchasing Agent has certain authority to approve an Amendment subject to applicable law (specifically the County Purchasing Act, TEX. LOC. GOV'T CODE, Chapter 262, and other applicable law) and County policy, as approved by the Commissioners Court. Within that authority, the Purchasing Agent may approve Amendment requests under this Agreement. The Purchasing Agent will advise Contractor as to such authority upon submission of a request for Amendment; at any time, the Purchasing Agent may submit any request to the Commissioners Court for approval, regardless of the authority of the Purchasing Agent to sign the Amendment.

OTHER PROVISIONS

- INDEMNIFICATION. CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS COUNTY, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, NEGLIGENCE, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR ANY ACT OR OMISSION BY CONTRACTOR, OR FOR DAMAGE TO ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY CONTRACTOR UNDER THIS AGREEMENT.
- Copyrights, Patents & Licenses. Contractor represents and warrants that (i) all applicable copyrights, patents, licenses, and other proprietary or intellectual property rights which may exist on materials used in this Agreement have been adhered to and (ii) the County shall not be liable for any infringement of those rights and any rights granted to the County shall apply for the duration of this Agreement. CONTRACTOR SHALL INDEMNIFY THE COUNTY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITY OF EVERY KIND INCLUDING EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY FEES FOR DAMAGES TO ANY PERSON OR PROPERTY ARISING IN CONNECTION WITH ANY ALLEGED OR ACTUAL INFRINGEMENT OF EXISTING PATENTS, LICENSES, OR COPYRIGHTS APPLICABLE TO MATERIALS USED IN THIS AGREEMENT.
- Claims Notification. If any claim, or other action, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor or County in relation to the performance of this Agreement, Contractor shall give written notice to County of the claim or other action within three (3) working days after being notified of it or the threat of it; the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice shall be given in the manner provided herein. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to these claims or actions.
- Suspension. County may suspend performance of this Agreement at any time for any reason without terminating this Agreement by giving Contractor written notice of suspension (a "Notice of Suspension"). The "Effective Date of Suspension" will be the date on which Contractor receives the notice of suspension, and the suspension Period will begin on this date. Performance may be reinstated, and this Agreement resumed in full force and effect within sixty (60) days of Contractor's receipt of written notice of reinstatement from County. Upon the Effective Date of Suspension, Contractor shall follow the procedures described below:
- Upon receipt of a notice of suspension, Contractor shall, unless the notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall prepare a

statement detailing the services performed under this Agreement prior to the Effective Date of Suspension.

- During the suspension period, Contractor may submit the above referenced statement to County for payment of the approved services actually performed under this Agreement, less previous payments.

- Non-Waiver of Default.

- No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist.

- All rights of County under this Agreement are specifically reserved, and any payment, act or omission shall not impair or prejudice any remedy or right to County under it. Any right or remedy in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

- FORFEITURE OF AGREEMENT. If Contractor has done business with a Key Contracting Person as listed in Exhibit "1" to Attachment D during the 365 day period immediately prior to the date of execution of this Agreement by Contractor or does business with any Key Contracting Person at any time after the date of execution of this Agreement by Contractor (including business done during any Renewal Term of this Agreement) and prior to full performance of this Agreement, Contractor will forfeit all County benefits of this Agreement and County will retain all performance by Contractor and recover all considerations, or the value of all consideration, paid to Contractor pursuant to this Agreement. Contractor will notify County of any change in the information submitted with this Agreement as to the Ethics Sworn Declaration within twenty (20) days of such change throughout the Initial Term and/or any Renewal Term.

- "Is doing business" and "has done business" means:

(a) Paying or receiving in any calendar year any money valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or

(b) 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:

(c) Any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public;

(d) 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; or

(e) If Contractor is a national or multinational corporation, any transaction for financial service or insurance coverage made on behalf of Contractor by its agent, employee or other representative who does not know and is not in a position that he or she should have known about this Agreement.

• Agreement.

• Entire Agreement. All written or oral agreements between the Parties to this Agreement related to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement or in the policies and procedures approved by Commissioners Court for County. Any prior agreements, promises, negotiations, or representations not expressly set forth in this document are of no force and effect.

• Attachments. The attachments enumerated and denominated below are hereby made a part of this Agreement and constitute promised performances by Contractor in accordance with all the provisions of this Agreement.

• Attachment A — Scope of Services

• Attachment B — Fee Schedule

• Attachment C — Insurance Requirements

• Attachment D — Ethics Sworn Declaration including:

• Exhibit 1 — List of Key Contracting Persons

• Exhibit 2 — Disclosure Form

8.7.2.5 Attachment E — Business Associates Agreement

• Notices:

• Written Notice. Any notice required or permitted to be given under this Agreement by one Party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address herein specified.

• County Address. The address of County for all purposes under this Agreement shall be:

Karin Smith (or her successor)
Burnet County Purchasing Agent
220 South Pierce St.
Burnet, Texas 78611

With copies to (registered or certified mail with return receipt is not required):

Captain Matt Kimbler (or his successor) Burnet
County Jail Captain
Officer P.O. Box 1249 Burnet,
Texas 78611

- Contractor Address. The address of Contractor for all purposes under this Agreement and for all notices hereunder shall be:

Austin Dental Cares
1900 E Howard Lane
Building A Suite 4

Pflugerville, Texas 78660

- Change of Address. Each Party may change the address for notice to it by giving written notice of the change in compliance with Section 8.8. Any change in the address shall be reported within fifteen (15) days of the change.
- Dispute Resolution - Administration by Purchasing Agent. When Contractor and/or County have been unable to successfully resolve any question or issue related to this Agreement, Contractor or County shall then present the matter to the Purchasing Agent by providing the Purchasing Agent with written notice of the dispute. Such notice shall contain a specific written description of the issues involved as well as Contractor's requested resolution of the dispute and any other relevant information which Contractor desires to include. As of the receipt of such notice by the Purchasing Agent, the Purchasing Agent will act as the County representative in any further issuances and in the administration of this Agreement in relation to the described dispute. Unless otherwise stated in this Agreement, any document, notice or correspondence in relation to the disputes at this stage not issued by or to the Purchasing Agent may be considered void. If Contractor does not agree with any document, notice or correspondence relating to the dispute issued by the Purchasing Agent or other authorized County person, Contractor must submit a written notice to the Purchasing Agent with a copy to the Director within ten calendar days after receipt of the document, notice or correspondence, outlining the exact point of disagreement in detail. The Purchasing Agent will issue a written notice of the final resolution of the dispute to Contractor within thirty days of receipt of the initial written notice of dispute by the Purchasing Agent. If this final resolution does not resolve the dispute to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court through the Purchasing Agent. The Purchasing Agent will provide a copy of such response to the Director. This Notice of Appeal must be submitted within ten calendar days after receipt of the unsatisfactory final resolution. Contractor then

has the right to be heard by Commissioners Court and the Purchasing Agent will coordinate placing the matter on the Commissioners Court agenda.

- Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.
- Force Majeure. The parties acknowledge that this Agreement is being executed and will at least partially be performed during a Declared Disaster resulting from the COVID-19 pandemic and expressly acknowledge that they have taken the effects of this Declared Disaster into account in determining timelines and performance requirements stated in it and that this Declared Disaster may not be used to excuse performance under this Contract. Neither party is financially liable to the other for any delays or failures in contract performance caused by federal or state laws or the rules, regulations, or orders of any public body or official purporting to exercise authority or control respecting the operations covered by this Contract, or caused by strikes not against the parties, actions of the elements, or acts of God and delays due to the above causes shall not be considered breach of this Contract. These delays or failures to perform extend the period of performance for a period of time equal to the substance of the impossible conditions. If Force Majeure conditions exist, the party affected by them shall give the other party Notice within five working days after the conditions begin. If timely Notice is impractical due to the Force Majeure conditions, then the party must provide Notice in as timely a manner as practicable. If Notice is not provided timely, the party experiencing Force Majeure waives it as a defense.
- Cooperation and Coordination. Contractor shall cooperate and coordinate with County staff and other contractors as reasonable and necessary and as required by the Director.
- Independent Contractor. The Parties expressly acknowledge and agree that Contractor is an independent contractor, operating solely in that capacity. Contractor assumes all of the rights, obligations and liabilities applicable to an independent contractor. Neither Contractor nor any of Contractor's employees will be considered an employee, partner, joint-venturer, nor agent of County, nor does Contractor gain any rights against County pursuant to the County's personnel policies. County will not pay Contractor nor Contractor's employees any customary Travis County benefits, including but not limited to FICA, payroll taxes, worker's compensation, health or retirement benefits, sick leave or vacation or holiday pay. Contractor is responsible to report all federal, state and city tax liabilities, social security obligations, and any other taxable matters associated with services rendered under this Agreement and is solely obligated to pay any and all taxes related to income paid to Contractor.

- No Third-Party Rights. No provision in this Agreement, express or implied, is intended to confer upon any person or entity, other than the Parties to this Agreement, any benefits, rights, or remedies under or by reason of this Agreement.
- Governing Law. The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the Parties hereunder, shall be governed by the laws of the State of Texas.
- Severability. Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be limited to the clause, sentence, provision, paragraph or article so held to be invalid, illegal, or ineffective.
- Law and Venue. All obligations under this Agreement shall be performable in Burnet County, Texas. Venue for any litigation concerning this Agreement shall be in the City of Burnet, Burnet County.
- Assignment. No Party may assign any of the rights or duties created by this Agreement without the prior written approval of the other Party. It is acknowledged by Contractor that no officer, agent, employee or representative of County has any authority to assign any part of this Agreement unless expressly granted that authority by Commissioners Court.
- Binding Agreement. Notwithstanding any other provision of this Agreement shall be binding upon and inure to the benefit of the County and Contractor and their respective successors, executors, administrators, and assigns. Neither the County nor Contractor may assign, sublet, or transfer his interest in or obligations under this Agreement without the written consent of the other
- Performance of Other Services. As a part of this Agreement, it is understood that Contractor is free to provide services outside this Agreement as it sees fit at those times which Contractor is not obligated to County. It is also understood that County is free to have more than one contractor providing the type of services included in this Agreement and County is under no obligation to refer any case to Contractor for services under this Agreement.
- Survival. Conditions and covenants of this Agreement which by their terms are performable after the termination, expiration, or end of this Agreement shall survive such termination, expiration, or end and remain fully performable.
- Certificate of Contractor. Contractor certifies that neither Contractor nor any members of Contractor's firm nor any Subcontractor has:
 - Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee

working solely for Contractor) to solicit or secure the work provided by the Agreement.

- Agreed, as an expressed or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
- Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for Contractor) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.
- Been suspended or debarred from federal or state procurement.

Contractor further agrees that this certification may be furnished to any local, state or federal government agencies in connection with this Agreement and for those portions of the program involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- Interpretational Guidelines.
- Computation of Time. When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that County has declared a holiday for its employees, these days shall be omitted from the computation.
- Number and Gender. Words of any gender in this Agreement shall be construed to include any other gender and words in either singular or plural form shall be construed to include the other unless the context in the Agreement clearly requires otherwise.
- Headings. The headings at the beginning of the various provisions of this Agreement have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Agreement.
- County Monitoring. The Contractor will be monitored by the Director (or their designee) for compliance with the requirements of this Agreement.
- Signatures. The person or persons manually or electronically signing this Agreement on behalf of the Contractor or representing themselves as signing this Agreement on behalf of the Contractor, do hereby warrant and guarantee that he, she or they have been duly authorized by the Contractor to sign this Agreement on behalf of Contractor and to bind Contractor validly and legally to all terms, performances, and provisions in this Agreement. Manual signatures or electronic signatures, whether digital or encrypted, have the same force and effect.

DUPLICATE ORIGINALS

This Agreement will be executed in duplicate originals and be effective when executed by both Parties.

Austin Dental Cares

County of Burnet, Texas

Burnet County

Name:

Judge Date:

Title:

Date:

Approved as to Purchasing
Policies and Procedures by:

Burnet County Purchasing
Agent Karin Smith

CPPB

Approved as to Legal Form by:

Burnet County Attorney

ATTACHMENT A
SCOPE OF SERVICES

- Purpose

For Nikki T. Tran, DMD, PLLC d/b/a Austin Dental Cares (Contractor) to provide incarcerated individuals in the Burnet County Jail on-site dental evaluations and recommend treatment services.

2. Service Type

At the request of and under the supervision of the Burnet County Jail Captain or his/her designee, Contractor shall provide dental evaluations and recommend treatment services for jail inmates housed at the Burnet County Jail facility on-site and share such information with the Burnet County Jail medical staff as permitted by State and Federal Statute.

3. Burnet County Jail Responsibilities

3.1 Where indicated by sound medical practices, make an individual inmate's medical records available for review to Contractor.

3.3 Provide appropriate security services during the performance of any dental services. This includes but is not limited to the presence of security guards at the worksite. In the event that the incarcerated individual is suspected of engaging in any violent criminal activity, the following actions will be taken:

- The individual shall be restrained by security personnel for the duration of their appointment to prevent harm, given the environment which includes the presence of sharp tools and other hazardous materials. The contractor reserves the right to cease work and leave the worksite if the safety of the contractor or others is at risk due to the individual's actions.

*Note — Burnet County Jail will provide Contractor with a dedicated room or location with adequate lighting to facilitate dental examinations/services.

Burnet County Jail will not provide Austin Dental Cares with any dental tooling or medications.

3.4

Notify Vendor in a timely manner if dental services need to be rescheduled.

4. Contractor's Responsibilities

4.1 Must cooperate and coordinate fully with Burnet County Jail staff at all times when inside the facility, any other County contract physicians, the professional, departmental administration, and counseling staff the Burnet County Jail facility in the integration of dental care for inmates housed therein.

- 4.2 Shall inform the Burnet County Jail medical staff and/or Jail Captain of any issues as they arise.
- 4.3 Must immediately alert Burnet County Jail medical staff and/or Jail Captain upon becoming aware of any medical issue pertaining to any jail inmate.
- 4.4
- 4.5 Will consult with the medical staff at the Burnet County Jail as necessary.
- 4.6 To the extent practicable, shall notify the Burnet County Jail Captain or his/her designee in advance of any periods of unavailability to perform the services.
- 4.7 Must provide services on an as needed basis on mutually agreed dates and times.
- 4.8 Shall work closely with the Burnet County Jail staff to accommodate any fluctuations in the population or dental needs of jail inmates.

5. Compliance with Laws, Regulations and Standards

- All dental tooling must be counted with the Burnet County Jail staff upon arrival and upon leaving the jail facility. Contractor may not start services until the initial count has been completed.
- Contractor shall maintain current professional license as a dentist from the Texas State Board of Dental Examiners and a
- 5.2 working knowledge of the available courses of dental treatment.
- Contractor shall complete safety related training as required by the Burnet County Jail.

6. Hours/Days of Service

TCJPD will contact the Contractor to schedule an appointment within five (5) days of requested Date of Service (DOS). Service days will be on weekdays between the hours of 11AM – 3PM, unless the Contractor receives notification of changes from Burnet County Jail staff. One (1) last minute appointment is allowed to be added onto the schedule with 24 (twenty-four) hours' notice to the Contractor.

7. Frequency of Services

Services will be ongoing throughout the year, at the request of the Burnet County Jail. Parties will arrange the provision of services on mutually agreed dates and times.

8. Performance Measures

The Burnet County Jail staff will make the appropriate referrals within (5) business days.

- Contractor is expected to arrive on time for all scheduled appointments.

- Contractor shall be reviewed annually by the Burnet County Jail Captain. •
Contractor shall immediately alert Burnet County Jail staff and medical staff upon becoming aware of any medical issue pertaining to a jail inmate.

ATTACHMENT B FEE SCHEDULE

The following are the basic services which may be billed:

- Diagnostic and general services consist of the following:
- Diagnostic Examination with report documenting any/all recommendations for follow-up
- Preventive (prophylaxis)

To protect sensitive business information, the detailed fee schedule will not be attached to this document. If you have questions about the fees or a specific procedure, please note that a treatment plan with a comprehensive code breakdown will be provided upon request. This will be done following a proper oral examination to ensure accuracy and relevance of the information provided.

ATTACHMENT C INSURANCE REQUIREMENTS

Contractor shall have, and shall require all subcontractors providing services under this Contract to have, Standard Insurance meeting the General Requirements as set forth below and sufficient to cover the needs of Contractor and/or Subcontractor pursuant to applicable generally accepted business standards. Depending on services provided by Contractor and/or Subcontractor(s), Supplemental Insurance Requirements or alternate insurance options shall be imposed as follows:

- General Requirements Applicable to All Contractors' Insurance

The following requirements apply to the Contractor and to Subcontractor(s) performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

- The minimum types and limits of insurance indicated below shall be maintained throughout the duration of the Contract.

- Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher.
- Prior to commencing work under this Contract, the required insurance shall be in force as evidenced by a Certificate of Insurance issued by the writing agent or carrier. A copy of the Certificate of Insurance shall be forwarded to County immediately upon execution of this Contract.
- Certificates of Insurance shall include the endorsements outlined below and shall be submitted to the Burnet County Purchasing Agent within ten (10) working days of execution of the contract by both parties or the effective date of the Contract, whichever comes first. The Certificate(s) shall show the Burnet County contract number and all endorsements by number.
- Insurance required under this Contract which names Burnet County as Additional Insured shall be considered primary for all claims.
- Insurance limits shown below may be written as Combined Single Limits or structured using primary and excess or umbrella coverage that follows the form of the primary policy.
- County shall be entitled, upon its request and without expense, to receive certified copies of policies and endorsements.
- County reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has been expanded.
- Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract. Contractor shall not permit the minimum limits of coverage to erode or otherwise be reduced. Contractor shall be responsible for all premiums, deductibles and self-insured retention. All deductibles and self-insured retention shall be shown on the Certificates of Insurance.
- Insurance coverage specified in this Contract is not intended and will not be interpreted to limit the responsibility or liability of the Contractor or subcontractor(s).
- Specific Requirements

The following requirements apply to the Contractor and Subcontractor(s) performing services or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following concerning insurance requirements applicable to Contractor and subcontractor(s):

- Workers' Compensation and Employers' Liability Insurance
- Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.
- Employers' Liability limits are:
 - \$500,000 bodily injury each accident

\$500,000 bodily injury by disease

\$500,000 policy limit

' Policies under this Section shall •apply to State of Texas and include the following endorsements in favor of Burnet County:

- Waiver of Subrogation
- Thirty (30) day Notice of Cancellation
- Commercial General Liability Insurance
- Minimum limit: \$500,000 per occurrence for coverage A and B with a \$1,000,000 policy aggregate
- The Policy shall contain or be endorsed as follows:
 - Blanket contractual liability for this Contract
- Independent Contractor Coverage
- The Policy shall also include the following endorsements in favor of Burnet County:
- Waiver of Subrogation
- Thirty (30) day Notice of Cancellation
- Burnet County named as additional insured upon written request of client

Supplement Insurance Requirement: If child care, or housing arrangements for clients is provided, the required limits shall be:

\$1,000,000 per occurrence with a \$2,000,000 policy aggregate

- Business Automobile Liability Insurance
- If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$300,000* per occurrence
- Policy shall also include the following endorsements in favor of Burnet County:
- Waiver of Subrogation
- Thirty (30) day Notice of Cancellation
- Travis County named as additional insured
- Professional Liability and/or E & O Insurance
- Minimum Limit: \$1,000,000 per Occurrence
- If coverage is written on a claims made policy, the retroactive date shall be prior to the date services begin under this Contract or the effective date of this Contract, whichever comes first. Coverage shall include a three (3) year extended reporting period from the date this Contract expires or is terminated. Certificate of Insurance shall clarify coverage is claims made and shall contain both the retroactive date of coverage and the extended reporting period date.
- Additional insured status for Burnet County is not required

ATTACHMENT D
ETHICS SWORN DECLARATION

6/28/24

Name of Declarant: JAMES OAKLEY
Title of Declarant: COUNTY JUDGE
Business Name of Contractor: ØVR.S.)CT COONTH
County of Contractor: BURNET



Date:

Declarant on oath swears that the following statements are true and complete:

1. Declarant is authorized by Contractor to make this Sworn Declaration for Contractor.
2. Declarant is fully aware of the facts stated in this Sworn Declaration.
3. Declarant can read the English language.
4. Contractor has received the list of key contracting persons associated with this Agreement which is attached to this Sworn Declaration as Exhibit "1".
5. Declarant has personally read Exhibit "1" to this Sworn Declaration.
6. Declarant has no knowledge of any key contracting person on Exhibit "1" with whom Contractor is doing business or has done business during the 365-day period immediately before the date of this Sworn Declaration whose name is not disclosed in Exhibit "2" to this Sworn Declaration.

Signature of Declarant

Typed or printed name of Declarant

Address

City,

State

Zip Code

EXHIBIT 1, ATTACHMENT D
LIST OF KEY CONTRACTING PERSONS

[illegible]

[illegible]

EXHIBIT 2, ATTACHMENT D

DISCLOSURE

Exhibit 2 acknowledges that Contractor is doing business or has done business during the 365day period immediately prior to the date of execution of the agreement with the following Key Contracting Persons and warrants that these are the only such Key Contracting Persons.

- Obligations

In the course of providing these services to or on behalf of Covered Entity, Contractor acknowledges and agrees that it will either create, receive, maintain, access, or transmit information that is protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Insurance Technology for Economic and Clinical Health Act of 2009 ("HITECH Act"), and current and future regulations promulgated under HIPAA and/or the HITECH Act, as well as Texas laws related to the privacy and security of health information, including, but not limited to, Texas Health and Safety Code Chapters 181 and 182.

To the extent that Business Associate uses, discloses, maintains, or transmits protected health information ("PHI") that concerns alcohol and substance abuse treatment, Business Associate acknowledges and agrees that:

- such information is protected by 42 C.F.R. Part 2 ("Part 2"), and Business Associate is bound by these regulations;
- Part 2 prohibits Business Associate from further disclosing such information unless disclosure is authorized by Part 2, Subparts D or E, or Business Associate obtains the written consent of the individual whose PHI is to be further disclosed; and
- if necessary, Business Associate will resist any effort to obtain access to such information by initiating judicial proceedings against the person or entity attempting to gain access in contravention of Part 2.

Obligations of Business Associate and Business Associate Subcontractors. Business Associate agrees (and its Subcontractors will agree through the execution of a written contract) to comply with all of the provisions of this Section 1.3. For purposes of clarification, the obligations set forth in this Section shall apply to all of Business Associate's subcontractors (as that term is defined in 45 C.F.R. 160.103) and subcontractor's downstream subcontractors who create, receive, use, disclose, or have access to Covered Entity's PHI. Any reference to Business Associate in this Agreement includes all of Business Associate's subcontractors, directors, officers, employees, affiliates, agents, and representatives, as well as subcontractors' downstream subcontractors. Business Associate expressly acknowledges and agrees that it will be liable for the actions and omissions of its subcontractor(s) and its subcontractors' downstream subcontractors (collectively referred to as "Subcontractor" or "Subcontractors").

- Use Reasonable Safeguards to Secure Protected Health Information. The HITECH Act and final Omnibus Rule as published at 78 Federal Register 5566 (January 25, 2013) require Business Associate to comply with 45 C.F.R. Sections 164.308, 164.310, 164.312 and 164.316 as if Business Associate were a Covered Entity, and Business Associate agrees that it will comply with those provisions of the Security Standards for the Protection of Electronic Protected Health Information (the "Security Rule"). Business Associate acknowledges and agrees that the provisions of the Security Rule with which it must comply require Business Associate to:

- employ appropriate administrative and physical safeguards, consistent with the size and complexity of Business Associate's operations, to protect the

confidentiality of PHI and to prevent the use or disclosure of PHI in any manner inconsistent with the terms of this Business Associate Agreement. These safeguards will include, without limitation:

- implementing written policies and procedures in compliance with HIPAA, HITECH, and the Privacy and Security Rule;
- performing a security risk assessment; and

- regularly and adequately training its employees, and any Subcontractors who will have access to PHI on the policies and procedures required by HIPAA, HITECH, their implementing regulations, and state law.

- use, to the extent possible, commercially reasonable efforts to secure electronic protected health information ("EPHI") through technical safeguards that render such EPHI unusable, unreadable, and indecipherable to individuals unauthorized to acquire or otherwise have access to such EPHI. At a minimum, Business Associate will use technical safeguards that are compliant with 45 C.F.R. Section 164.312, or such later regulations or guidance promulgated by the U.S. Department of Health and Human Services ("HHS") or issued by the National Institute for Standards and Technology ("NIST") that concern the protection of identifiable data such as PHI.

- provide Covered Entity with a copy of its written information security program before execution of this Business Associate Agreement.

- Use and Disclose Protected Health Information for Permissible Purposes.

- Business Associate agrees that it will:
- use or disclose PHI only in connection with fulfilling its duties and obligations under this Business Associate Agreement and the Service Agreement;

- not use or disclose PHI other than as permitted by Section 2 of this Business Associate Agreement or as required by Section 1.3.3 of this Agreement; and

- not use or disclose PHI in any manner that violates applicable federal and state laws or would violate such laws if used or disclosed in such manner by Covered Entity.

- Business Associate may disclose PHI that is not protected by Part 2 to Subcontractors as necessary to perform its obligations under the Service Agreement and as permitted or required by applicable federal or state law.

- Under no circumstances will Business Associate:
- sell PHI in such a way as to violate Texas Health and Safety Code, Chapter 181.153;

- use or further disclose genetic information for underwriting purposes;

- attempt to re-identify any information in violation of Texas Health and Safety Code Section 181.151, regardless of whether such action would be permitted if performed by the Covered Entity; or

- use PHI for marketing purposes in such a manner as to violate Texas Health and Safety Code Section 181.152. Before Business Associate can sell, use, or

disclose PHI for marketing purposes, Business Associate must first obtain Covered Entity's written consent.

- Support Covered Entity in Fulfilling its Obligations. If the

Business

Associate maintains a Designated Record Set (as defined in 45 C.F.R. 164.501), Business Associate will support Covered Entity in a manner that enables Covered Entity to meet its obligations under 45 C.F.R. Sections 164.524, 164.526, and 164.528. To the extent that Business Associate is asked to carry out Covered Entity's obligations under these sections, Business Associate will comply with the requirements that apply to Covered Entity in the performance of such obligations.

- Requests for Access (45 C.F.R. 164.524)

- Business Associate will provide Covered Entity with any PHI subject to an individual's request for access within three (3) business days of Covered Entity's written request for the same. Unless Covered Entity specifically requests otherwise, the PHI subject to the request will be forwarded in electronic form.

- In the event any individual requests access to PHI directly from Business Associate, Business Associate will forward such request to Covered Entity within two (2) business days. Before forwarding any PHI to Covered Entity, Business Associate will indicate in the Designated Record Set, any material it deems unavailable to the individual pursuant to 45 C.F.R. Section 164.524(a)(1). Covered Entity will make the final determination as to the availability of the requested material.

- Requests for Amendment (45 C.F.R. 164.526)

- Business Associate will provide Covered Entity with the PHI subject to an individual's request for amendment within five (5) business days of Covered Entity's written request for the same. Unless Covered Entity requests otherwise, the PHI subject to the request will be forwarded in electronic form.

- In the event any individual requests an amendment of PHI directly from Business Associate, Business Associate will forward such request to Covered Entity within two (2) business days. Before forwarding any PHI to Covered Entity, Business Associate will indicate in the Designated Record Set, any material it deems unavailable for inspection by the individual pursuant to 45 C.F.R. Section 164.524(a)(1). Covered Entity will make the final determination on the request.

(c) Business Associate will incorporate any amendment to PHI that Covered Entity directs or agrees to make no later than fifteen (15) days after Covered Entity requests the amendment be effected.

- Accounting of Disclosures (45 C.F.R. 164.528)

- In order to allow Covered Entity to respond to an individual's request for an accounting, Business Associate will provide Covered Entity with the information required by 45 C.F.R. Section 164.528 within five (5) business days of Covered Entity's written request for the same. Unless Covered Entity specifically requests otherwise, the information will be forwarded in electronic form.

- In the event any Individual requests an accounting of disclosure of PHI directly from Business Associate, Business Associate will forward such request to Covered Entity within two (2) business days.

- At a minimum, Business Associate will provide Covered Entity with the following information:

- the date of the disclosure;
- the name of the entity or person who received the PHI, and if known, the address of such entity or person;

- a brief description of the PHI disclosed; and
 - a brief statement of the purpose of such disclosure.

- Business Associate will implement an appropriate recordkeeping process to enable it to comply with the requirements of this Subsection 1.3.4.

- Keep Accurate and Detailed Records. Business Associate will keep such accurate and detailed records pertaining to:

- all disclosures of PHI to third parties, including those made to Business Associate's directors, officers, employees, affiliates, agents, Subcontractors, and representatives, other than those disclosures that meet the exception criteria of 45 C.F.R. Section 164.528, for a period of at least six (6) years from the date of termination of this Agreement; and

- the written agreements it enters into with Subcontractors. Business Associate will provide Covered Entity with a copy of such agreements, upon request, and will also keep a written list of all Subcontractors to whom Business Associate discloses PHI.

- Cooperate with Covered Entity and the Secretary. Business Associate agrees that:

- Business Associate will submit such compliance reports, in such time and manner and containing such information, as the Secretary of HHS ("SecretaM") may determine to be necessary to verify compliance with applicable HEPAA provisions.

Business Associate will cooperate with the Secretary, if the Secretary undertakes investigations or compliance review of the policies, procedures, or practices of Covered Entity or Business Associate. Business Associate will also cooperate with Covered Entity if Covered Entity undertakes an audit to determine Business Associate's compliance with this Business Associate Agreement.

- Business Associate must permit access to the Secretary and Covered Entity, as applicable, during normal business hours to its facilities, books, records, accounts, and other sources of information, including PHI, in order for the Secretary or Covered Entity to ascertain Business Associate's compliance with HIPAA provisions or this Business Associate Agreement, respectively.

- Notwithstanding the foregoing, if the Secretary determines that exigent circumstances exist, such as when documents may be hidden or destroyed, Business Associate must permit access by the Secretary at any time and without notice.

- If any information required of the Business Associate is under the exclusive possession of any other agency, institution, or person and the other agency, institution, or person fails to furnish the information, the Business Associate must so certify and set forth what efforts it has made to obtain the information.

- Business Associate will provide Covered Entity with copies of all documents provided to the Secretary or other regulatory and accreditation authorities.

- In addition to Business Associate's obligations under Section 1.3.5(iii)(c), Business Associate will provide copies of any documents reasonably requested by Covered Entity. Documents will be made available to Covered Entity within fourteen (14) days of Covered Entity's request at no charge.

- Enter into Business Associate Agreements with Subcontractors.

- In accordance with 45 C.F.R. 164.314(a)(2)(B), Business Associate will enter into a signed written agreement with its Subcontractor(s), if any, that:

- Binds the Subcontractor to the same provisions, restrictions, and conditions as contained in this Business Associate Agreement;

- Contains reasonable assurances from Subcontractor that the PHI will be held confidential as provided in this Business Associate Agreement, and only disclosed as required by law or for the purposes for which it was disclosed to Subcontractor;

- Establishes the permitted and required uses and disclosures of PHI by the Subcontractor. The written agreement will not authorize the Subcontractor to use or further disclose PHI in a manner that would violate 45 C.F.R. Parts 160 and 164, Subparts A and E (the "Privacy Rule") or Part 2, if done by Covered Entity;

- Obligates Subcontractor to forward a request from an individual to Business Associate on the same day that Subcontractor receives such requests;

- Obligates Subcontractor to immediately notify Business Associate of any breaches (including breaches of unsecured PHI as required by 45 C.F.R. 164.410) of the confidentiality of the PHI and Security Incidents (as defined in 45 C.F.R. 164.304) of which it becomes aware; and

- Requires the Subcontractor to comply with the applicable requirements of HIPAA (including but not limited to the Security and Privacy Rule) as well as Texas Privacy provisions.

Business Associate will provide Covered Entity with a copy of each such written agreement, upon request.

- Survival. The provisions of this Section 1.3 will survive the termination of this Business Associate Agreement

Obligations of Covered Entity.

- Resolve and Report All Appeals and Complaints. Any denial of access or amendment to PHI, which is determined by Covered Entity and conveyed to Business Associate by Covered Entity, will be the sole responsibility of Covered Entity. Covered Entity will resolve, and report all appeals and/or complaints arising from such denials.

- Restrictions on the use and Disclosure of PHI

Except as otherwise specified herein, Business Associate may use or disclose any PHI necessary to perform its obligations under the Service Agreement.

Improper Uses and Disclosures.

- Neither Business Associate nor its directors, officers, employees, Subcontractors, or agents will disclose PHI to any person other than a member of their respective workforces, unless disclosure is required by law or authorized by the person whose PHI is to be disclosed.
- Business Associate and its Subcontractors will not disclose PHI to any member of its respective workforce unless Business Associate or Subcontractor has advised such member of Business Associate's obligations under this Business Associate Agreement, and of the consequences for such person and for Business Associate or such Subcontractor of violating them. Business Associate will take and will require that each of its Subcontractors and agents take appropriate disciplinary action against any member of its respective workforce who uses or discloses PHI in contravention of this Business Associate Agreement.
- If PHI is used or disclosed by Business Associate in violation of this Business Associate Agreement, Business Associate will:
 - notify Covered Entity within the timeframe described in Section
 - upon Covered Entity's direction, take steps to mitigate any harmful effect that is known to Business Associate and is the result of such improper use or disclosure, and
 - indemnify Covered Entity pursuant to Section 7 of this Business Associate Agreement.

Minimum Necessary.

- Business Associate will comply with Section 13405(b) of the HITECH Act, and any regulations or guidance issued by HHS concerning such provision, regarding the minimum necessary standard and the use and disclosure of Limited Data Sets.
- Business Associate acknowledges and agrees that Section 13405(b) of the HITECH Act requires Business Associate to limit its uses and disclosures of PHI to either:
 - the information making up a Limited Data Set (as defined in 45 C.F.R. 164.514); or
 - the minimum PHI necessary to accomplish the intended purpose of the use or disclosure.
- Reporting of Breaches, Security Incidents, and Improper Disclosures

Definition of Breach. The term "Breach," as used in this Agreement, refers to two (2) distinct types of breaches: a HIPAA Breach and a Breach of System Security.

- A "HIPAA Breach" is the unauthorized acquisition, access, use, or disclosure of PHI in a manner not permitted by HIPAA and which compromises the security or privacy of such information.

- A "Breach of System Security" means an unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information (as defined in Section 521.002 of the Texas Business and Commerce Code) maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data.

Breach Reporting.

- In the event of a Breach of any Unsecured PHI (as defined in 45 C.F.R. 402) or sensitive personal information that Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds or uses on behalf of Covered Entity, Business Associate will provide notice of the Breach to Covered Entity immediately, but in no event more than three (3) days after discovering the Breach.

- For purposes of this Business Associate Agreement, a Breach of Unsecured PHI or sensitive personal information will be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate (including any person, other than the individual committing the Breach, who is an employee, officer, Subcontractor, or other agent of Business Associate, as determined in accordance with the federal common law of agency) or should have been known to Business Associate following the exercise of reasonable diligence.

- Business Associate will be liable to, and indemnify Covered Entity for, unreasonable delays in reporting Breaches to Covered Entity.

- Notice of a Breach will include, at a minimum:
 - the identification of each individual whose PHI or sensitive personal information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the Breach;

- the date of the Breach, if known, and the date the Breach was discovered;

- a description of the types of PHI or sensitive personal information involved (e.g., names, Social Security numbers, dates of birth, home addresses, or medical record numbers);

- a description of the Business Associate's response to the Breach, if any (i.e., what the Business Associate has done to investigate the Breach and to protect against future Breaches); and
- any other reasonable information requested by Covered Entity.

Duties Following a Breach. In addition to Business Associate's obligations under Section 3.2, Business Associate has a duty to:

- inform Covered Entity of any new information learned by Business

Associate regarding the Breach; • assist Covered

Entity in:

- conducting a risk assessment of the Breach;
- providing notice of the Breach as required by the Privacy and Security Rule;
- mitigating any harmful effect of such Breach, whether the harm is known by Business Associate to exist or merely directed by Covered Entity;
- pay all costs associated with mitigation and public or individual notice efforts (including the costs associated with a Subcontractor's breach); and
- appoint a liaison and provide contact information for same so that Covered Entity may ask Business Associate questions or learn additional information about the Breach.

Reporting of Security Incidents and Improper Disclosures. Business Associate will report to Covered Entity any Security Incident, unauthorized or improper use or disclosure of any PHI under the terms and conditions of this Business Associate Agreement or applicable federal and state laws as soon as practicable, but in no event later than two (2) days of the date on which Business Associate becomes aware of such use or disclosure.

- Equitable Remedies

Business Associate acknowledges and agrees that Covered Entity will suffer irreparable damage upon Business Associate's breach of this Business Associate Agreement, and that such damages will be difficult to quantify.

Business Associate acknowledges and agrees that, where Covered Entity has knowledge of any material breach by Business Associate, Covered Entity may file an action for injunction against Business Associate to enforce the terms of this Business Associate Agreement. Such proceeding may be brought before any Court having jurisdiction to obtain an injunction.

Business Associate acknowledges and agrees that Covered Entity may also pursue any other legal remedies available to Covered Entity to cure or stop such material breach.

- Term and Termination

General Term and Termination. This Business Associate Agreement will become effective on the Effective Date of the Service Agreement and will terminate when all PHI provided by either party to the other or created or received by Business Associate on behalf of Covered Entity is, in accordance with Section 6, destroyed or returned to Covered Entity or, if it is not feasible to return or destroy PHI, protections are extended to such information, in accordance with the terms of Section 6 of this Business Associate Agreement.

Termination for Material Breach.

- Where Covered Entity has knowledge of a material breach by Contractor, Covered Entity may terminate both the Service and Business Associate agreements it has executed with Contractor. Such termination may occur before the expiration of the Service Agreement and without provision of notice or an opportunity for Contractor to cure.

Business Associate:

- Business Associate commits a material breach of this Agreement if

- knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of the Subcontractor's obligation under the contract or other arrangement, unless the Business Associate takes reasonable steps to cure the breaches or end the violation, as applicable; • impermissibly uses or discloses PHI;

- fails to provide Covered Entity with timely and accurate Breach notification;

- fails to provide timely access, either to Covered Entity, a requesting individual, or the requesting individual's designee, to a copy of PHI; • fails to provide a timely and accurate accounting;

- fails to timely disclose PHI where required by the Secretary;

- fails to fully comply with Texas law, the Security Rule, or the Privacy Rule; or

- otherwise fails to fully comply with this Business Associate Agreement.

- Alternatively, Covered Entity will have the right to cure any breach of Business Associate's obligations under this Business Associate Agreement.

- When Covered Entity chooses to exercise this right, Covered Entity will give Business Associate notice of its election to cure any such breach, and Business Associate will cooperate fully.

- Business Associate will compensate Covered Entity for the efforts Covered Entity undertakes to cure Business Associate's breach. Payment for such efforts will be made to Covered Entity within thirty (30) days.

- Return/Destruction of Protected Health Information upon Termination Business Associate acknowledges that, as between Business Associate and Covered Entity, all PHI will be and remain the sole property of Covered Entity, including any and all forms thereof developed by Business Associate or its Subcontractors in the course of fulfillment of its obligations pursuant to this Business Associate Agreement and the Service Agreement. Upon termination of the Business Associate Agreement or Service Agreement for any reason, Business Associate

If feasible, return or destroy all PHI received from, or created or received by Business Associate on behalf of Covered Entity that Business Associate or any of its directors, officers, employees, affiliates, Subcontractors, agents, and representatives still maintain in any form; or

- Business Associate agrees that all paper, film, or other hard copy media will be shredded or destroyed such that it may not be reconstructed, and EPHI will be purged or destroyed as set forth in the NIST Guidelines for media sanitization at <http://www.csrc.nist.gov/>.

If Covered Entity and Business Associate mutually determine that such return or destruction is not feasible, Business Associate's will:

- continue to use appropriate safeguards and comply with the Security Rule (45 C.F.R Part 164, Subpart C), with respect to EPHI;

- extend the conditions of Section 2 of this Business Associate Agreement to all PHI retained by Business Associate;

- further limit the uses and disclosures of PHI to those purposes that make the return or destruction of the PHI infeasible (i.e., for the purposes for which such PHI was maintained); and

- return or destroy the PHI retained as soon as it is no longer needed by Business Associate for the purposes that made the return or destruction of the PHI infeasible.

- Indemnification Business Associate will indemnify, defend and hold harmless Covered Entity and its directors, officers, employees, affiliates, agents, and representatives from and against any and all actions, claims, costs (including court costs and attorneys' fees), demands, suits, penalties, proceedings, losses and liabilities of any kind, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, employees, affiliates, agents, Subcontractors, and representatives in connection with Business Associate's performance under this Business Associate Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Business Associate or Service Agreement. The indemnification provisions of this Section 6 will survive the termination of this Business Associate Agreement and will apply when actions, claims, demands, or proceedings are brought by a third party or when Business Associate commits a material breach of this Agreement, as described in Section 5.2.1.

- Amendment. If any of the rules or regulations promulgated under HIPAA or state law are amended or interpreted in a manner that renders this Business Associate Agreement inconsistent therewith, Covered Entity may, on thirty (30) days written notice to Business Associate, amend this Business Associate Agreement to comply with such amendments or interpretations. Business Associate agrees that it will amend applicable Subcontractor agreements as necessary to comply with changes in laws or regulations.

- Assignment. This Agreement may be assigned to any affiliate or successor of the Covered Entity. Notwithstanding the foregoing, no assignment of this Business Associate Agreement or the rights and obligations hereunder will be valid without the prior written consent of the non-assigning party.

- Conflicting Terms and Requirements. In the event any terms of this Business Associate Agreement conflict with any terms of the Service Agreement, the terms of this Business Associate Agreement will govern and control. In the event of any conflict between this Business Associate Agreement and federal or Texas law, the more stringent requirements will govern.

11. Additional Documents. Each of the parties hereto agrees to execute any document or documents that may be requested from time to time by the other party to implement or complete such party's obligations pursuant to this Business Associate Agreement or law.

12. Entire Agreement. This Business Associate Agreement, including any exhibits or addenda identified and incorporated by reference herein, contains the entire understanding of the parties and supersedes any prior written or oral agreements or understandings among them concerning the subject matter set forth above. There are no representations, warranties, covenants, promises, agreements, arrangements, or understandings, oral or written, express or implied among the parties hereto relating to the subject matter set forth above which have not been fully expressed herein.

13. Governing Law and Venue. This Business Associate Agreement will be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Venue for any dispute relating to this Agreement will be in Travis County, Texas.

14. Independent Contractor Status. In performing Business Associate's responsibilities pursuant to this Business Associate Agreement, it is understood and agreed that Business Associate is all times acting as an independent contractor and that Business Associate is not a partner, joint-venturer, agent, or employee of the Covered Entity. It is expressly agreed that Contractor will not for any purpose be deemed to be an agent, ostensible or apparent agent, or servant of the Covered Entity, and the parties agree to take any and all such action as may be reasonably requested by the Covered Entity to inform the public and others utilizing the professional services of Business Associate of such fact.

15. Interpretation. Any ambiguity in this Agreement will be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with applicable law.

16. Non-Waiver. No waiver by either of the parties hereto of any failure by the other party to keep or perform any provision, covenant or condition of this Business Associate Agreement will be deemed to be a waiver of any preceding or succeeding breach of the same, or any other provision, covenant, or condition.

17. No Third Party Beneficiaries. This Business Associate Agreement is not intended to benefit any third person or entity, nor will anyone not a party to this Business Associate Agreement be able to enforce or recover any right or remedy hereunder.

18. Notices. Any notice to a party hereto pursuant to this Business Associate Agreement will be given in writing in the manner and at the address set forth in the Service Agreement for notice. Notice will be effective upon delivery.

19. Parties Bound. This Business Associate Agreement and the rights and obligations hereunder will be binding upon and inure to the benefit of the parties and their permitted assigns. This Business Associate Agreement will also bind and inure to the benefit of any successor of Covered Entity by sale, merger, or consolidation.

20. Severability. The sections, paragraphs and individual provisions contained in this Business Associate Agreement will be considered severable from the remainder of this Agreement and in the event that any section, paragraph, or other provision should be determined to be unenforceable as written for any reason, such determination will not adversely affect the remainder of the sections, paragraphs, or other provisions of this Agreement. It is agreed further, that in the event any section, paragraph or other provision is determined to be unenforceable, the parties will use their best efforts to reach agreement on an amendment to the Agreement to supersede such severed section, paragraph, or provision.

IN WITNESS WHEREOF, the parties have signed this Business Associate Agreement to be effective as of the date set forth above.

Nikki T. Tran, DMD, PLLC d/b/a Austin Dental Cares

By:

Name: _____

Title: _____

Address: _____

COUNTY OF Burnet

By: _____

Name: _____

Title: B OF-NET CD JVD QC

Address: 220 South Pierce
Burnet, Texas

78611

**AGREEMENT BETWEEN BURNET COUNTY AND
THE CENTRAL TEXAS WATER COALITION**

This Agreement ("Agreement") is entered into by and between the Central Texas Water Coalition, Inc., a §501(c)(4) organization ("CTWC") and Burnet County, acting by and through their authorized representatives.

WHEREAS, the Highland Lakes, located in the Lower Colorado River Basin, attract tourists to Burnet County, provide recreational opportunities to residents and visitors, impact property values, and generally support the economic well-being of Burnet County and its citizens; and

WHEREAS, the Highland Lakes are a critical source of Burnet County's water supply and the reliability of that water supply is integral to sustaining and growing tourism-related businesses and industries such as hotels, motels, lodges, inns, camping, outdoor sports, boating, fishing, and other water-based activities; and

WHEREAS, Burnet County wishes to enhance and promote tourism and tourism-related businesses and industries in Burnet County and to preserve and protect the water in the Highland Lakes; and

WHEREAS, the Central Texas Water Coalition is a Texas non-profit corporation whose primary mission is to advocate for the preservation and conservation of the Highland Lakes' water supply and water levels for the benefit of human health, safety, and recreation, and to preserve the Highland Lakes' role as an irreplaceable economic engine for the State of Texas. As stated in its 2011 bylaws: "Tourism has taken a front seat in driving the economy of the Highland Lakes counties. Hundreds of thousands come to Burnet, Llano and Travis counties each year, taking advantage of the excellent boating, fishing, camping, cabins, lodges, Inns, spas, and dining opportunities. CTWC's intent is to assist in all regional efforts to market the Highland Lakes, our most precious natural resource, as a tourism destination, directly impacting and increasing our economies"; and

WHEREAS, this mission is closely aligned with and supportive of the goals and interests of Burnet County; and

WHEREAS, CTWC has worked diligently and attained success in achieving its mission over the past several years; and

WHEREAS, CTWC is continuing to work on water supply and water management issues that have significant impacts on the County; and

WHEREAS, Burnet County has determined that contributing to CTWC's efforts is an efficient and legal way for the County to ensure that its interests are represented in water management and policy decisions directly impacting water levels in the Highland Lakes and therefore directly affecting tourism, property values, and, as a result, County resources and services;

THEREFORE, in consideration of these conditions and the benefits to the citizens of Burnet County, the parties agree to the following:

1. Burnet County shall contribute up to \$10,000 to assist the CTWC in providing its services to the people, businesses, and tourism industry of Burnet County. Such funds will be restricted for the payment of non-lobbying related CTWC expenditures such as the expenses related to the gathering of data for scientific study and or legal service expenses that are unrelated to any lobbying effort. To ensure the restriction, CTWC shall provide billing/invoices/receipts to the Burnet County Auditor's Office for payment or reimbursement. The total expenditures that may be paid for by Burnet County under this agreement is \$10,000.
2. Upon the County's request, CTWC agrees to make its annual financial reports for 2022 available for the County's review and inspection at the CTWC Treasurer's office.
3. This Agreement, effective from **October 1, 2023 to September 30, 2024**, represents the entire agreement between CTWC and Burnet County and may not be modified except in writing by agreement of and signed by all parties. Additionally, all modifications must be approved by the Burnet County Commissioners Court in open session.

JUDGE JAMES OAKLEY
COUNTY JUDGE, BURNET COUNTY

Date: _____



SHANNON HAMILTON
EXECUTIVE DIRECTOR, CENTRAL TEXAS WATER COALITION, INC.

Date: 5/31/2024

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JUDGE JAMES OAKLEY
COUNTY JUDGE, BURNET COUNTY

Date: _____



SHANNON HAMILTON
EXECUTIVE DIRECTOR, CENTRAL TEXAS WATER COALITION, INC.

Date: 5/31/2024

TOURISM/MARKETING SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF BURNET

THIS CONTRACT FOR TOURISM/MARKETING SERVICES is made by and between the County of Burnet, hereinafter called "County," and Victory Media Marketing "Contractor" for the purpose of contracting for Marketing Services.

WITNESSETH

WHEREAS, Government Code, Chapter 2254, Subchapter A, "Professional Services Procurement Act" provides for the procurement of professional services of Consultants; and

WHEREAS, the County desires to contract for marketing services described as follows: Updating and implementing a marketing plan for Burnet County.

NOW, THEREFORE, the County and the Contractor, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

AGREEMENT

ARTICLE 1

SCOPE OF SERVICES TO BE PROVIDED BY CONTRACTOR

The Contractor shall perform those marketing services for the fulfillment of the contract as identified in Contractor's Proposal provided by the Contractor, attached hereto and made a part thereof this contract.

ARTICLE 2

CONTRACT PERIOD

This contract shall terminate at the close of business on September 30, 2025, unless extended by supplement agreement duly executed by the Contractor and the County prior to the date of termination, as provided in Article 6 - Supplemental Agreements, or otherwise terminated, as provided in Article 11 - Termination. Any work performed or cost incurred after the date of termination shall be ineligible for reimbursement.

ARTICLE 3

COMPENSATION AND METHOD OF PAYMENT

The maximum amount payable under this contract is **\$42,000.00**. Payments will be based upon monthly invoices detailing services rendered, with a maximum allowable monthly payment of \$3,500.00. The Contractor agrees to furnish the work as described in the attached proposal for a fee not to exceed \$42,000.00 per year.

ARTICLE 4 SUSPENSION

The County may suspend the work, but not terminate the contract, by giving written notice a minimum of thirty (30) calendar days prior to the date of suspension. The thirty (30) day notice may be waived if approved in writing by both parties.

The work will be reinstated and resumed in full force and effect within sixty (60) calendar days of receipt of written notice from the County to resume the work. The sixty (60) day notice may be waived if approved in writing by both parties.

If the County suspends the work, the contract period, as determined in Article 2 - Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 6 - Supplemental Agreements.

ARTICLE 5 ADDITIONAL WORK

If the Contractor determines that any work it has been directed to perform is beyond the scope of this agreement and constitutes extra work, it shall promptly notify the County in writing. In the event the County determines that such work constitutes extra work and exceeds the maximum amount payable, the County shall so advise the Contractor and a supplemental agreement may be executed, as provided in Article 6 - Supplemental Agreements.

The Contractor shall not perform any additional work or incur any additional costs prior to the execution, by both parties, of a supplemental agreement. The County shall not be responsible for actions by the Contractor or any costs incurred by the Contractor relating to additional work not directly associated with the performance of the work authorized in this contract or as amended.

ARTICLE 6 SUPPLEMENTAL AGREEMENTS

The terms of this contract may be modified by supplemental agreement if the County determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work.

Any supplemental agreement must be executed by both parties within the contract period specified in Article 2 - Contract Period.

No claim for extra work done or materials furnished shall be made by the Contractor until full execution of the supplemental agreement and authorization to proceed is issued by the County. The County reserves the right to withhold payment pending verification of satisfactory work performed.

ARTICLE 7
PUBLIC INFORMATION ACT

All data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this contract are the exclusive property of the County and shall be furnished to the County upon request. All documents prepared by the Contractor and all documents furnished to the Contractor by the County shall be delivered to the County upon completion or termination of this contract. The Contractor, at its own expense, may retain copies of such documents or any other data which it has furnished the County under this contract. Release of information will be in accordance with the Texas Public Information Act.

ARTICLE 8
PERSONNEL, EQUIPMENT, AND MATERIAL

The Contractor shall furnish and maintain, at its own expense, office space for the performance of all services, and adequate and sufficient personnel and equipment to perform the services as required. All employees of the Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them.

The County may instruct the Contractor to remove any employee from association with the work authorized in this contract if, in the sole opinion of the County, the work of the employee does not comply with the terms of this contract or if the conduct of the employee is detrimental to the work. The Contractor certifies that it presently has adequate qualified personnel in its employment for performance of the services required under this contract. The Contractor may not change the project manager without prior consent of the County.

ARTICLE 9
SUBCONTRACTING

The Contractor shall not assign, subcontract, or transfer any portion of the work under this contract without prior written approval of the County. All subcontracts shall include the provisions required in this contract and shall be approved as to form, in writing, by the County prior to work being performed under the subcontract.

ARTICLE 10
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT

Violation of the contract terms or breach of contract by the Contractor shall be grounds for termination of the contract and any increased cost arising from the Contractor's default, breach of contract, or violation of contract terms shall be paid by the Contractor. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

ARTICLE 11
TERMINATION

This contract shall terminate at the close of business on September 30, 2025, unless extended as provided in Article 6 - Supplemental Agreements.

This contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of both parties;
2. By the County, by notice in writing to the Contractor as a consequence of failure by the Contractor to perform the services set forth herein in a satisfactory manner;
3. By either party, upon the failure of the other party to fulfill its obligations as set forth herein;
4. By the County, for reasons of its own and not subject to the mutual consent of the Contractor upon not less than thirty (30) calendar days written notice to the Contractor; and
5. By written notice from the County upon satisfactory completion of all services and obligations described herein.

Should the County terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Contractor. In determining the value of the work performed by the Contractor prior to termination the County shall be the sole judge. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the County terminate this contract under Item 4 of the above paragraph, the amount charged during the thirty (30) calendar day notice period shall not exceed the amount charged during the preceding thirty (30) calendar days.

If the Contractor defaults in the performance of this contract or if the County terminates this contract for fault on the part of the Contractor, the County will give consideration to the actual costs incurred by the Contractor in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the County.

The termination of this contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the County and the Contractor under this contract, except the obligations set forth in this contract. If the termination of this contract is due to the failure of the Contractor to fulfill its contract obligations, the County may take over the project and prosecute the work to completion. If the County asserts that any services provided by the Contractor do not comply with the requirements of this contract, the County shall allow the Contractor a reasonable opportunity and effort to cure the claimed breach.

ARTICLE 12 COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable Federal, State, and local laws, statutes, codes, ordinances, rules, and regulations, and the orders and decrees of any court, or administrative bodies or tribunals, in any manner affecting the performance of this contract, including, without limitation, worker's compensation laws, minimum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish the County with satisfactory proof of its compliance.

It is expressly understood by County and Contractor, that from the date of award of Contractor to one year

after termination or expiration of contract term, it is prohibited for any county official or employee thereof, to receive gifts described by the County Personnel Policy or Civil Service Rules, and/or campaign or political contributions regardless of amount from Contractor or principal owners of said Contractor. County Official is defined as those individuals described as county and precinct officers in Subchapter B of Chapter 152 of the Local Government Code. Contractor is furthermore prohibited from making political campaign or personal contributions to candidates for county and precinct office from the date of award of Contractor to one year after termination or expiration of contract term. It is also prohibited for Contractor to contribute to employee associations or for the benefit of groups of employees.

ARTICLE 13 INDEMNIFICATION

THE CONTRACTOR SHALL SAVE HARMLESS THE COUNTY AND ITS OFFICERS AND EMPLOYEES FROM ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF ITSELF, ITS AGENTS, OR EMPLOYEES PERFORMED UNDER THIS CONTRACT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. THE CONTRACTOR SHALL ALSO SAVE HARMLESS THE COUNTY FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES WHICH MAY BE INCURRED BY THE COUNTY IN LITIGATION OR OTHERWISE RESISTING SAID CLAIM OR LIABILITIES WHICH MAY BE IMPOSED ON THE COUNTY AS A RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACTIVITY BY THE CONTRACTOR, ITS AGENTS, OR EMPLOYEES.

ARTICLE 14 CONTRACTOR'S RESPONSIBILITY

The Contractor shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts without compensation. The Contractor will not be relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the project has been completed.

ARTICLE 15 INSURANCE

The Contractor shall obtain and maintain insurance as required by state and federal law.

ARTICLE 16 SUCCESSORS AND ASSIGNS

The Contractor and the County do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

The Contractor shall not assign, subcontract, or transfer its interest in this contract without the prior written consent of the County.

**ARTICLE 17
SEVERABILITY**

In the event any one or more of the provisions contained in this contract, for any reason, shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and; this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**ARTICLE 18
PRIOR CONTRACT SUPERSEDED**

This contract constitutes the sole agreement of the parties hereto and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein.

**ARTICLE 19
NOTICES**

All notices to either party by the other, required under this contract, shall be personally delivered or mailed to such party at the following respective address:

COUNTY

James Oakley, County Judge
Burnet County Courthouse
220 S. Pierce Street
Burnet, Texas 78611

CONTRACTOR

Victory Media Marketing
P.O. Box 10
Marble Falls, Texas 78654

ARTICLE 20
SIGNATORY WARRANTY

The undersigned signatory for the Contractor hereby represents and warrants that the signatory is an officer of the organization for which he or she has executed this contract on behalf of the firm.

IN WITNESS WHEREOF, the County and the Contractor have executed these presents in duplicate.

COUNTY

BY: _____

James Oakley, Burnet County Judge

Burnet County Courthouse
220 S. Pierce Street
Burnet, TX 78611

Date: _____

CONTRACTOR

BY: _____

Amber Weems,
President

Victory Media Marketing
P.O. Box 10
Marble Falls, TX 78654

Date: September 18, 2024

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Contract Terms Acknowledgement

This Contract Terms Acknowledgement (this “**Acknowledgement**”) is entered into between **Motorola Solutions, Inc.** a Delaware corporation (“**Motorola**”) and the entity set forth in the signature block below (“**Customer**”). Motorola and Customer will each be referred to herein as a “**Party**” and collectively as the “**Parties**”.

1. Contract Terms Acknowledgement. Customer acknowledges that they have received Statements of Work that describe the services provided on this Agreement. Parties acknowledge and agree that the terms of the Master Customer Agreement (“MCA”), including all applicable Addenda, shall apply to the Services set forth in the accompanying Ordering Document.

Motorola’s Terms and Conditions, available at https://www.motorolasolutions.com/en_us/about/legal.html, including the Master Customer Agreement, is incorporated herein by this reference. By signing the signature block below, Customer certifies that it has read and agrees to the provisions set forth in this Acknowledgement and the signatory to this Acknowledgement represents and warrants that he or she has the requisite authority to bind Customer to this Acknowledgement.

2. Entire Agreement. This Acknowledgement, including the accompanying Ordering Document, supplements the terms of the MCA, applicable Addenda, and Ordering Documents entered between the Parties and forms a part of the Parties’ Agreement.

3. Disputes; Governing Law. Sections 12 – Disputes of the MCA is hereby incorporated into this Acknowledgement *mutatis mutandis*.

4. Execution and Amendments. This Acknowledgement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Acknowledgement may be amended or modified only by a written instrument signed by authorized representatives of both Parties.

The Parties hereby enter into this Acknowledgement as of the last signature date below.

Motorola Solutions, Inc.

Customer: _____

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date:

Date:

Standard LPR Hosting Services w/ LPR, Fees and Payment Provision

- I. License Key:** The Camera License Key (CLK) means an electronic license key that will permit the use of MSI's LPR software to be used with standard MSI issued LPR cameras (one CLK per LPR camera) and select MSI Software Products.
- II. Offer Services:** This Offer includes the following Software Services / Software Products:
- LPR Software Services / Software Products:
 - MSI Managed/Hosted LPR Account
 - CarDetector LPR Software w/ all updates
 - Mobile Hit Hunter (for CarDetector Mobile LPR Software)
 - Unlimited Mobile Companion (for Android or iPhone) Single Plate Scan
 - Optional Parking Services:
 - Parking Toolkit (software application)
 - Parking Integration (3rd party system integration)
 - Scofflaw Alerting Service
 - Optional Data Service:
 - LEARN-API - API service that allows export of Agency data from LEARN account to 3rd party applications
- III. Annual Service Fees:** The Service Fees applicable to each Annual Service Period for this Offer are as follows:

Annual Service Fee per CLK				
Total CLKs under this Offer	0-14 CLKs	15-30 CLKs	31-60 CLKs	Over 60 CLKs
Vigilant LPR Service	525.00	450.00	400.00	375.00

Optional Parking Services: Software and/or data services related to Parking specific application and use:

Annual Parking Services Fee Schedule	
Parking Enforcement System Toolkit	\$1,000.00
Parking Integration Service	\$1,000.00
Scofflaw Alerting Service	\$25,000.00

Optional Data Service: Software and/or data services related outbound Agency Account LPR data:

LEARN Data Service	
LEARN API	\$5,000.00

**CONTRACT BETWEEN BURNET COUNTY
AND
OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES**

WHEREBY OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES agrees to provide the **Meals ON Wheels Senior Nutrition Program** to the County of Burnet. OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES agrees to perform the services that are customarily performed by OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES and which have been provided to Burnet County in the past and paid for by Burnet County. OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES agrees to provide these services for **\$10,000 (TEN THOUSAND)** under this Agreement. The compensation is payable as determined by the Commissioners' Court and provided for in the FY 2024-2025 budget.

The QUARTERLY PAYMENT WILL BE \$2500.00 (TWO THOUSAND FIVE HUNDRED DOLLARS). Any discrepancies in payment shall be determined by the Commissioners' Court Minutes and the Budget, which are on record in the County Clerk's Office in Burnet County. Any change in the budget or monies requested will require a written revision and approval by the Commissioners' Court. **This Agreement is for a period of 12 months to begin October 1, 2024 through September 30, 2025.** The contract will be reviewed annually, with any amendments sent to OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES during budget time each year. It is further provided that either party may terminate this contract at any time, with or without cause, upon not less than thirty (30) day written notice to the other party.

OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES agrees to submit its financial statements/operating budget annually, during budget time. Burnet County requires this information from all entities that receive support for community services. Failure to comply with this request may result in loss of support during the next fiscal year.

IT IS EXPRESSLY PROVIDED THAT OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES will indemnify and hold Burnet County harmless for any of its acts, either by negligence or intentional torts, and that Burnet County does not accept any responsibility for the negligence of OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES personnel or any of its actions. OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES is an independent contractor and none of its actions or non-actions is governed by the Commissioners' Court. Nothing in this Agreement shall require Burnet County or the Commissioners' Court to renew this Agreement.

This Agreement contains the entire agreement between Burnet County and OPPORTUNITIES FOR WILLIAMSON AND BURNET COUNTIES and modifications of this Agreement must be done in writing and approved by the Commissioners' Court in open session.

OPPORTUNITIES FOR WILLIAMSON
& BURNET COUNTIES DIRECTOR
P.O.BOX 740
GEORGETOWN, TX 78627-0740

COUNTY JUDGE
JAMES OAKLEY

DATE

DATE



AJR Media Group
25132 Oakhurst Drive,
Suite 201
Spring, TX 77386

INSERTION ORDER:25743

Account Representative: Connie Blair
Representative Email:
connie@ajrmediagroup.com

Invoice Preference: Email

Client: Burnet County Tourism

Contact: Blair Manning

Contact Email: bmanning@burnetcountytexas.org

Burnet County Tourism
Blair Manning
220 S Pierce St
Burnet, TX 78611

Billing Information:

Contact: Blair Manning

Bill To Email: bmanning@burnetcountytexas.org

Burnet County Tourism
Blair Manning
220 S Pierce St
Burnet, TX 78611

Product	Rate	Discount	Taxable	Net
TourTexas.com				
October 2024 - Destination Content Plan - RENEWAL	\$4,476.00	\$0.00		\$4,476.00
Sub Total:				\$4,476.00

Contract Notes:

Annual Content Plan
Oct 1, 2024 through Sept 30, 2025

Sub Total:	\$4,476.00
Tax:	\$0.00
Total:	\$4,476.00

Materials Contact:

Email: bmanning@burnetcountytexas.org

Materials Terms & Conditions:

Request for materials will be emailed to the contact above approximately 6 weeks prior to your scheduled run. Materials outstanding after the due date will be subject to information being pulled from your prior runs and/or content plan.

Contract Terms & Conditions:

The following AJR Media Group LLC (AJRMG) terms and conditions ("Advertiser Terms and Conditions") govern the placement and delivery of advertising ("Ad") as set forth in Advertising Insertion Orders submitted by the Advertiser or Agency. This Agreement is entered by and between AJRMG and the company named as Advertiser in the Insertion Order ("Advertiser") and/or the agency listed in the Insertion Order for such Advertiser ("Agency"), if any.

1. Invoices will be sent by AJRMG according to our normal billing procedures
2. Payment is due within thirty (30) calendar days following the date of invoice

For AJRMG complete Insertion Order Terms and Conditions please go to <https://www.ajrmediagroup.net/termsandconditions>

AJR Media Group Signature: Connie Blair

Date: Sept 10, 2024

Client Signature: _____

Date: _____



Reliable
Tire Disposal 

AGREEMENT FOR USE OF RELIABLE TIRE DISPOSAL TRAILER

I hereby request use of a Reliable Tire Disposal trailer owned by Reliable Tire Disposal,

I agree to comply with the following conditions:

- I will **NOT** move the trailer once it is delivered.
- I understand that nothing other than tires **without rims** and free of all debris are allowed to be put in trailer under any circumstances.
- I understand that if any tires on rims are loaded in the trailer, I will be charged an additional \$25.00 per passenger/ \$75.00 per semi each.
- I will **NOT** place tires greater than 17.5x25 in the trailer.
- I will **NOT** place toxic or hazardous waste (pesticides, herbicides, paint, motor oil, gasoline, etc.) in trailer.
- I will **NOT** overload the trailer. I understand that if the trailer is overloaded, it will be my financial obligation to pay for the removal of the waste. I understand that under no circumstances may the trailer be loaded above the top of the trailer.
- I release **Reliable Tire Disposal** from all liability arising out of or in connection with the use of the trailer including damages resulting from **Reliable Tire Disposal** equipment or personnel being on private property to deliver or remove the trailer.
- I will be responsible for any injuries that result to individuals using the trailer or damages directly to the trailer while it is being used on my property.
- I will be responsible for the payment of any cost associated with manual dumping of the trailer or sorting of materials which were placed in the trailer in violation of the above rules, including damage to the trailer.
- I will pay all costs of court and reasonable attorney's fees in the event of any action being filed to enforce and term or conditions of this agreement.

Per trailer pricing:

The trailer will be delivered to your location loaded by your staff:

Drop Friday October 18, 2024

Pick up Monday October 21, 2024

Location: 2411 FM 963 BURNET TEXAS 78611 (PO #24-4460)

Point of contact name for event: Joe Don Dockery

Point of contact phone number for event: (512) 715-2911

PLEASE NOTE IF THE TRAILER GETS STUCK YOU WILL BE RESPONSIBLE FOR THE TOW BILL.

Total number of trailers requested: 1 Total \$ for trailers requested: \$2,500.00

****If you request a trailer but do not use it or use only a portion of it, you will still be charged the fee per trailer requested.**

****Whole tires only/no cut tires, tires with rims, tracks, and OTR's**

All tires collected by Reliable Tire Disposal will be brought back to our Burnet facility and shredded into 1" chips and then delivered to one of multiple locations where it is used as Tire Derived Fuel (TDF). The steel recovered from the tires will be sent to a steel foundry and recycled into rebar and angle iron products.

COMPANY NAME: Burnet County

PHYSICAL ADDRESS 220 S. Pierce St

PHONE# Joe Don Dockery (512)-715-2911

PRINTED NAME: James Oakley, Burnet County Judge

SIGNATURE: _____ Date _____

Thank you,
Gary and Anetra Thomas
Reliable Tire Disposal

3345 E HWY 29 • BURNET TX • 78611
PHONE: 512-756-8218

Second Amendment to the Contract for Emergency Medical Services

SECOND AMENDMENT TO THE CONTRACT FOR EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF BURNET AND BURNET COUNTY

This Second Amendment ("Second Amendment") to the Contract for Emergency Medical Service entered into as of the 1st day of October 2018 (the "Agreement") between the **CITY OF BURNET, TEXAS** ("PROVIDER"), and **BURNET COUNTY** ("COUNTY"), shall serve to amend the Agreement by replacing the text of the First Amendment thereto, entered into as of the 1st Day of October 2019, with the text that follows:

Amendment one. Section 13 of the Agreement is hereby amended in its entirety by replacing the existing language with the language (in *italics*) that follows:

13. COMPENSATION: *As compensation for fulfilling the duties of PROVIDER under the terms of this Contract, the COUNTY and PROVIDER agree to the following:*

For all services rendered under the term of this Contract, the COUNTY shall pay to PROVIDER the total sums (the Contract Fee) reflected in the table below. PROVIDER shall submit a monthly invoice to the County, by the 1st of each month, for each of the operational installments of the Contract Fee and the County shall pay each invoice by the 15th of each month, or as otherwise provided by applicable law.

Term		Paid to Provider Annually	Monthly Installment
Year 1	October 1, 2024, to September 30, 2025	\$466,622.52	\$38,885.21
Year 2	October 1, 2025, to September 30, 2026	\$480,621.24	\$40,051.77
Year 3	October 1, 2026, to September 30, 2027	\$495,039.84	\$41,253.32
Year 4	October 1, 2027, to September 30, 2028	\$509,891.04	\$42,490.92
Year 5	October 1, 2028, to September 30, 2029	\$525,187.80	\$43,765.65

Second Amendment to the Contract for Emergency Medical Services

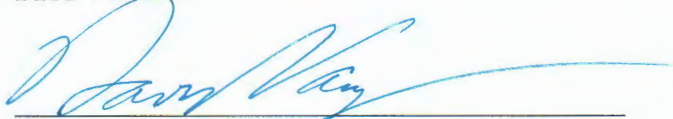
Amendment two. Section 15 of the Agreement is hereby amended in its entirety by replacing the existing language with the language (in *italics*) that follows:

(a) **TERM OF CONTRACT:** *This Contract shall become effective October 1, 2018, and unless terminated in accordance with other sections of this Contract, shall continue in full force and effect until September 30, 2029, subject to applicable law, including COUNTY'S right of non-appropriation.*

EXCEPT AS HEREBY MODIFIED OR AMENDED, the remaining provisions of the Agreement not inconsistent with the terms hereof shall remain in full force and effect for all purposes.

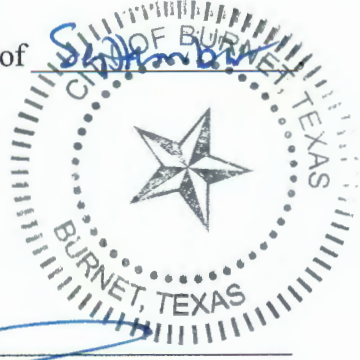
This Second Amendment is executed, and is to be effective, on the 30th day of September, 2024.

PROVIDER:



David Vaughn, City Manager

ATTEST:



Maria Gonzales, City Secretary

COUNTY:

ATTEST:

James Oakley, County Judge

Vicinta Stafford, County Clerk



DV _____ JO _____



August 30, 2024

The Honorable Judge James Oakley
Burnet County
220 S. Pierce Street
Burnet, Texas 78611

**Re: TEMPORARY RAW WATER CONTRACT
BURNET COUNTY – LAKE BUCHANAN**

Dear Judge Oakley,

Please acknowledge your consent to the terms conditions listed below by signing this contract in the space provided. The enclosed map indicates the specific location from which water will be withdrawn for your purposes. This contract will not become effective until LCRA staff is in receipt of one signed original contract and the required map. Be advised that this document must be signed and returned within ten (10) days; LCRA reserves the right to reject any contract received beyond that period. You may retain the enclosed copy for your records. It is advised that you provide a copy of this letter to any of your agents who may be questioned about withdrawing water under this contract.

AGREEMENT

The Lower Colorado River Authority, hereinafter called “LCRA,” and Burnet County, hereinafter called “PURCHASER,” in mutual consideration agree to the following water sale contract. The Standard Terms and Conditions are fully incorporated into the contract.

Maximum Annual Quantity: 1 ac-ft	Quantity Authorized for Diversion: 1 ac-ft
Use Type: Irrigation	Diversion Point: Lake Buchanan in Burnet County
Current Water Rate: \$155 per ac-ft	
Delivery Factor: N/A	Current Inverted Block Rate: \$310 per ac-ft
First Year Amount Due: \$155	Distribution Rate: N/A
Contract Term: effective October 1, 2024 for a term of three years	

LOWER COLORADO RIVER AUTHORITY

By: Monica P. Masters
Monica Masters
Vice President, Water Resources



The foregoing instrument is acknowledged and confirmed this ____ day of _____, 20__.

BURNET COUNTY

By: _____
Honorable Judge James Oakley

LCRA TEMPORARY CONTRACT – STANDARD TERMS AND CONDITIONS

1. General Conditions. PURCHASER shall have the right to the specified “Maximum Annual Quantity” or “MAQ” of raw water made available at the specified Diversion Point as further described and depicted in Exhibit “A” attached hereto. For Diversion Points downstream of Lake Travis, the MAQ includes delivery, conveyance and system losses for water released from Lake Travis and conveyed to the Diversion Point such that the maximum amount available for actual diversion by PURCHASER is the “Quantity Authorized for Diversion.” The water supplied under this contract shall be supplied in accordance with the permanent Rules and Regulations of the Texas Commission on Environmental Quality (Rule 297.101(b)(4)) for the sale of untreated water for permitted use from the perimeter of a reservoir in amounts not exceeding 10 acre-feet per annum. Water supplied under the terms of this contract shall be used exclusively for the specified Use Type, as these terms are defined in LCRA’s Water Contract Rules.
2. Availability within Canal System. In the event the Diversion Point is located within a canal system, PURCHASER agrees and acknowledges that water will only be made available under this contract at such times that LCRA is also providing water to other customers through the sections of canal at which PURCHASER’s Diversion Point is located. Such limitation may be due to the irrigation season, curtailment of interruptible agricultural water, or the absence of interruptible agricultural customers downstream of PURCHASER’s Diversion Point, among other things.
3. Measurement of Diversions. PURCHASER agrees to measure all diversions of water under this contract using a method approved by LCRA. Further, PURCHASER agrees to maintain records of such diversions and, upon request by LCRA, to provide such records within 15 days of the request.
4. Payment.
 - (a) PURCHASER shall pay LCRA annually, in advance, for water made available under this contract an amount of money equal to the “Water Rate” times the Maximum Annual Quantity.
 - (b) PURCHASER further agrees to pay LCRA annually an amount of money equal to the “Inverted Block Rate” (defined below) multiplied by any amount of water made available to PURCHASER in excess of the Maximum Annual Quantity during the previous 12 months. For purposes of determining the amount of water made available in excess of the MAQ, the amount of water made available will be calculated as the amount of water actually diverted plus the Delivery Factor times the amount diverted. In the event the amount of water made available to PURCHASER is limited because of a curtailment imposed by LCRA or state law in accordance with this contract to an amount less than the MAQ, then PURCHASER shall pay a surcharge, in excess of the Water Rate, to be set by LCRA’s Board of Directors, multiplied by any amount of water made available to PURCHASER in excess of the amount PURCHASER is authorized to have made available during the curtailment.

- (c) LCRA reserves all rights that it may have under law to modify the Water Rate or the Inverted Block Rate. PURCHASER understands and acknowledges that the Water Rate and the Inverted Block Rate set forth in this contract have been approved by LCRA's Board of Directors, and that the Board may change all rates, fees and charges under the contract from time to time.
- (d) In the event the Diversion Point is located within a canal system, in addition to the Payment provisions included above, PURCHASER also agrees and covenants to pay LCRA - on an annual basis in advance - the "Distribution Charge." Such Distribution Charge shall be the determined by multiplying the Distribution Rate times the amount of water available at the Diversion Point under this contract. The Distribution Rate has been approved by LCRA's Board of Directors and may be amended from time to time.
- (e) On or before 30 days from the date of this contract, PURCHASER shall submit to LCRA, Attention: Water Services, a check payable to the Lower Colorado River Authority for the First Year Amount Due for the water made available to PURCHASER under this contract during the initial year of the contract.
- (f) LCRA shall mail an invoice to PURCHASER for payment for water to be made available to PURCHASER in subsequent years under this contract, and such invoice shall reflect any revision to the Water Rate and the effective date of the revised Water Rate. Such invoice shall also show any amount of water that PURCHASER had made available to it in excess of the Maximum Annual Quantity during the previous 12 months, as well as the corresponding amount of money owed by PURCHASER to LCRA in accordance with the Inverted Block Rate.
- (g) PURCHASER shall pay LCRA for water provided under this contract in the amount of each invoice submitted to PURCHASER by LCRA on or before thirty (30) days from the date of the invoice. PURCHASER shall mail checks for payments to the address indicated on the invoice. PURCHASER may pay by hand-delivery of checks or cash to LCRA's headquarters in Austin, Travis County, Texas, or by bank-wire if PURCHASER obtains LCRA's approval and makes arrangements for doing so prior to the due date. Payment must be received at the address provided on the invoice, or, if approved, at LCRA's headquarters or bank, not later than thirty (30) days from the invoice date in order not to be considered past due or late. In the event PURCHASER fails to make payment of that invoice within thirty (30) days of the invoice date, PURCHASER shall then pay a late payment charge of five percent (5%) of the amount of the invoice. For each calendar month or fraction thereof that the invoice remains unpaid, PURCHASER shall pay interest at 1.5%. In the event PURCHASER attempts to pay LCRA by check, draft, credit card or any other similar instrument and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, PURCHASER shall be assessed and must pay to LCRA, per each returned instrument, LCRA's current returned instrument fee. If the invoice has not been paid within thirty (30) days of the invoice date, PURCHASER further agrees to pay all costs of collection and reasonable attorney's fees, regardless of whether suit is filed, as authorized by section 271.159, Texas Local Government Code.

5. Indemnification. **PURCHASER WILL INDEMNIFY AND HOLD LCRA HARMLESS FROM ALL CLAIMS OF INJURY OR DAMAGE TO ANY PERSON OR PROPERTY RESULTING FROM ANY ACTION (OR FAILURE TO ACT) BY PURCHASER UNDER THIS CONTRACT.**
6. Regulatory Approval. PURCHASER agrees to obtain or cause to be obtained all permits, certificates, or approvals required by applicable local, state or federal agencies for any activity undertaken in conjunction with the use of the water under this contract. This contract shall not be construed or interpreted to grant any privilege or right not specifically pronounced herein, including but not limited to the use of private property, the right to dispose of effluent, the right to use LCRA property or easements, or the right of access to the Colorado River.
7. Availability of Water.
 - (a) LCRA is committing to make available to PURCHASER under this contract a portion of LCRA's firm water supply, as defined in LCRA's Water Contract Rules; provided, however, LCRA may interrupt or curtail the water supplied under this contract as required by state law or in accordance with LCRA's Water Management Plan or Drought Contingency Plan, as such Plans and any amendments thereto have been approved and may be approved in the future by the TCEQ. While LCRA will provide firm water under this contract, the PURCHASER understands that, during a drought worse than the drought of record as described in LCRA's Water Management Plan, LCRA will be required to allocate water pro rata among its customers, including PURCHASER.
 - (b) For water used for landscape irrigation purposes, PURCHASER agrees to adhere to the following outdoor watering schedule during normal conditions. PURCHASER further agrees to comply with the LCRA drought contingency plan (DCP) applicable to temporary contracts, as such plan may be amended by LCRA's Board of Directors, which includes a reduced watering schedule among the drought response measures.

Commercial Properties and Home Owner's Associations:

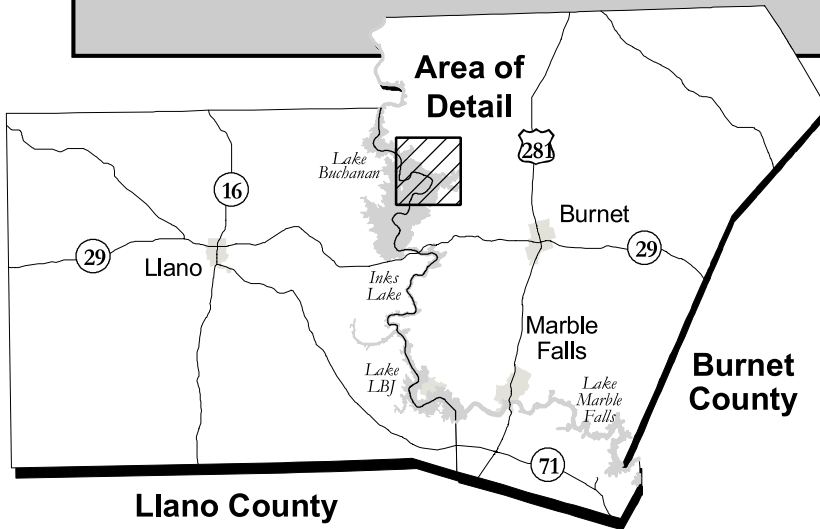
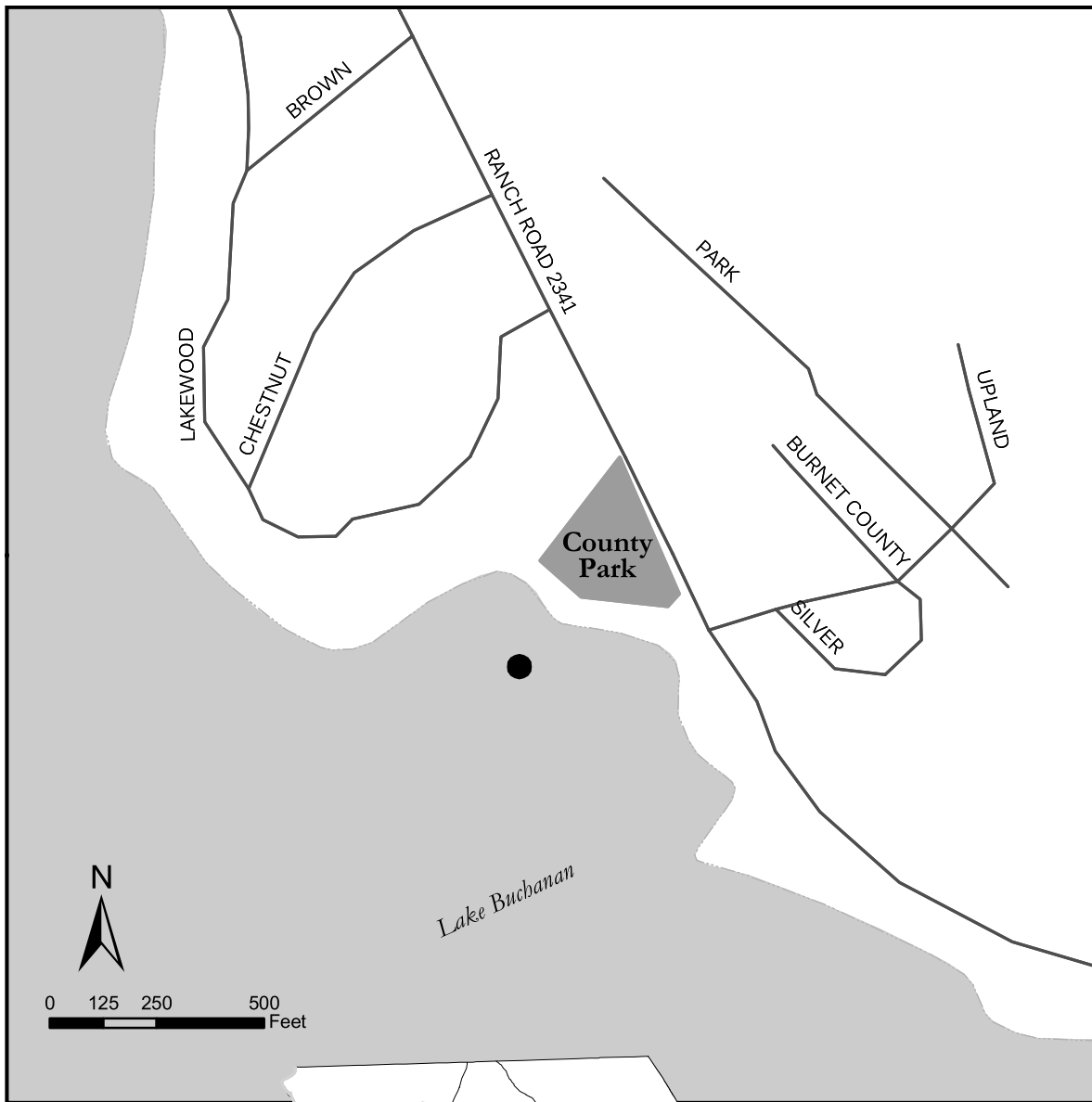
Watering Days	Tuesdays and Fridays
Maximum amount of water to apply:	1 inch per week (or ½ inch twice a week)
Watering times:	Midnight to 10 A.M. and 7 P.M. to Midnight
Watering months:	June through September (1 inch per week) March, April, May and October (1/2 inch per week)

Turn off automatic sprinkler systems from November through February.

(During these months, irrigation should only occur on an as needed basis, i.e. once or twice a month in the absence of normal rainfall.)

- (c) LCRA is responsible for making water available under this contract only up to the MAQ. LCRA makes no guarantee that the water made available under this contract will be available at any particular time or place or that any LCRA owned/operated reservoir or the Colorado River will be maintained at any specific elevation or flow at any particular time. Furthermore, PURCHASER acknowledges and agrees that LCRA's obligations under this contract shall not require LCRA to make additional releases of water from LCRA firm water supplies beyond the MAQ or to make releases to raise the water elevations or flows at the Points of Diversion at a particular time sufficient for PURCHASER's intake and/or diversion facilities to operate. *See also*, section 2, Availability within Canal System.

8. Quality of Water. LCRA makes no representation as to the quality of the water made available under this contract, and PURCHASER hereby releases LCRA and agrees to hold it harmless from any and all claims that PURCHASER or PURCHASER's customers or users have or may have against LCRA for any diminution in or impairment of the quality of water made available under this contract.
9. Termination. PURCHASER agrees that non-compliance with the terms of this contract or any misrepresentation of the facts by the PURCHASER to LCRA constitutes grounds for termination of this contract. LCRA, at its sole option, may immediately terminate this contract should PURCHASER fail to make any payment within 30 days of an invoice date as described in this contract such that PURCHASER shall have no further right to use water under this contract.
10. Term. This contract shall be for the specified Contract Term.



General Location Map

Firm Water Contract
for Temporary Use

● Burnet County Diversion Point

VISTA COM and the undersigned Customer hereby agree that VISTA COM shall perform onsite maintenance service for the Customer of the equipment at the location designated, as provided in this Agreement. This Maintenance Contract is issued between Burnet County Sheriffs Office ("Client") and VISTA COM ("Contractor"), effective August 1, 2024 (the "Agreement"). This Maintenance Contract is subject to the terms and conditions contained below in this Agreement between the parties and is made a part thereof. Any term not otherwise defined herein shall have the meaning specified in the Agreement. In the event of any conflict or inconsistency between the terms of this Maintenance Contract and the terms of this Agreement, shall govern and prevail.

1. Maintenance Contract to Perform Services to Burnet County Sheriffs Office

a. Date: June 5, 2024	b. Maintenance Performed By: Vista Com 9824 Whithorn Drive Houston, TX 77095 (800) 708-6423	c. Maintenance Performed For: Burnet County Sheriffs Office 1601 E. Polk Burnet, TX 78611 512-756-8080
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2. Warranted Equipment

a. Description:
Serial #: 745102919

3. Terms of Agreement

a. Initial Term: This agreement shall be for a term of (12) months beginning on August 1, 2024

b. Maintenance Agreements Only (after 1st year warranty) – Periods after the initial product warranty are serviced through extended maintenance programs. Terms are subject to signed and agreed dates. Maintenance agreements will automatically renew for a like term for up to four (4) additional renewal terms, unless either party hereto notifies the other party hereto otherwise, in writing thirty (30) days prior to the termination of the preceding term. The service fee for each term for warranted equipment, due to the ageing and wear of the various products over time, as well as any additions or changes in above equipment requested by customer, is subject to being increased on a yearly basis.

c. Vista Com will provide component coverage and software support where physically and technically possible as per the manufacturer's guidance. In the event of an issue creating a void in support due to the lack of industry components, Vista Com spares, or obsolete software, Vista Com will notify the customer immediately of the discovery of such issues as they arise. Vista Com at all times will exercise good faith attempt at resolving all issues.

4. Charges for Services

The customer shall be billed annually by VISTA COM as prepaid on or before the date the agreement is in effect, beginning with the date of execution of this agreement. If not tax exempt, the customer shall also pay all state and local sales, use and excise taxes, directly or indirectly levied, based on the fees paid hereunder. The customer agrees to pay VISTA COM any increased fees based on additions or changes in the above equipment requested by the customer. VISTA COM may refuse to render any and all further services if the customer is not current on all payments required under this Agreement. VISTA COM retains the right, at its sole discretion, to perform further work on a CASH basis to be paid in advance of the work performed.

5. Service by VISTA COM

While this agreement is in force and effect, VISTA COM will perform the following services.

- a. 24 hours, 365 days per year, 1-800-Technical support line (typical office hours 8-5, M-F)
- b. All replacement parts and labor

VISTA COM agrees to maintain the above-described Warranted Equipment in good working condition during the term of the agreement. There will be no charge to the customer by VISTA COM for parts, labor, or technical support except as provided in this agreement.

6. Exclusions

The maintenance / service agreement does not extend to any equipment or software that has been:

- Subjected to misuse, neglect, or abuse.
- Repaired, altered, or installed by anyone other than a designee of VISTA COM for the duration of the contract; or
- Request other than email (support@vistacomtx.com), web form, or service line (1-800-708-6423, option 4) are not considered service events.
- Equipment altered by fire, water, war, riot, sabotage, explosion, acts of God or any similar or dissimilar cause beyond VISTA COM's control. Repairs shall be paid for by the customer at VISTA COM's then-prevailing rates for similar service or equipment to be determined on the date which VISTA COM performs the repairs.
- Any adds/moves/or changes to original configuration.

Where service events are excluded from warranty or maintenance due to the reasons above, the customer shall pay the greater of \$225 or the then-prevailing rates for similar service or equipment, minimum \$450 per event.

7. Remote Diagnostics

Customer agrees to provide a method for Vista Com service personnel to access the recording equipment remotely to adhere to stated service level response. Remote connection can be accomplished in one of the following suggested methods:

- VPN Tunnel – customer will allow Vista Com support technicians access to the recording equipment by virtual private network.
- Internet Access – the customer will provide access to the recorder via an Internet connection.
- Supervised, Non-Supervised – at the customer's discretion, the linkage to Vista Com service personnel can be connected at time of need as opposed to full time.

8. Service Level Agreement

Vista Com will respond to service events depending upon service level need.

Service Level 1: A production product is unusable, is causing data loss/corruption, or fails catastrophically in response to internal error or user error (e.g., unable to record or archive on a significant number of channels).

Service Level 2: Important product features do not function in accordance with the documentation (e.g., unable to playback).

Service Level 3: Minor impact to a Product that restricts use of features and functionality of the Product; any how-to/help requests; any Documentation error; non-critical activity log messages.

Response Time:

Maintenance	Service Level	Response
Hours of Coverage	Service Level 1	24/7, 365
	Service Levels 2 & 3	Monday-Friday 8:00 AM to 5:00 PM (Central Time)
Response Time	Service Level 1	1 hour
	Service Level 2	2 business hours
	Service Level 3	4 business hours
Delivery Time for Replacement Parts/Onsite Timeframe	Service Level 1	Next day
	Service Level 2	Next business day
	Service Level 3	3 business days

Non-emergency, on-site service outside of 8:00am-5:00pm CT Monday through Friday, after hours, weekends, or Vista Com observed holidays are outside the scope of this contract for non-emergency services (i.e., training, software upgrades, and client software issues).

Holidays are as defined by Vista Com and encompass typical US business holidays and are subject to change without notice.

Holidays typically observed by Vista Com include:

New Year's Day	President's Day	Independence Day	Thanksgiving (2)
Good Friday	Memorial Day	Labor Day	Christmas (2)

Depending on specific days on which holidays fall, Christmas Eve, New Year's Eve or the day after Christmas and the day after New Year's may be observed. In the execution of this plan Vista Com will use commercially reasonable efforts to provide Customer with telephone and on-site support services for or arrange for the support of the product in accordance with this plan.

9. Jurisdiction and Governing Law

This Agreement, and any exhibits attached hereto, if any, shall be governed by the laws of the State of Texas, where home office is located. This presiding entity shall have exclusive venue in all matters concerning this Agreement.

10. Entire Agreement

This writing, and any exhibits attached hereto, if any, constitutes the entire Agreement between the parties. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly rescinded, withdrawn and canceled, and Customer agrees that it will not and has not relied upon any prior written or verbal representations of any principal, officer, employee, agent or representative of VISTA COM. Customer further warrants and represents the he is relying on his own judgment and Customer has reviewed this entire Agreement in detail and has satisfied itself as to the content of this Agreement.

11. Amendment

Burnet County Sheriffs Office		VISTA COM	
Signed:		Signed:	<i>Robyn Wolverton</i>
Printed Name:		Printed Name:	Robyn Wolverton
Title:		Title:	Operations Manager
Date:		Date:	6/5/2024

This Agreement may be waived, amended or supplemented only in writing executed jointly by VISTA COM and the Customer. **IN WITNESS WHEREOF**, the parties hereto have caused this Maintenance Contract to be effective as of the day, month and year first written above.

PEACE OFFICER REIMBURSEMENT ACKNOWLEDGEMENT/AGREEMENT

On or about the 13th day of June, 2023, Burnet County Sheriff Office employee Nicolette Campos (employee) entered into a Peace Officer Training Reimbursement Agreement with Burnet County (county). A copy of said agreement is hereby attached at Exhibit A and incorporated into this document as if worded verbatim.

Said agreement called for Burnet County paying the "total training expenses" for Employee Campos at a law enforcement academy. In return, Employee Campos agreed to provide at least three years of service to Burnet County as a peace officer in the Burnet County Sheriff Office. This agreement indicated that in the event that the employee voluntarily resigned from her position prior to the fulfillment of her obligation, she would be required to reimburse Burnet County for its investment into her career. In the event that resignation occurred between only one to two years of service to the county, then Employee Campos would be responsible to reimburse the county for 66.7% of the "total training expenses."

Employee Nicolette Campos voluntarily resigned from her position inside of the Burnet County Sheriff Office effective 8/29/24. As such, Employee Campos agrees that she is financially obligated to reimburse Burnet County for 66.7% of the "total training expenses" it invested into her career. Employee Campos acknowledges and agrees that the reimburse amount due to Burnet County is \$ 19,223.12. Said amount shall be paid in monthly payments of \$400.00, beginning October 1, 2024 and continuing on the 1st day of each month thereafter until paid in total. Employee Campos understands that Burnet County is not entitled to any interest on the money owed but reserves its right to pursue the matter in a court of civil jurisdiction inside of Burnet County should she fail to make monthly payments as described above.

Each monthly payment shall be made out to Burnet County and mailed to the Burnet County Treasurer at 220 South Pierce Street, Burnet, Texas 78611, Attn: Treasurer Office, who shall credit said amount against the reimbursement amount owed.

Acknowledged and Agreed:


Nicolette Campos

9/6/2024
Date

Subscribed and Sworn to before me by Nicolette Campos on this 6th day of September 2024.




Printed Name: Danielle Cummings
Notary Public, State of Texas

FY 2025 PROFESSIONAL SERVICES AGREEMENT

VETRIDE ADMINISTRATOR

Burnet County, Texas, by and through its Commissioners Court and the undersigned Burnet County Judge, by the execution of this agreement does agree to contract with Sophie McCoy to represent Burnet County, Texas, for the services of administrating all matters of the VETRIDE PROGRAM.

Burnet County agrees to pay remuneration in the amount of **\$1987.50 per month** funded through the VETRIDE PROGRAM subject to availability of funds. This Service Agreement is effective **October 1, 2024 through September 30, 2025**. Either party may terminate the agreement as desired with thirty (30) days written notice to the other party. Payment shall be prorated to reflect the ending date of the agreement.

Burnet County understands that the purpose of this Agreement and its retention of services by Sophie McCoy are to administer all aspects of the VETRIDE PROGRAM but not limited to:

1. Coordinating and organizing volunteer drivers and driver schedules
2. Providing reports to Commissioners Court
3. Maintaining all records of the program
4. Coordinating maintenance of program's vans
5. Responsible for all incoming calls for transportation

SIGNED ON THIS THE 24TH DAY OF September, 24, 2024

VETRIDE ADMINISTRATOR

BURNET COUNTY

SOPHIE McCOY

JUDGE JAMES OAKLEY

SADA Systems LLC (fka SADA Systems, Inc.)

Google Workspace

Ordering Document

This Google Workspace Ordering Document (the “Ordering Document”) and the corresponding Customer Agreement (the “Agreement”) between SADA Systems LLC (fka SADA Systems, Inc.) and Customer (as defined below) governs Customer’s access to and use of the Services. Undefined capitalized terms used in this Ordering Document will have the meanings set forth in the Agreement.

Customer: Burnet County Sheriff's Office

Address: 133 E Jackson St # 107, Burnet TX 78611-3298

SADA is an authorized vendor on Carahsoft Technology Corporation’s DIR Contract Number DIR-TSO-4162: <https://dir.texas.gov/contracts/dir-tso-4162>

Pricing

Product Description	Annual Price (USD)	Quantity	Amount (USD)
Year 1			
Workspace Business Plus Accounts	172.80	120	20,736.00
Year 1 Sub Total (USD)			20,736.00
Sales Tax (not included)			Plus Applicable Tax
Grand Total (USD)			20,736.00

Invoices and Payment Schedule

Invoice	Invoice Amount (USD)
One invoice will be issued immediately upon the execution of this	20,736.00

Ordering Document.	
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SADA will invoice Customer for all amounts due under any executed Ordering Document in accordance with the schedule set forth above. Each invoice submitted to Customer pursuant to this Ordering Document will be due and payable by Customer within 30 days of receipt. Payment is accepted by check or ACH/EFT in USD.

Customer Information

Accounts Payable Information	
Full Name (required)	Same as on file
Phone	
Email Address (required)	acctpay@burnetcountytexas.org
Technical Administrator Contact Information	
Full Name (required)	Jackie Haynes
Phone	
Off Domain Email Address (eg, john.smith@gmail.com or IT123@yahoo.com)	[same as on file]
Email Address (required)	jhaynes@burnetcountytexas.org

Terms and Conditions

1) Customer agrees to the terms of the Customer Agreement accessible at the Link below, of which this Ordering Document is a part: <https://sada.com/agreements/gafb/gafb-v14.pdf>

2) Customer agrees that all licenses will be provisioned on the primary domain, and that the burnetsheriff.com primary domain is accurate as listed here

3) Additional licenses purchased during the Contract Term will be priced at the price per month (for any sku listed above) multiplied by the number of partial or whole months remaining in the Contract Term.

4) Payment for additional licenses purchased during the Contract Term will be due in full upon receipt of an invoice, and will be exempt from the Payment Schedule above.

5) Vendor may require a purchase order in connection with any invoice for payment. Any terms and conditions in any Vendor purchase order will not apply to or modify the Governing Terms or this Quote nor shall they take precedence over the Governing Terms or this Quote, even if the Vendor purchase order terms and conditions state that its terms supersede any other conflicting terms. In the event that Vendor submits a Purchase Order to SADA in lieu of execution of this Quote, Vendor affirms that the terms and conditions included herein this Quote are accepted in full. Vendor will reference the Quote number on any Purchase Order.

Notices:

Any notices under this Agreement will be directed, if to SADA, at:

c/o Patrick Monaghan, Chief Legal Officer
SADA Systems LLC (fka SADA Systems, Inc.)
5250 Lankershim Blvd., Suite 720
North Hollywood, CA 91601
Email: legal@sada.com

and if to Customer, at the Main Contact above.

CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS ORDERING DOCUMENT AND THE CORRESPONDING AGREEMENT, AND UNDERSTANDS AND AGREES TO BE LEGALLY BOUND BY THEIR TERMS.

IN WITNESS WHEREOF, this Ordering Document has been executed by the parties through their duly authorized officers.

SADA Systems LLC (fka SADA Systems, Inc.)

Burnet County Sheriff's Office

Signature

Signature

Name

Name

Title

Title

Date

Date

SADA Systems LLC (fka SADA Systems, Inc.)

Google Workspace

Ordering Document

This Google Workspace Ordering Document (the “Ordering Document”) and the corresponding Customer Agreement (the “Agreement”) between SADA Systems LLC (fka SADA Systems, Inc.) and Customer (as defined below) governs Customer’s access to and use of the Services. Undefined capitalized terms used in this Ordering Document will have the meanings set forth in the Agreement.

Customer: Burnet County, Texas

Address: 220 South Pierce Street, Burnet, TX 78611-2200

SADA is an authorized vendor on Carahsoft Technology Corporation’s DIR Contract Number DIR-TSO-4162: <https://dir.texas.gov/contracts/dir-tso-4162>

Pricing

Product Description	Annual Price (USD)	Quantity	Amount (USD)
Year 1			
Workspace Business Plus Accounts	162.00	247	40,014.00
		Year 1 Sub Total (USD)	40,014.00
		Sales Tax (not included)	Plus Applicable Tax
		Grand Total (USD)	40,014.00

Taxes: Fees included on this Ordering Document are exclusive of all applicable taxes, levies, duties, and regulatory compliance fees, including but not limited to state and local sales tax, VAT, GST, electronic waste recycling fee, and telecom regulatory fees. Please note that telecom regulatory fees associated with telephony charges stemming from Google Voice Licenses are not eligible for any tax exemptions.

If Customer is tax exempt, a tax exemption certificate is to be emailed to tax@sada.com.

Pricing is valid only if this Ordering Document is executed by the Parties by September 29, 2024.

TERM DATES: 09/07/2024 - 09/06/2025

Invoices and Payment Schedule

Invoice	Invoice Amount (USD)
One invoice will be issued immediately upon the execution of this Ordering Document.	40,014.00

SADA will invoice Customer for all amounts due under any executed Ordering Document in accordance with the schedule set forth above. Each invoice submitted to Customer pursuant to this Ordering Document will be due and payable by Customer within 30 days of receipt. Payment is accepted by check or ACH/EFT in USD.

Customer Information

Accounts Payable Information	
Full Name (required)	[same as on file]
Phone	
Email Address (required)	[same as on file]
Technical Administrator Contact Information	
Full Name (required)	Jackie Haynes
Phone	
Off Domain Email Address (eg, john.smith@gmail.com or IT123@yahoo.com)	[same as on file]
Email Address (required)	jihaynes@burnetcountytexas.org

Terms and Conditions

- 1) All terms are as specified in the original Agreement executed on October 18, 2021.
- 2) Customer agrees that all licenses will be provisioned on the primary domain, and that the primary domain is accurate as listed here burnetcountytexas.org
- 3) Additional licenses purchased during the Contract Term will be priced at the price per month (for any sku listed above) multiplied by the number of partial or whole months remaining in the Contract Term.
- 4) Payment for additional licenses purchased during the Contract Term will be due in full upon receipt of an invoice, and will be exempt from the Payment Schedule above.

Notices:

Any notices under this Agreement will be directed, if to SADA, at:

c/o Patrick Monaghan, Chief Legal Officer
SADA Systems LLC (fka SADA Systems, Inc.)
5250 Lankershim Blvd., Suite 620
North Hollywood, CA 91601
Email: legal@sada.com

and if to Customer, at the Main Contact above.

CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS ORDERING DOCUMENT AND THE CORRESPONDING AGREEMENT, AND UNDERSTANDS AND AGREES TO BE LEGALLY BOUND BY THEIR TERMS.

IN WITNESS WHEREOF, this Ordering Document has been executed by the parties through their duly authorized officers.

**SADA Systems LLC (fka SADA
Systems, Inc.)**

Signature

Name

Title

Date

Burnet County, Texas

Signature

Name

Title

Date

THE STATE OF TEXAS §

COUNTY OF BURNET §

ADVERTISING CONTRACT

THIS CONTRACT is entered into by and between Burnet County, Texas, a political subdivision of the State of Texas ("County"), on behalf of Burnet County Tourism, and Highland Lakes Weekly D.B.A Hallowell Media, LLC. ("Vendor").

WITNESSETH:

WHEREAS, County desires to contract with Vendor to provide the services necessary to act as a publisher to list weekly ads that are specifically set forth hereinafter; and

WHEREAS, Vendor has agreed to provide the services enumerated hereinafter for Burnet County Tourism.

NOW THEREFORE, for the mutual consideration expressed hereinafter, County and Vendor agree as follows:

I. SERVICES PROVIDED

Vendor agrees to provide to County the following services, to include, but not limited to:

- 1.1 Publish quarter page ads in each weekly issue from October 1, 2024 to September 30, 2025.
- 1.2 Ads sized 4.8" wide by 5.6" high (at 300 dpi) to be provided by Burnet County Tourism.

II. BILLING AND PAYMENT

Vendor shall submit a monthly billing statement to the Burnet County Auditor's Office (133 E. Jackson Street, Burnet, Texas 78611). A total of twelve (12) installments will be made to the Vendor, not to exceed \$1,900.00.

Each invoice received for payment will be reviewed by the County for financial compliance with this Contract. Invoices submitted by Vendor in proper form shall be paid by County within thirty (30) days of receipt of the invoice.

III. TERM AND TERMINATION

This Contract will be for a term of one (1) year. This Contract may be extended provided all terms and conditions, except for the Contract period being extended, remain unchanged and in full force and effect. Any extension of the Contract requires the mutual Contract in writing signed by both parties. Refusal by either party to exercise this Option to Extend shall require this Contract to expire on the original or mutually agreed date. The extension period shall be in one year increments. Either party may terminate this Contract with or without cause with at least thirty (30) days written notice of termination

to the other party. If either party terminates this Contract, Burnet County Tourism will be reimbursed for any unpublished ads.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates indicated below. The effective date of this Contract is October 1, 2024.

BURNET COUNTY, TX

VENDOR

Burnet County Judge

Hallowell Media, LLC

Date: _____

Date: _____



KC ENGINEERING, INC.

705 North Hwy 281, Suite 103 • Marble Falls, Texas 78654 • Phone 830.693.5635 • Fax 830.693.9664 • www.kcengineering.com

September 10, 2024

Ms. Cindy Dalrymple
Purchasing Assistant
Burnet County Auditor's Office
133 E. Jackson
Burnet TX 78611

Re: CR 420 Paving Project
Executed Contract

Dear Cindy:

Attached is Burnet County's original, executed contract for the Burnet County Road 420 Paving Project.

If you have any questions, please let us know.

Sincerely,

K.C. Engineering, Inc.
Registration # F-977

By:



Greg Haley, P.E.
President

EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is dated as of the 10TH day of SEPTEMBER in the year 2024 by
and between Burnet County, Texas (hereinafter called OWNER)
and Asphalt, Inc., LLC dba Lone Star Paving Company (hereinafter called CONTRACTOR).

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

Article 1. WORK.

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

County road paving work consisting of planing (milling), hot mix asphaltic concrete pavement level-up, 2" hot mix asphaltic concrete pavement overlay, and pavement markings

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

CR 420 PAVING PROJECT

Article 2. ENGINEER.

The Project has been designed by K.C. Engineering, Inc. (KCE) under the direction of OWNER. KCE shall hereinafter be called ENGINEER and is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIMES.

3.1 The Work will be substantially completed within 20 calendar days after the date when the Contract Times commence to run as provided in paragraph 2.3 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions within 30 calendar days after the date when the Contract Times commence to run.

3.2 *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$500.00 for each calendar day that expires after the dates established in the milestones and phases included in the Project Manual and referenced in paragraph 3.1 for each phase specified.

When the OWNER reasonably believes that delays in completion will inexcusably occur, the Owner shall be entitled, but not required to, withhold from any amounts otherwise due to CONTRACTOR an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the CONTRACTOR overcomes the delay or any part thereof, for which the Owner has withheld payment, the OWNER shall promptly release to the CONTRACTOR those funds withheld, but no longer applicable as liquidated damages. OWNER shall have all other rights and remedies provided by the Contract Documents, law or equity; all such rights and remedies being cumulative and not exclusive, and may be exercised concurrently and/or successively.

Article 4. CONTRACT PRICE.

This contract is a Plans Quantity contract and payment shall be made based on Plans Quantity as defined in Section 005 of the K.C. ENGINEERING, INC. STANDARD SPECIFICATIONS (3rd Edition). OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined as the sum of the established unit price for each separately identified item on the Unit Price Schedule times the quantity for that item listed on the Unit Price Schedule. No quantities will be measured in the field for payment purposes. All payment shall be based on Plan Quantities, as shown on the Unit Price Schedule.

For changes in the work requiring a change order, payments to the Contractor shall be adjusted based on quantity adjustments from those shown on the Unit Price Schedule. No changes or revisions to quantities will be made unless such changes are specifically documented by signed change order.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1 Progress Payments: OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 25th day of each month during construction as provided below. All such payments will be measured by the schedule of values established in paragraph 2.9 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

Payments will be made in accordance with the criteria indicated below, but in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

5.2 Retainage: Payments shall be made in the amount of the Application for Payment as recommended by ENGINEER, less 10% to be withheld for retainage, except as provided below.

5.3 90% Completion: When work has been 90% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, the ENGINEER may recommend that as long as the character and progress of the Work remain satisfactory, there will be no additional retainage on account of Work completed, in which case progress payments made for Work after 90% completion, but prior to Substantial Completion, will be in an amount equal to 100% of the Work completed between 90% completion and Substantial Completion.

5.4 Substantial Completion: Upon Substantial Completion, payment shall be made in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price (with the

balance being retainage), less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

5.5 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in paragraph 14.13.

5.4 Materials on hand: 100% (less retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.2 of the General Conditions) may be requested for payment by the CONTRACTOR.

Article 6. INTEREST.

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work.

7.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.2.1 of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.2.1 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.2 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

7.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

8.1. This Agreement.

8.2. Project Manual.

8.3. Performance, Payment, and other Bonds, identified as Exhibit A and consisting of 16 page(s).

8.4. Supplementary Conditions

8.5. General Conditions.

8.6. Burnet County, Texas Conflict of Interest Disclosure, if required

8.7. Texas Ethics Commission, Certificate of Interested Parties Form 1295

8.8. Specifications referenced on the cover sheet of the construction plans.

8.9. Drawings consisting of a cover sheet and sheets numbered 1.1, to 21.12 inclusive with each sheet bearing the following general title: "COUNTY ROAD 420 PAVING PROJECT".

8.10. Addenda numbers 0 to 0, inclusive.

8.11. CONTRACTOR's Bid (pages 1 to 10, , inclusive) marked: "Bid Form for CR 420 Paving Project"; including: "Instructions to Bidders for "CR 420 Paving Project" and "Bid Summary Sheet for "CR 420 Paving Project."

8.12. Documentation submitted by CONTRACTOR prior to Notice of Award (pages 11 to 14, inclusive).

8.13. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions.

The documents listed in paragraphs 8.2 through 8.7 and 8.9 through 8.12 above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.5 and 3.6 of the General Conditions.

Article 9. MISCELLANEOUS.

9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

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

9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5 OTHER PROVISIONS. CONTRACTOR shall ensure that subcontracts with Subcontractors for this Project are consistent with and reflective of the terms of the Contract Documents applicable or relevant to Subcontractors, including, but not limited to, the prevailing wage rate requirements and the Labor Code requirements set forth above.

All rights and remedies of OWNER provided in the Contract Documents are in addition to all other rights and remedies provided by law or equity. All such rights and remedies are cumulative, and not exclusive, and may be exercised concurrently and/or successively.

9.6 CONTRACTOR shall deliver to OWNER all required bonds in accordance with the Contract Documents. Each bond shall be issued by a corporate surety authorized to do business in the State of Texas. The bonds must be in form approved by or supplied by OWNER and must comply with the requirements of Chapter 2253 of the Texas Government Code, and other applicable law, including the requirements of Section 7.19-1 of the Texas Insurance Code regarding reinsurance if the bond exceeds 10% of the Surety's capital and surplus. All sureties must be listed as approved sureties by the U. S. Department of Treasury.

In the event any surety on the bonds becomes insolvent or is otherwise unable to perform its obligations under the bonds, the CONTRACTOR shall provide substitute bonds or equivalent security satisfactory to the OWNER to protect the interests of OWNER and of persons furnishing labor and materials in the prosecution of the Work.

CONTRACTOR shall not begin any Work on this Project until all bonds and required insurance have been furnished by Contractor and approved by Owner.

9.7 The Contract shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue for any action brought in connection with the Contract Documents shall lie in courts of competent jurisdiction in Burnet County, Texas. If any provision or part of the Contract

Documents is held to be void or unenforceable under any Law or Regulation, all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.8 In the event of any suit or action arising out of or relating to the Contract, the prevailing party in such proceeding shall be entitled to recover reasonable attorney fees and court costs. Reference is made to Section 271.159 of the Texas Local Government Code in connection with the recovery of attorney's fees. The parties agree to mediate any dispute arising in connection with the Contract Documents in good faith prior to filing suit for damages. The parties agree to mediate any dispute in good faith prior to filing suit for relief other than injunctive relief.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have executed this Agreement in triplicate originals. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on 9/10, 2024.

OWNER: Burnet County, Texas

By: [Signature]

Attest [Signature], P.E.

Address for giving notices

220 S. Pierce Street

Burnet, TX 78611

CONTRACTOR:

[Signature]

By: Alex Flores / Executive Vice President

Attest [Signature]

Address for giving notices

11675 Jollyville Rd. Suite #150

Austin, TX 78759

Email Address: Alex@ispaving.com

License No. N/A

Agent for service of process: Andrew Warner

awarner@ispaving.com

CNA SURETY**Bid Bond**Bond No. N/A**CONTRACTOR:***(Name, legal status and address)*

Asphalt Inc, LLC dba Lone Star Paving
Company
11675 Jollyville Rd., Suite 150
Austin, TX 78759

SURETY: Continental Casualty Company: Illinois Corporation*(Name, legal status and principal place of business)*

151 N. Franklin Street
17th Floor
Chicago, IL 60606

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:*(Name, legal status and address)*

Burnet County
133 East Jackson St.
Burnet, TX 78611

BOND AMOUNT: Five Percent of Greatest Amount Bid (5% of G.A.B.)**PROJECT:***(Name, location or address, and Project number, if any)*

Burnet Co- CR 420 Paving Project
Burnet, TX
Bid #24-6140-02

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 20th day of August, 2024.

*(Witness)**(Witness) Angie Astran*

Asphalt Inc, LLC dba Lone Star Paving Company

*(Principal)**(Seal)**(Title) Executive Vice President*

Continental Casualty Company

*(Surety)**(Seal)**(Title) Brent M. Blonigan, Attorney-in-Fact*

Bid Bond

Instructions

GENERAL INFORMATION

Purpose. AIA Document A310—2010 establishes the maximum penal amount that may be due the Owner if the Bidder fails to execute the contract and to provide the required performance and payment bonds, if any. It provides assurance that, if a bidder is offered a contract based on its tendered proposal but fails to enter into the contract, the Owner will be paid the difference in cost to award the contract to the next qualified bidder, so long as the difference does not exceed the maximum penal amount of the bond.

Related Documents. A310 is not incorporated by reference into other AIA documents. For further reference on bonding procedures, see AIA Document A701™—1997, Instructions to Bidders; and AIA Document G612™—2001, Owner's Instructions to Architect.

Use of Non-AIA Forms. AIA Document A310 may be used with any appropriate AIA or non-AIA document. **CAUTION SHOULD BE EXERCISED BEFORE ITS USE TO VERIFY ITS COMPLIANCE WITH CURRENT LAWS AND REGULATIONS BY CONSULTING WITH AN ATTORNEY OR A BOND SPECIALIST.**

USING A310—2010

Modifications. Particularly with respect to professional or contractor licensing laws, building codes, taxes, monetary and interest charges, arbitration, indemnification, format and font size, AIA Contract Documents may require modification to comply with state or local laws. Users are encouraged to consult an attorney before completing or modifying a document.

In a purchased paper AIA Contract Document, necessary modifications may be accomplished by writing or typing the appropriate terms in the blank spaces provided on the document, or by attaching Supplementary Conditions, special conditions or referenced amendments.

Modifications directly to purchased paper AIA Contract Documents may also be achieved by striking out language. However, care must be taken in making these kinds of deletions. Under NO circumstances should standard language be struck out to render it illegible. For example, users should not apply blocking tape, correction fluid or Xs that would completely obscure text. Such practices may raise suspicion of fraudulent concealment, or suggest that the completed and signed document has been tampered with. Both parties should initial handwritten changes.

Using AIA software, modifications to insert information and revise the standard AIA text may be made as the software permits.

By reviewing properly made modifications to a standard AIA Contract Document, parties familiar with that document can quickly understand the essence of the proposed relationship. Commercial exchanges are greatly simplified and expedited, good faith dealing is encouraged, and otherwise latent clauses are exposed for scrutiny.

AIA Contract Documents may not be retyped or electronically scanned. Retyping can introduce typographic errors and cloud legal interpretation given to a standard clause. Furthermore, retyping and electronic scanning are not permitted under the user's limited license for use of the document, constitute the creation of a derivative work and violate the AIA's copyright.

Identification of the Parties. The Contractor, the Surety, and the Owner should be identified using their respective full names and addresses or legal titles under which the bond is to be executed. The state in which the Surety is incorporated also should be identified in the space provided.

Bond Amount. The dollar amount of the bond should be provided in both written and numerical form.

Project Description. The proposed project should be described in sufficient detail to identify (1) the official name or title of the facility; (2) the location of the site; (3) the proposed building type, size, scope or usage; and (4) the project number required by the owner, if any. A project number may be required by certain public owners to adequately identify the project to which the bond pertains.

Execution of the Bond. The bond must be signed by both the Contractor and the Surety. The parties executing (signing) the bond should print their title and impress their corporate seal, if any. Where appropriate, attach a copy of the resolution or bylaw authorizing the individual to act on behalf of the firm or entity. As to the Surety, this usually takes the form of a power of attorney issued by the Surety company to the bond producer (agent) who signs on its behalf.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company (herein called "the CNA Companies"), are duly organized and existing insurance companies having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

Brent M Blonigan, Rob J Dreiling, Kara Pierce, Raul F Campa, Debbie Palmer, Individually

of Richardson, TX, their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their insurance companies and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed below, duly adopted, as indicated, by the Boards of Directors of the insurance companies.

In Witness Whereof, the CNA Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 30th day of November, 2023.



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania


Larry Kasten Vice President

State of South Dakota, County of Minnehaha, ss:

On this 30th day of November, 2023, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company described in and which executed the above instrument; that he knows the seals of said insurance companies; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said insurance companies and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance companies.

My commission expires

March 2, 2026




M. Bent Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance companies printed below are still in force. In testimony whereof I have hereto subscribed my name and affixed the seal of the said insurance companies this 20th day of August, 2024.



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania


D. Johnson Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF EACH OF CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA (as defined above, the "CNA Companies"):

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of each of the above CNA Companies at a meeting held on May 12, 1995:

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective."

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of each of the CNA Companies.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of each of the above Companies by unanimous written consent dated the 25th day of April, 2012:

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"); Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of each of the above CNA Companies by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligor Services > Validate Bond Coverage, if you want to verify bond authenticity.

State of Texas

Claim Notice Endorsement

To be attached to and form a part of Bond No. N/A.

In accordance with Section 2253.021(f) of the Texas Government Code and Section 53.202(6) of the Texas Property Code any notice of claim to the named surety under this bond(s) should be sent to:

**CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606**

Telephone: 1-877-672-6115

Figure: 28 TAC §1.601(a)(3)

1 IMPORTANT NOTICE

To obtain information or make a complaint:

2 You may contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at 312-822-5000.

3 You may call Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company's toll-free telephone number for information or to make a complaint at:

1-877-672-6115

4 You may also write to Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at:

CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6 You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

Form F8277-6-2018

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company al 312-822-5000.

Usted puede llamar al numero de telefono gratis de Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company's para informacion o para someter una queja al:

1-877-672-6115

Usted tambien puede escribir a Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company:

CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

CNA SURETY

Performance Bond

Bond No. 30224690

CONTRACTOR:

(Name, legal status and address)

Asphalt, Inc. dba Lone Star Paving
Company

11675 Jollyville Rd., Suite 150
Austin, TX 78759

OWNER:

(Name, legal status and address)

Burnet County, Texas
220 S. Pierce Street

Burnet, TX 78611

CONSTRUCTION CONTRACT

Date:

\$: 361,438.85

Amount: Three Hundred Sixty-One Thousand, Four Hundred Thirty-Eight and 85/100

Description:

(Name and location)

CR 420 Paving Project

SURETY: Continental Casualty Company: Illinois Corporation

(Name, legal status and principal place
of business)

151 N. Franklin Street
17th Floor
Chicago, IL 60606

This document has important legal
consequences. Consultation with
an attorney is encouraged with
respect to its completion or
modification.

Any singular reference to
Contractor, Surety, Owner or
other party shall be considered
plural where applicable.

AIA Document A312-2010
combines two separate bonds, a
Performance Bond and a
Payment Bond, into one form.
This is not a single combined
Performance and Payment Bond.

BOND

Date:

(Not earlier than Construction Contract Date)

\$: 361,438.85

Amount: Three Hundred Sixty-One Thousand, Four Hundred Thirty-Eight and 85/100

Modifications to this Bond: ☐ None

☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Asphalt, Inc. dba Lone Star Paving
Company

Signature:

Name Alex Flores

and Title: Executive Vice President

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company:

(Corporate Seal)

Continental Casualty Company

Signature:

Name Brent M. Blonigan

and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Grayhawk Insurance
1820 N. Greenville Ave., Suite 200
Richardson, TX 75081
972-671-9105

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____
(Corporate Seal)

Company: _____
(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CNA SURETY

Payment Bond

Bond No. 30224690

CONTRACTOR:

(Name, legal status and address)

Asphalt, Inc. dba Lone Star Paving
Company

11675 Jollyville Rd., Suite 150
Austin, TX 78759

SURETY: Continental Casualty Company: Illinois Corporation

(Name, legal status and principal place
of business)

151 N. Franklin Street
17th Floor
Chicago, IL 60606

This document has important legal
consequences. Consultation with
an attorney is encouraged with
respect to its completion or
modification.

Any singular reference to
Contractor, Surety, Owner or
other party shall be considered
plural where applicable.

AIA Document A312-2010
combines two separate bonds, a
Performance Bond and a
Payment Bond, into one form.
This is not a single combined
Performance and Payment Bond.

OWNER:

(Name, legal status and address)

Burnet County, Texas
220 S. Pierce Street

Burnet, TX 78611

CONSTRUCTION CONTRACT

Date:

\$ 361,438.85

Amount: Three Hundred Sixty-One Thousand, Four Hundred Thirty-Eight and 85/100

Description:

(Name and location)
CR 420 Paving Project

BOND

Date:

(Not earlier than Construction Contract Date)

\$ 361,438.85

Amount: Three Hundred Sixty-One Thousand, Four Hundred Thirty-Eight and 85/100

Modifications to this Bond: ☐ None

☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Asphalt, Inc. dba Lone Star Paving
Company

Signature:

Name Alex Flores

and Title: Executive Vice President

(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company:

(Corporate Seal)

Continental Casualty Company

Signature:

Name Brent M. Blonigan

and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Grayhawk Insurance
1820 N. Greenville Ave., Suite 200
Richardson, TX 75081
972-671-9105

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

Printed in cooperation with the American Institute of Architects (AIA).

The language in this document conforms to the language used in AIA Document A312 - Payment Bond - 2010 Edition.

8

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company (herein called "the CNA Companies"), are duly organized and existing insurance companies having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

Brent M Blonigan, Rob J Dreiling, Kara Pierce, Raul F Campa, Debbie Palmer, Individually

of Richardson, TX, their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

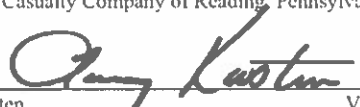
and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their insurance companies and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed below, duly adopted, as indicated, by the Boards of Directors of the insurance companies.

In Witness Whereof, the CNA Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 30th day of November, 2023.



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania


Larry Kasten Vice President

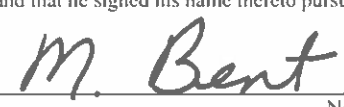
State of South Dakota, County of Minnehaha, ss:

On this 30th day of November, 2023, before me personally came Larry Kasten to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company described in and which executed the above instrument; that he knows the seals of said insurance companies; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said insurance companies and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance companies.

My commission expires

March 2, 2026




M. Bent Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Laws and Resolutions of the Board of Directors of the insurance companies printed below are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance companies this _____ day of _____



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania


D. Johnson Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF EACH OF CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA (as defined above, the "CNA Companies"):

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of each of the above CNA Companies at a meeting held on May 12, 1995:

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective."

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of each of the CNA Companies.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of each of the above Companies by unanimous written consent dated the 25th day of April, 2012:

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers") to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"); Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of each of the above CNA Companies by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligatee Services > Validate Bond Coverage, if you want to verify bond authenticity.

State of Texas

Claim Notice Endorsement

To be attached to and form a part of Bond No. 30224690.

In accordance with Section 2253.021(f) of the Texas Government Code and Section 53.202(6) of the Texas Property Code any notice of claim to the named surety under this bond(s) should be sent to:

**CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606**

Telephone: 1-877-672-6115

Figure: 28 TAC §1.601(a)(3)

1 IMPORTANT NOTICE

To obtain information or make a complaint:

2 You may contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at 312-822-5000.

3 You may call Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company's toll-free telephone number for information or to make a complaint at:

1-877-672-6115

4 You may also write to Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at:
CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6 You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

Form F8277-6-2018

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company al 312-822-5000.

Usted puede llamar al numero de telefono gratis de Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company's para informacion o para someter una queja al:

1-877-672-6115

Usted tambien puede escribir a Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company:
CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of Construction Contract (No. 1910-8, 1990 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

SC-1 Definitions

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1990 Edition) have meanings assigned to them in the General Conditions.

SC-1.9 Change Order

Amend the first sentence of paragraph 1.9 of the General Conditions by striking out the following words: CONTRACTOR and OWNER, and replacing them with the following word: ENGINEER, and so amended, paragraph 1.9 remains in effect.

SC-2.2 Copies of Documents

Amend the first sentence of paragraph 2.2 of the General Conditions by striking out the word: ten, and replacing it with the following word: six, and so amended, paragraph 2.2 remains in effect.

SC-2.7

Delete paragraph 2.7 of the General Conditions in its entirety and insert the following in its place: Before any work at the site is started, Contractor shall deliver to Owner certificates of insurance (and other evidence of insurance which the Owner may reasonably request) which Contractor is required to purchase and maintain in accordance with paragraphs 5.4 and 5.7.

SC-4.2.1.1 Subsurface Conditions

Delete paragraph 4.2.1.1 of the General Conditions in its entirety and insert the following in its place: No reports of exploration and tests of subsurface conditions at or contiguous to the site have been heretofore performed and utilized by the Engineer in preparing the Contract Documents; and.

SC-4.2.1.2 Physical Conditions

Add the following language at the end of the first sentence of paragraph 4.2.1.2 of the General Conditions: all said drawings of said physical conditions are incorporated as a part of the Contract Documents.

SC-4.4 Reference Points

Add the following language at the end of the first sentence of paragraph 4.4 of the General Conditions: said reference points are identified on plans.

SC-5.4

The limits of liability for the insurance required by paragraph 5.4 of the General Conditions shall provide the following coverages for not less than the following amounts or greater where required by Laws and Regulations:

5.4.1 and 5.4.2 Workers' Compensation, etc. under paragraphs 5.4.1 and 5.4.2 of the General Conditions:

- | | |
|---|-----------|
| (1) State: | Statutory |
| (2) Applicable Federal
(e.g., Longshoreman's): | Statutory |
| (3) Employer's Liability: | Statutory |

5.4.3, 5.4.4 and 5.4.5 Contractor's Liability Insurance under paragraphs 5.4.3 through 5.4.5 of the General Conditions which shall also include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- (1) General Aggregate
(Except Products -
Completed Operations) \$ 100,000.00
- (2) Each Occurrence
Bodily Injury \$ 300,000.00
Property Damage \$ 25,000.00
- (3) Property Damage liability insurance will provide Explosion, Collapse
and Underground coverages where applicable.

5.4.6 Automobile Liability:

- (1) Bodily Injury:
\$ 100,000.00 Each Person
\$ 300,000.00 Each Accident

Property Damage:
\$ 25,000.00 Each Accident

SC-5.4.7

Burnet County, Texas and K.C. Engineering, Inc. shall be listed as additional insureds with respect to policies of insurance required to be purchased and maintained by Contractor by paragraphs 5.4.3 through 5.4.6, inclusive of the General Conditions.

SC-5.4.10

The Contractual Liability coverage required by paragraphs 5.4.10 of the General Conditions shall provide coverage for not less than the following amounts:

- (1) General Aggregate \$ 100,000.00
- (2) Each Occurrence -
Bodily Injury \$ 300,000.00
Property Damage \$ 25,000.00

SC-5.4.13

Delete paragraph 5.4.13 of the General Conditions in its entirety.

SC-5.6

Delete paragraphs 5.6 and 5.6.1 through 5.6.5 of the General Conditions in their entirety.

SC-5.7

Delete paragraph 5.7 of the General Conditions in its entirety and insert the following in its place: This contract shall not cause Owner to purchase or maintain any boiler or machinery insurance or additional property insurance except for Owner's compliance with Laws and Regulations.

SC-5.8

Delete paragraph 5.8 of the General Conditions in its entirety.

SC-5.10

Delete paragraph 5.10 of the General Conditions in its entirety.

SC-5.11

Delete paragraphs 5.11, 5.11.1, 5.11.2, 5.11.2.1 and 5.11.2.2 of the General Conditions in their entirety.

SC-5.11.1

Amend the third sentence of paragraph 5.11.1 of the General Conditions by adding the following to the beginning of the sentence: To the extent such policies cover the loss and payment is received.

SC-5.12

Delete paragraph 5.12 of the General Conditions in its entirety.

SC-5.13

Delete paragraph 5.13 of the General Conditions in its entirety.

SC-5.16

Amend the General Conditions by adding a new paragraph 5.16 to read as follows:

Contractor hereby represents to the Owner that all employees of the Contractor who will provide services on the Project will be covered by worker's compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Texas Worker's Compensation Commission, 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.

The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Owner.

The following is the form of notice of worker's compensation coverage prescribed by the Texas Worker's Compensation Commission. Pursuant to Section 110.110(d)(7), this notice must be printed with a title in at least 30-point bold type, and text in at least 19-point normal type, and shall be in both English and Spanish and any other language common to the worker population.

REQUIRED WORKER'S COMPENSATION COVERAGE

"The law requires that each person working on this site or providing services related to this construction project must be covered by worker's compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee."

"Call the Texas Worker's Compensation Commission at (512) 440-3789 to receive further information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

SC-6.3

Delete the last sentence of paragraph 6.3 of the General Conditions in its entirety.

SC-6.7

Amend the General Conditions by adding a new paragraph 6.7, Prevailing Wage Rates, to read as follows:

Contractor hereby acknowledges and agrees that Contractor and each subcontractor are responsible for complying with the applicable provisions of Chapter 2258 of the Texas Government Code regarding the payment of prevailing wage rates. Contractor and each subcontractor shall pay wages to persons performing labor in connection with this Contract in an amount that is not less than the applicable prevailing wage rates for such workers. The Contractor shall forfeit as a penalty to Owner sixty dollars (\$60.00) for each laborer, workman or mechanic employed for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than said stipulated rate for any work done under this Contract by the Contractor or by any subcontractor under Contractor. Owner may withhold additional funds as appropriate when confronted with wage rate violations.

SC-6.13

Delete paragraph 6.13 of the General Conditions in its entirety and insert the following in its place: Contractor shall obtain and pay for all licenses. Owner shall obtain and pay for all construction permits, governmental charges and inspection fees necessary for prosecution of the Work by Contractor. Contractor shall pay all charges of utility owners for connections to Work and Owner shall pay all charges of utility owners for capital costs related thereto such as plant investment fees.

SC-6.20

Amend the third sentence of the fifth paragraph of Article 6.20 of the General Conditions by striking out the following word: CONTRACT, and replacing it with the word: CONTRACTOR, and as so amended, paragraph 6.20 remains in effect.

SC-8.11

Delete paragraph 8.11 of the General Conditions in its entirety.

SC-9.3

Delete paragraph 9.3 of the General Conditions in its entirety.

SC-13.4

Amend the first sentence of paragraph 13.4 of the General Conditions by striking out the following word: OWNER, and replacing it with the word: CONTRACTOR, and as so amended, paragraph 13.4 remains in effect.

SC-14.4

Amend the last sentence of paragraph 14.4 of the General Conditions by deleting the period and adding the following: , notwithstanding the foregoing, to the extent the provision conflicts with Chapter 2252 of the Texas Government Code, the code provisions shall control.

SC-15.2

Amend paragraph 15.2 of the General Conditions by adding the following sentence to the end of the section: In no event shall Contractor be entitled to any other compensation or recovery of any damages pursuant to this agreement and this section 15.2 in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, lost productivity, impact damages, or other similar remuneration.

SC-16

Delete Exhibit GC-a "Dispute Resolution Agreement" in its entirety. Amend to provide that in the event of a dispute, Owner and Contractor may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws and Regulation in respect to any dispute.

**GENERAL CONDITIONS
OF THE
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AS PREPARED BY
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE
and
ISSUED AND PUBLISHED JOINTLY BY

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

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ARTICLE 1 - DEFINITIONS

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

- 1.1 *Addenda* - Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the Bidding Requirements or the Contract Documents.
- 1.2 *Agreement* - The written contract between OWNER and CONTRACTOR covering the Work to be performed, other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
- 1.3 *Application for Payment* - The form accepted by ENGINEER which is to be used by CONTRACTOR in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
- 1.4 *Asbestos* - Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
- 1.5 *Bid* - The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- 1.6 *Bidding Documents* - The advertisement or invitation to Bid, instructions to bidders, the Bid form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).
- 1.7 *Bidding Requirements* - The advertisement or invitation to Bid, instructions to bidders, and the Bid form.
- 1.8 *Bonds* - Performance and Payment bonds and other instruments of security.
- 1.9 *Change Order* - A document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
- 1.10 *Contract Documents* - The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders and ENGINEER's written interpretations and clarifications, issued pursuant to paragraphs 3.5, 3.6.1, and 3.6.3 on or after the Effective Date of the Agreement. Shop Drawing submittals approved pursuant to paragraphs 6.26 and 6.27 and the reports and drawings referred to in paragraphs 4.2.1.1 and 4.2.2.2 are not Contract Documents.
- 1.11 *Contract Price* - The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.9.1 in the case of Unit Price Work).
- 1.12 *Contract Times* - The numbers of days or the dates stated in the Agreement: (i) to achieve Substantial Completion, and (ii) to complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendations of final payment in accordance with paragraph 14.13.
- 1.13 *CONTRACTOR* - The person, firm or corporation with whom OWNER has entered into the Agreement.
- 1.14 *Defective* - An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.8 or 14.10).
- 1.15 *Drawings* - The drawings which show the scope, extent and character of the Work to be furnished and performed by CONTRACTOR and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents. Shop drawings are not Drawings as so defined.
- 1.16 *Effective Date of the Agreement* - The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
- 1.17 *ENGINEER* - The person, firm or corporation named as such in the Agreement.
- 1.18 *ENGINEER's Consultant* - A person, firm or corporation having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is defined as such in the Supplementary Conditions.
- 1.19 *Field Order* - A written order issued by ENGINEER which orders minor changes in the Work in accordance with paragraph 9.5 but which does not involve a change in the Contract Price or the Contract Times.
- 1.20 *General Requirements* - Sections of Division 1 of the Specifications

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- 1.21 *Hazardous Waste* - The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
- 1.22 *Laws and Regulations; Laws or Regulations* - Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.
- 1.23 *Liens* - Liens, charges, security interests or encumbrances upon real property or personal property.
- 1.24 *Milestone* - A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
- 1.25 *Notice of Award* - The written notice by OWNER to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.
- 1.26 *Notice to Proceed* - A written notice given by OWNER to CONTRACTOR (with a copy to ENGINEER) fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR's obligations under the Contract Documents.
- 1.27 *OWNER* - The public body or authority, corporation, association, firm or person with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.
- 1.28 *Partial Utilization* - Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.
- 1.29 *PCBs* - Polychlorinated biphenyls.
- 1.30 *Petroleum* - Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.
- 1.31 *Project* - The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.
- 1.32 *Radioactive Material* - Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
- 1.33 *Resident Project Representative* - The authorized representative of ENGINEER who may be assigned to the site or any part thereof.
- 1.34 *Samples* - Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
- 1.35 *Shop Drawings* - All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.
- 1.36 *Specifications* - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.
- 1.37 *Subcontractor* - An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.
- 1.38 *Substantial Completion* - The Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER as evidenced by ENGINEER's definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if no such certificate is issued, when the Work is complete and ready for final payment as evidenced by ENGINEER's written recommendation of final payment in accordance with paragraph 14.13. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
- 1.39 *Supplementary Conditions* - The part of the Contract Documents which amends or supplements these General Conditions.
- 1.40 *Supplier* - A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.
- 1.41 *Underground Facilities* - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.
- 1.42 *Unit Price Work* - Work to be paid for on the basis of unit prices.
- 1.43 *Work* - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials

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and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents.

- 1.44 *Work Change Directive* - A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER, ordering an addition, deletion or revision in the Work, or responding to different or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 4.2 or 4.3 or to emergencies under paragraph 6.23. A Work Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times as provided in paragraph 10.2.
- 1.45 *Written Amendment* - A written amendment of the Contract Documents, signed by OWNER and CONTRACTOR on or after the effective date of the Agreement and normally dealing with the non-engineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

ARTICLE 2 - PRELIMINARY MATTERS

Delivery of Bonds:

- 2.1 When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish in accordance with paragraph 5.1.

Copies of Documents:

- 2.2 OWNER shall furnish to CONTRACTOR up to ten copies (unless otherwise specified in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

Commencement of Contract Times; Notice to Proceed:

- 2.3 The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

Starting the Work:

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

Before Starting Construction:

- 2.5 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents, unless CONTRACTOR knew or reasonably should have known thereof.
- 2.6 Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for review:
- 2.6.1 a preliminary progress schedule indicating the times (number of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
 - 2.6.2 a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing and processing such submittal;
 - 2.6.3 a preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.
- 2.7 Before any Work at the site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with paragraphs 5.4, 5.6 and 5.7.

Preconstruction Conference:

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- 2.8 Within twenty days after the Contract Times start to run, but before any Work at the site is started, a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.6, procedures for handling Shop Drawings and other submittals, processing Applications for Payment and maintaining required records.

Initially Acceptable Schedules:

- 2.9 Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.6. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until the schedules are submitted to and acceptable to ENGINEER as provided below. The progress schedule will be acceptable to ENGINEER as providing an orderly progression of the Work to completion within any specified Milestones and the Contract Times, but such acceptance will neither impose on ENGINEER responsibility for the sequencing, scheduling or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor. CONTRACTOR's schedule of Shop Drawing and Sample submissions will be made acceptable to ENGINEER as providing a workable arrangement for reviewing and processing the required submittals. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

Intent:

- 3.1 The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.
- 3.2 It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe Work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in paragraph 9.4.

3.3 Reference to Standards and Specifications of Technical Societies; Reporting and Resolving Discrepancies:

- 3.3.1 Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- 3.3.2 If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity or discrepancy within the Contract Documents between the Contract Documents and any provision of any such Law or Regulation applicable to the performance of the Work or of any such standard, specification, manual or code or of any instruction of any Supplier referred to in paragraph 6.5, CONTRACTOR shall report it to ENGINEER in writing at once, and, CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as authorized by paragraph 6.23) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.5 or 3.6; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.
- 3.3.3 Except as otherwise specifically stated in the Contract Documents or as may be provided by amendment or supplement thereto issued by one of the methods indicated in paragraph 3.5 or 3.6, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Contract Documents and:
- 3.3.3.1 the provisions of any such standard, specification, manual, code or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- 3.3.3.2 the provisions of any such Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to OWNER, ENGINEER or any of ENGINEER's consultants, agents or employees any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of paragraph 9.13 or any other provision of the Contract Documents.

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- 3.4 Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed," "as approved" or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.13 or any other provision of the Contract Documents.

Amending and Supplementing Contract Documents:

- 3.5 The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one of more of the following ways:
- 3.5.1 a formal Written Amendment,
 - 3.5.2 a Change Order (pursuant to paragraph 10.4), or
 - 3.5.3 a Work Change Directive (pursuant to paragraph 10.1).
- 3.6 In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in one way or more of the following ways:
- 3.6.1 a Field Order (pursuant to paragraph 9.5),
 - 3.6.2 ENGINEER's approval of a Shop Drawing or Sample (pursuant to paragraphs 6.26 and 6.27), or
 - 3.6.3 ENGINEER's written interpretation or clarification (pursuant to paragraph 9.4.).

Reuse of Documents:

- 3.7 CONTRACTOR, any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, and (ii) shall not reuse any of such Drawings, Specifications, other documents or copies on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaptation by ENGINEER.

ARTICLE 4 - AVAILABILITY OF LANDS: SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands:

- 4.1 OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a correct statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's lien against such lands in accordance with applicable Laws and Regulations. OWNER shall identify any encumbrances or restrictions not of general application but specifically related to use of lands so furnished with which CONTRACTOR will have to comply in performing the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR and OWNER are unable to agree on entitlement to or the amount or extent of any adjustments in the Contract Price or the Contract Times as a result of any delay in OWNER's furnishing these lands, rights-of-way or easements, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- 4.2 **Subsurface and Physical Conditions:**
- 4.2.1 **Reports and Drawings:** Reference is made to the Supplementary Conditions for identification of:
 - 4.2.1.1 **Subsurface Conditions:** Those reports of explorations and tests of subsurface conditions at or contiguous to the site that have been utilized by ENGINEER in preparing the Contract Documents; and
 - 4.2.1.2 **Physical Conditions:** Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) that have been utilized by ENGINEER in preparing the Contract Documents.
 - 4.2.2 **Limited Reliance by CONTRACTOR Authorized; Technical Data:** CONTRACTOR may rely upon the general accuracy of "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data,"

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CONTRACTOR may not rely upon or make any claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

- 4.2.2.1 the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto, or
 - 4.2.2.2 other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings, or
 - 4.2.2.3 any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information.
- 4.2.3 Notice of Differing Subsurface or Physical Conditions: If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the site that is uncovered or revealed either:
- 4.2.3.1 is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is materially inaccurate, or
 - 4.2.3.2 is of such a nature as to require a change in the Contract Documents, or
 - 4.2.3.3 differs materially from that shown or indicated in the Contract Documents, or
 - 4.2.3.4 is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents; then

CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as permitted by paragraph 6.23), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

- 4.2.4 ENGINEER's Review: ENGINEER will promptly review the pertinent conditions, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.
- 4.2.5 Possible Contract Documents Change: If ENGINEER concludes that a change in the Contract Documents is required as a result of a condition that meets one or more of the categories in paragraph 4.2.3, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document the consequences of such change.
- 4.2.6 Possible Price and Times Adjustments: An equitable adjustment in the Contract Price or in the Contract Times, or both, will be allowed to the extent that the existence of such uncovered or revealed condition causes an increase or decrease in CONTRACTOR's cost of, or time required for performance of, the Work; subject, however, to the following:
- 4.2.6.1 such condition must meet any one or more of the categories described in paragraphs 4.2.3.1 through 4.2.3.4, inclusive;
 - 4.2.6.2 a change in the Contract Documents pursuant to paragraph 4.2.5 will not be an automatic authorization of nor a condition precedent to entitlement to any such adjustment;
 - 4.2.6.3 with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.10 and 11.9; and
 - 4.2.6.4 CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Times if:
 - 4.2.6.4.1 CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a bid or becoming bound under a negotiated contract; or
 - 4.2.6.4.2 the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test or study of the site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or
 - 4.2.6.4.3 CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.2.3.

If OWNER and CONTRACTOR are unable to agree on entitlement to or as to the amount or length of any such equitable adjustment in the Contract Price or Contract Times, a claim may be made therefor as provided in Articles 11 and 12.

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However, OWNER, ENGINEER and ENGINEER's Consultant shall not be liable to CONTRACTOR for any claims, costs, losses or damages sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.3 Physical Conditions - Underground Facilities:

- 4.3.1 **Shown or Indicated:** The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
- 4.3.1.1 OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and
- 4.3.1.2 The cost of all of the following will be included in the Contract Price and CONTRACTOR shall have full responsibility for: (i) reviewing and checking all such information and data, (ii) locating all Underground Facilities shown or indicated in the Contract Documents, (iii) coordination of the Work with the owners of such Underground Facilities during construction, and (iv) the safety and protection of all such Underground Facilities as provided in paragraph 6.20 and repairing any damage thereto resulting from the Work.
- 4.3.2 **Not Shown or Indicated:** If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents, CONTRACTOR shall promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in emergency as required by paragraph 6.23), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence of the Underground Facility. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document such consequences. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.20. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or amount or length of any such adjustment in Contract Price or Contract Times, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12. However, OWNER, ENGINEER and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses or damages incurred with any other project or anticipated project.

Reference Points:

- 4.4 OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

4.5 Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material:

- 4.5.1 OWNER shall be responsible for any Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material uncovered or revealed at the site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of Work and which may present a substantial danger to persons or property exposed thereto in connection with the Work at the site. OWNER shall not be responsible for any such materials brought to the site by CONTRACTOR, Subcontractor, Suppliers or anyone else for whom CONTRACTOR is responsible.
- 4.5.2 CONTRACTOR shall immediately: (i) stop all Work in connection with such hazardous condition and in any area affected thereby (except in an emergency as required by paragraph 6.23), and (ii) notify OWNER and ENGINEER (and thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such hazardous condition or take corrective action, if any. CONTRACTOR shall not be required to resume Work in connection with such hazardous condition or in any such affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of such Work stoppage or such special conditions under which Work is agreed by CONTRACTOR to be resumed, either party may make a claim therefor as provided in Articles 11 and 12.
- 4.5.3 If after receipt of such special written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order such portion of the Work that is in connection with such hazardous condition or in such affected area to be deleted

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from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a claim therefor as provided in Articles 11 and 12. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

- 4.5.4 To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents, other consultants and subcontractors of each and any of them from and against all claims, costs, losses and damages arising out of or resulting from such hazardous condition, provided that: (i) any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this subparagraph 4.5.4 shall obligate OWNER to indemnify any person or entity from and against the consequences of that person's or entity's own negligence.
- 4.5.5 The provisions of paragraphs 4.2 and 4.3 are not intended to apply to Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material uncovered or revealed at the site.

ARTICLE 5 - BONDS AND INSURANCE

Performance, Payments and Other Bonds:

- 5.1 CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.
- 5.2 If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.1, CONTRACTOR shall within ten days thereafter substitute another Bond and surety, both of which must be acceptable to OWNER.
- 5.3 **Licensed Sureties and Insurers; Certificates of Insurance:**
- 5.3.1 All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.
- 5.3.2 CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain in accordance with paragraph 5.4. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain in accordance with paragraphs 5.6 and 5.7 hereof.

CONTRACTOR's Liability Insurance:

- 5.4 CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance and furnishing of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:
- 5.4.1 claims under workers' compensation, disability benefits and other similar employee benefit acts;
- 5.4.2 claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
- 5.4.3 claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
- 5.4.4 claims for damages insured by customary personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;
- 5.4.5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

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- 5.4.6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The policies of insurance so required by this paragraph 5.4 to be purchased and maintained shall:

- 5.4.7 with respect to insurance required by paragraphs 5.4.3 through 5.4.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers and employees of all such additional insureds;
- 5.4.8 include the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
- 5.4.9 include completed operations insurance;
- 5.4.10 include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.12, 6.16 and 6.31 through 6.33;
- 5.4.11 contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.3.2 will so provide);
- 5.4.12 remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing defective Work in accordance with paragraph 13.12; and
- 5.4.13 with respect to completed operations insurance, any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

OWNER's Liability Insurance:

- 5.5 In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.4, OWNER, at OWNER's option, may purchase and maintain at OWNER's expense OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

Property Insurance:

- 5.6 Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
- 5.6.1 include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
- 5.6.2 be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework and Work in transit and shall insure against at least the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Supplementary Conditions;
- 5.6.3 include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
- 5.6.4 cover materials and equipment stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and
- 5.6.5 be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.
- 5.7 OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

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- 5.8 All the policies of insurance (and the certificates of other evidence thereof) required to be purchased and maintained by OWNER in accordance with paragraphs 5.6 and 5.7 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.11.
- 5.9 OWNER shall not be responsible for purchasing and maintaining any property insurance to protect the interests of CONTRACTOR, Subcontractors or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount, will be borne by CONTRACTOR, Subcontractor or others suffering any such loss and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.
- 5.10 If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraphs 5.6 or 5.7, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.
- 5.11 **Waiver of Rights:**
- 5.11.1 OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraphs 5.6 and 5.7 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds in such policies and will provide primary coverage for all losses and damages caused by the perils covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, employees and agents for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy issued.
- 5.11.2 In addition, OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees and agents of any of them, for:
- 5.11.2.1 loss due to business interruption, loss of use or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of or resulting from fire or other peril, whether or not insured by OWNER; and
- 5.11.2.2 loss or damage to the completed Project or part thereof caused by, arising out of or resulting from fire or other peril covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.10, after substantial completion pursuant to paragraph 14.8 or after final payment pursuant to paragraph 14.13.
- Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in this paragraph 5.11.2 shall contain provisions to the effect that in the event of payment of any such loss, damage or consequential loss the insurers will have no rights of recovery against any of CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees and agents of any of them.

Receipt and Application of Insurance Proceeds

- 5.12 Any insured loss under the policies of insurance required by paragraphs 5.6 and 5.7 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.13. OWNER shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.
- 5.13 OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

Acceptance of Bonds and Insurance; Option to Replace:

- 5.14 If either party (OWNER or CONTRACTOR) has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within ten days required by paragraph 2.7. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party

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by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expenses of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

Partial Utilization - Property Insurance:

- 5.15 If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 14.10, provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

- 6.1 CONTRACTOR shall supervise, inspect and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or specification of a specific means, method, technique, sequence or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- 6.2 CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials and Equipment:

- 6.3 CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except as otherwise required for the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without OWNER's written consent given after prior written notice to ENGINEER.
- 6.4 Unless otherwise specified in the General Requirements, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.
- 6.5 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports or required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

Progress Schedule:

- 6.6 CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.9 as it may be adjusted from time to time as provided below:
- 6.6.1 CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.9) proposed adjustments in the progress schedule that will not change the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.
- 6.6.2 Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of paragraph 12.1. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.
- 6.7 **Substitutes and "Or-Equal" Items:**
- 6.7.1 Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function and quality required. Unless the specification or description contains or is followed by the words reading that no like, equivalent or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be accepted by ENGINEER under the following circumstances:

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- 6.7.1.1 "Or-Equal": If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for acceptance of proposed substitute items.
- 6.7.1.2 Substitute Items: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under subparagraph 6.7.1.1, it will be considered a proposed substitute item. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. The procedure for review by the ENGINEER will include the following as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall first make written application to ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar in structure to that specified and be suited to the same use as that specified. The application will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute.
- 6.7.1.3 CONTRACTOR's Expense: All data to be provided by CONTRACTOR in support of any proposed "or-equal" or substitute item will be at CONTRACTOR's expense.
- 6.7.2 Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, methods, technique, sequence or procedure of construction acceptable to ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.7.1.2.
- 6.7.3 ENGINEER's Evaluation: ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.7.1.2 and 6.7.2. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any "or-equal" or substitute. ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitutes proposed or submitted by CONTRACTOR pursuant to paragraphs 6.7.1.2 and 6.7.2 and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER accepts a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute item.
- 6.8.1 CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to OWNER and ENGINEER as indicated in paragraph 6.8.2), whether initially or as a substitute, against whom OWNER or ENGINEER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.
- 6.8.2 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials or equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by OWNER and ENGINEER, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's or ENGINEER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price will be adjusted by the difference in the cost occasioned by such substitution and an appropriate Change Order will be issued or Written

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Amendment signed. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

- 6.9.1 CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontract, Supplier or other person or organization any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.
- 6.9.2 CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR. CONTRACTOR shall require all Subcontractors, Suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.
- 6.10 The divisions and sections of the Specifications and identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- 6.11 All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.6 or 5.7, the agreement between the CONTRACTOR and Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants and all other additional insureds for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

Patent Fees and Royalties:

- 6.12 CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed to OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents and other consultants of each an any of them from and against all claims, costs, losses and damages arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents.

Permits:

- 6.13 Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Laws and Regulations:

- 6.14.1 CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.
- 6.14.2 If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR or CONTRACTOR's obligations under paragraph 3.3.2.

Taxes:

- 6.15 CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

Use of Premises:

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- 6.16 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants and anyone directly or indirectly employed by any of them from and against all claims, costs, losses and damages arising out of or resulting from any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.
- 6.17 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as tools, appliances, construction equipment and machinery and surplus materials. CONTRACTOR shall leave the site clean and ready for occupancy by OWNER at Substantial Completion of the Work. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.
- 6.18 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- Record Documents:**
- 6.19 CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.4) in good order and annotated to show all changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples and Shop Drawings will be delivered to ENGINEER for OWNER.
- Safety and Protection:**
- 6.20 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- 6.20.1 all persons on the Work site or who may be affected by the Work;
 - 6.20.2 all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
 - 6.20.3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.
- CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph 6.20.2 or 6.20.3 caused directly or indirectly, in whole or in part, by CONTRACT, Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant or anyone employed by any of them or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier or other person or organization directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.13 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- Safety Representative:**
- 6.21 CONTRACTOR shall designate a qualified and experienced safety representative at the site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- Hazard Communication Programs:**
- 6.22 CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with Laws or Regulations.
- Emergencies:**
- 6.23 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from OWNER or ENGINEER, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the

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Work or variations from the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued to document the consequences of such action.

6.24 Shop Drawings and Samples:

6.24.1 CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawings and Sample submittals (see paragraph 2.9). All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to show ENGINEER the materials and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.26.

6.24.2 CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with said accepted schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.26. The numbers of each Sample to be submitted will be as specified in the Specifications.

6.25 Submittal Procedures:

6.25.1 Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

6.25.1.1 all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto,

6.25.1.2 all materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the Work, and

6.25.1.3 all information relative to CONTRACTOR's sole responsibilities in respect of means, methods, techniques, sequences and procedures of construction and safety precautions incident thereto.

CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

6.25.2 Each submittal will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

6.25.3 At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

6.26 ENGINEER will review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals accepted by ENGINEER as required by paragraph 2.9. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER's review and approval will not extend to means, methods, techniques, sequences or procedures of construction (except where a particular means, method, technique, sequence or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER, and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.27 ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission as required by paragraph 2.25.3 and ENGINEER has given written approval of each such variation by specific written notification thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.25.1.

6.28 Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submissions accepted by ENGINEER as required by paragraph 2.9, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

Continuing the Work:

6.29 CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.5 or as OWNER and CONTRACTOR may otherwise agree in writing.

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6.30 CONTRACTOR's General Warranty and Guarantee:

- 6.30.1 CONTRACTOR warrants and guarantees to OWNER, ENGINEER and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:
- 6.30.1.1 abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors or Suppliers; or
 - 6.30.1.2 normal wear and tear under normal usage.
- 6.30.2 CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:
- 6.30.2.1 observations by ENGINEER;
 - 6.30.2.2 recommendations of any progress or final payment by ENGINEER;
 - 6.30.2.3 the issuance of a certificate of Substantial Completion or any payment by OWNER to CONTRACTOR under the Contract Documents;
 - 6.30.2.4 use or occupancy of the Work or any part thereof by OWNER;
 - 6.30.2.5 any acceptance by OWNER or any failure to do so;
 - 6.30.2.6 any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER pursuant to paragraph 14.13;
 - 6.30.2.7 any inspection, test or approval by others; or
 - 6.30.2.8 any correction of defective Work by OWNER.

Indemnification:

- 6.31 To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents and other consultants of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs(s) caused by, arising out of or resulting from the performance of the Work provided that such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity.
- 6.32 In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.31 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier or other person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 6.33 The indemnification obligations of CONTRACTOR under paragraph 6.31 shall not extend to liability of ENGINEER and ENGINEER's Consultants, officers, directors, employees or agents caused by the professional negligence, errors or omissions of any of them.

Survival of Obligations:

- 6.34 All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Agreement.

ARTICLE 7 - OTHER WORK

Related Work at Site:

- 7.1 OWNER may perform other work related to the Project at the site by OWNER's own forces, or let other direct contracts therefor which shall contain General Conditions similar to these, or have other work performed by utility owners. If the fact that such other work is to be performed was not noted in the Contract Documents, then: (i) written notice thereof will be given to CONTRACTOR

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prior to starting any such other work, and (ii) CONTRACTOR may make a claim therefor as provided in Articles 11 and 12 if CONTRACTOR believes that such performance will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the amount or extent thereof.

- 7.2 CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly connect and coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.
- 7.3 If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure so to report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in such other work.

Coordination:

- 7.4 If OWNER contracts with others for the performance of other work on the Project at the site, the following will be set forth in Supplementary Conditions:
- 7.4.1 the person, firm or corporation who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified;
- 7.4.2 the specific matters to be covered by such authority and responsibility will be itemized; and
- 7.4.3 the extent of such authority and responsibilities will be provided.

Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility in respect of such coordination.

ARTICLE 8 - OWNER's RESPONSIBILITIES

- 8.1 Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.
- 8.2 In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer against whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.
- 8.3 OWNER shall furnish the data required of OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.4 and 14.13.
- 8.4 OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and drawings of physical conditions in existing structures at or contiguous to the site that have been utilized by ENGINEER in preparing the Contract Documents.
- 8.5 OWNER's responsibilities in respect of purchasing and maintaining liability and property insurance are set forth in paragraphs 5.5 through 5.10.
- 8.6 OWNER is obligated to execute Change Orders as indicated in paragraph 10.4.
- 8.7 OWNER's responsibility in respect of certain inspections, tests and approvals is set forth in paragraph 13.4.
- 8.8 In connection with OWNER's right to stop Work or suspend Work, see paragraphs 13.10 and 15.1. Paragraph 15.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.
- 8.9 The OWNER shall not supervise, direct or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.
- 8.10 OWNER's responsibility in respect of undisclosed Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Materials uncovered or revealed at the site is set forth in paragraph 4.5.

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- 8.11 If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

OWNER's Representative:

- 9.1 ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and ENGINEER.

Visits to Site:

- 9.2 ENGINEER will make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER will endeavor for the benefit of OWNER to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and on-site observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work. ENGINEER's visits and on-site observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.13, and particularly, but without limitation, during or as a result of ENGINEER's on-site visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work.

Project Representative:

- 9.3 If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more continuous observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.13 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other person will be as provided in the Supplementary Conditions.

Clarifications and Interpretations:

- 9.4 ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER or CONTRACTOR believes that a written clarification or interpretation justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree to the amount or extent thereof, if any, OWNER or CONTRACTOR may make a written claim therefor as provided in Article 11 or Article 12.

Authorized Variations in Work:

- 9.5 ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR who shall perform the Work involved promptly. If OWNER or CONTRACTOR believes that a Field Order justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree as to the amount or extent thereof, OWNER or CONTRACTOR may make a written claim therefor as provided in Article 11 or 12.

Rejecting Defective Work:

- 9.6 ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 1.39, whether or not the Work is fabricated, installed or completed.

Shop Drawings, Change Orders and Payments:

- 9.7 In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraphs 6.24 through 6.28 inclusive.
- 9.8 In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

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- 9.9 In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

Determination for Unit Prices:

- 9.10 ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendations of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding upon OWNER and CONTRACTOR, unless, within ten days after the date of any such decision, either OWNER or CONTRACTOR delivers to the other and to ENGINEER written notice of intention to appeal from ENGINEER's decision and: (i) an appeal from ENGINEER's decision is taken within the time limits and in accordance with the procedures set forth in Exhibit GC-A, "Dispute Resolution Agreement," entered into between OWNER and CONTRACTOR pursuant to Article 16, or (ii) no such Dispute Resolution Agreement has been entered into, a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to ENGINEER's decision, unless otherwise agreed in writing by OWNER and CONTRACTOR. Such appeal will not be subject to the procedures of paragraph 9.11.

Decisions on Disputes:

- 9.11 ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and Claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph. Written notice of each such claim, dispute or other matter will be delivered by the claimant to ENGINEER and the other party to the Agreement promptly (but in no event later than thirty days) after the start of the occurrence or event giving rise thereto, and written supporting data will be submitted to ENGINEER and the other party within sixty days after the start of such occurrence or event unless ENGINEER allows an additional period of time for the submission of additional or more accurate data in support of such claim, dispute or other matter. The opposing party shall submit any response to ENGINEER and the claimant within thirty days after receipt of the claimant's last submittal (unless ENGINEER allows additional time). ENGINEER will render a formal decision in writing within thirty days after receipt of the opposing party's submittal, if any, in accordance with this paragraph. ENGINEER's written decision on such claim, dispute or other matter will be final and binding upon OWNER and CONTRACTOR unless: (i) an appeal from ENGINEER's decision is taken within the time limits and in accordance with the procedures set forth in Exhibit GC-A, "Dispute Resolution Agreement," entered into between OWNER and CONTRACTOR pursuant to Article 16, or (ii) if no such Dispute Resolution Agreement has been entered into, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within thirty days after the date of such decision and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to such claim, dispute or other matter in accordance with applicable Laws and Regulations within sixty days of the date of such decision, unless otherwise agreed in writing by OWNER and CONTRACTOR.
- 9.12 When functioning as interpreter and judge under paragraphs 9.10 and 9.11, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to paragraphs 9.10 or 9.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.15) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter pursuant to Article 16.
- 9.13 **Limitations on ENGINEER's Authority and Responsibilities:**
- 9.13.1 Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise or performance of any authority or responsibility by ENGINEER shall create, impose or give rise to any duty owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, or to any surety for or employee or agent of any of them.
- 9.13.2 ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and program incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.
- 9.13.3 ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.
- 9.13.4 ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals and other documentation required to be delivered by paragraph 14.12 will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests and approvals that the results certified indicate compliance with, the Contract Documents.
- 9.13.5 The limitations upon authority and responsibility set forth in this paragraph 9.13 shall also apply to ENGINEER's Consultants, Resident Project Representative and assistants.

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ARTICLE 10 - CHANGES IN THE WORK

- 10.1 Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work. Such additions, deletions or revisions will be authorized by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- 10.2 If OWNER and CONTRACTOR are unable to agree as to the extent, if any, of an adjustment in the Contract Price or an adjustment of the Contract Times that should be allowed as a result of the Work Change Directive, a claim may be made therefor as provided in Article 11 or Article 12.
- 10.3 CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.5 and 3.6 except in the case of an emergency as provided in paragraph 6.23 or in the case of uncovering Work as provided in paragraph 13.9.
- 10.4 OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:
- 10.4.1 changes in the Work which are (i) ordered by OWNER pursuant to paragraph 10.1, (ii) required because of acceptance of defective Work under paragraph 13.13 or correcting defective Work under paragraph 13.14, or (iii) agreed to by the parties;
 - 10.4.2 changes in the Contract Price or Contract Times which are agreed to by the parties; and
 - 10.4.3 changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 9.11;
- provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.29.
- 10.5 If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price and Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of such notice will be CONTRACTOR's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11 - CHANGE OF CONTRACT PRICE

- 11.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at CONTRACTOR's expense without change in the Contract Price.
- 11.2 The Contract Price may only be changed by a Change Order or by a Written Amendment. Any claim for an adjustment in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the start of the occurrence or event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the adjustment claimed covers all known amounts to which the claimant is entitled as a result of said occurrence or event. All claims for adjustment in the Contract Price shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this paragraph 11.2.
- 11.3 The value of any Work covered by a Change Order or of any claim for an adjustment in the Contract Price will be determined as follows:
- 11.3.1 where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraphs 11.9.1 through 11.9.3, inclusive);
 - 11.3.2 where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 11.6.2);
 - 11.3.3 where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 11.3.2, on the basis of the Cost of the Work (determined as provided in paragraphs 11.4 and 11.5) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 11.6).

Cost of the Work:

- 11.4 The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by the OWNER, such costs shall be in amounts no higher than those

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prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 11.5.

- 11.4.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen and other personnel employed full-time at the site. Payroll costs for employees not employed full-time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.
- 11.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.
- 11.4.3 Payments made by CONTRACTOR to the Subcontractors for Work performed or furnished by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of ENGINEER, which bids, if any, will be accepted. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in paragraphs 11.4, 11.5, 11.6 and 11.7. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
- 11.4.4 Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.
- 11.4.5 Supplemental costs including the following:
 - 11.4.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.
 - 11.4.5.2 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.
 - 11.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with the terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.
 - 11.4.5.4 Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.
 - 11.4.5.5 Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - 11.4.5.6 Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER in accordance with paragraph 5.9), provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of Work for the purpose of determining CONTRACTOR's fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 11.6.2.
 - 11.4.5.7 The cost of utilities, fuel and sanitary facilities at the site.
 - 11.4.5.8 Minor expenses such as telegrams, long distance calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
 - 11.4.5.9 Cost of premiums for additional Bonds and insurance required because of changes in the Work.

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

- 11.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.4.1 or specifically covered by paragraph 11.4.4 - all of which are to be considered administrative costs covered by the CONTRACTOR's fee.
- 11.5.2 Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.
- 11.5.3 Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 11.5.4 Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 11.4.5.9 above).
- 11.5.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 11.4.

11.6 The CONTRACTOR's fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

- 11.6.1 a mutually acceptable fixed fee; or
- 11.6.2 if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - 11.6.2.1 for costs incurred under paragraphs 11.4.1 and 11.4.2, the CONTRACTOR's fee shall be fifteen percent;
 - 11.6.2.2 for costs incurred under paragraph 11.4.3, the CONTRACTOR's fee shall be five percent;
 - 11.6.2.3 where one or more tiers of subcontracts are on the basis of Cost of Work plus a fee and no fixed fee is agreed upon, the intent of paragraphs 11.4.1, 11.4.2, 11.4.3 and 11.6.2 is that the Subcontractor who actually performs or furnishes the Work, at whatever tier, will be paid a fee of fifteen percent of the costs incurred by such Subcontractor under paragraphs 11.4.1 and 11.4.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - 11.6.2.4 no fee shall be payable on the basis of costs itemized under paragraphs 11.4.4, 11.4.5 and 11.5;
 - 11.6.2.5 the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and
 - 11.6.2.6 when both additions and credit are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 11.6.2.1 through 11.6.2.5, inclusive.

11.7 Whenever the cost of any Work is to be determined pursuant to paragraphs 11.4 and 11.5, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

Cash Allowances:

- 11.8 It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be furnished and performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:
 - 11.8.1 the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes, and
 - 11.8.2 CONTRACTOR's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances and no demand for additional payment on account of any of the foregoing will be valid.

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Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.9 Unit Price Work:

- 11.9.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER in accordance with paragraph 9.10.
- 11.9.2 Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separate identified item.
- 11.9.3 OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 11 if:
- 11.9.3.1 the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - 11.9.3.2 there is no corresponding adjustment with respect to any other item of Work; and
 - 11.9.3.3 if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT TIMES

- 12.1 The Contract Times (or Milestones) may only be changed by a Change Order or a Written Amendment. Any claim for an adjustment of the Contract Times (or Milestones) shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Times (or Milestones) shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the Contract Times (or Milestones) will be valid if not submitted in accordance with the requirements of this paragraph 12.1.
- 12.2 All time limits stated in the Contract Documents are of the essence of the Agreement.
- 12.3 Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a claim is made therefor as provided in paragraph 12.1. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.
- 12.4 Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay. In no event shall OWNER be liable to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from (i) delays caused by or within the control of CONTRACTOR, or (ii) delays beyond the control of both parties including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

ARTICLE 13 - TESTS AND INSPECTIONS: CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

- 13.1 Notice of Defects: Prompt notice of all defective Work of which OWNER or ENGINEER have actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected or accepted as provided in this Article 13.

Access to Work:

- 13.2 OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's site safety procedures and programs so that they may comply therewith as applicable.

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Tests and Inspections:

- 13.3 CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate inspections or tests.
- 13.4 OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
- 13.4.1 for inspections, tests or approvals covered by paragraph 13.5 below;
- 13.4.2 that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.9 below shall be paid as provided in said paragraph 13.9; and
- 13.4.3 as otherwise specifically provided in the Contract Documents.
- 13.5 If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection, or approval. CONTRACTOR shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work, or materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work.
- 13.6 If any Work (or the work of others) that is to be inspected, tested or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.
- 13.7 Uncovering Work as provided in paragraph 13.6 shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

Uncovering Work:

- 13.8 If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.
- 13.9 If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is *defective*, CONTRACTOR shall pay all claims, costs, losses and damages caused by, arising out of or resulting from such uncovering, exposure, observation, inspection and testing and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefor as provided in amount thereof, may make a claim therefor as provided in Article 11. If, however, such Work is not found to be *defective*, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in Articles 11 and 12.

OWNER May Stop the Work:

- 13.10 If the Work is *defective*, or if CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any surety or other party.

Correction or Removal of Defective Work:

- 13.11 If required by ENGINEER, CONTRACTOR shall promptly, as directed, either correct all *defective* Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by ENGINEER, remove it from the site and replace it with Work that is not *defective*. CONTRACTOR shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- 13.12 **Correction Period:**
- 13.12.1 If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be *defective*, CONTRACTOR shall promptly, without

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cost to OWNER and in accordance with OWNER's written instructions: (i) correct such *defective Work*, or, if it has been rejected by OWNER, remove it from the site and replace it with Work that is not *defective*, and (ii) satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the *defective Work* corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement (including but not limited to all costs of repair and replacement of work of others) will be paid by CONTRACTOR.

13.12.2 In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

13.12.3 Where *defective Work* (and damage to other Work resulting therefrom) has been corrected, removed or replaced under this paragraph 13.12, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

Acceptance of Defective Work:

13.13 If, instead of requiring correction or removal and replacement of *defective Work*, OWNER (and, prior to ENGINEER's recommendation of final payment, also ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all claims, costs, losses and damages attributable to OWNER's evaluation of and determination to accept such *defective Work* (such costs to be approved by ENGINEER as to reasonableness). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

OWNER May Correct Defective Work:

13.14 If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct *defective Work* or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.11, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors and ENGINEER and ENGINEER's Consultants access to the site to enable OWNER to exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by OWNER in exercising such rights and remedies will be charged against CONTRACTOR and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefor as provided in Article 11. Such claims, costs, losses and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's *defective Work*. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

Schedule of Values:

14.1 The schedule of values established as provided in paragraph 2.9 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

Application for Progress Payment:

14.2 At least twenty days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest therein, retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTOR's Warranty of Title:

GENERAL CONDITIONS

- 14.3 CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

Review of Applications for Progress Payment:

- 14.4 ENGINEER will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER, or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of the last sentence of paragraph 14.7) become due and when due will be paid by OWNER to CONTRACTOR.

- 14.5 ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's on-site observations of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

- 14.5.1 the Work has progressed to the point indicated.
- 14.5.2 the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.10, and to any other qualifications stated in the recommendation), and
- 14.5.3 the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

However, by recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

- 14.6 ENGINEER's recommendation of any payment, including final payment, shall not mean that ENGINEER is responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of Work, or for any failure of CONTRACTOR to perform or furnish Work in accordance with Contract Documents.

- 14.7 ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.5. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- 14.7.1 the Work is *defective*, or completed Work has been damaged requiring correction or replacement.
- 14.7.2 the Contract Price has been reduced by Written Amendment or Change Order.
- 14.7.3 OWNER has been required to correct *defective* Work or complete Work in accordance with paragraph 13.14, or
- 14.7.4 ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1 through 15.2.4 inclusive.

OWNER may refuse to make payment of the full amount recommended by ENGINEER because:

- 14.7.5 claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work,
- 14.7.6 Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens,
- 14.7.7 there are other items entitling OWNER to a set-off against the amount recommended, or
- 14.7.8 OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.7.1 through 14.7.3 or paragraphs 15.2.1 through 15.2.4 inclusive;

but OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

Substantial Completion:

- 14.8 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER,

GENERAL CONDITIONS

CONTRACTOR and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within fourteen days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, insurance and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

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

Partial Utilization:

- 14.10 Use by OWNER at OWNER's option of any substantially completed part of the Work which (i) has specifically been identified in the Contract Documents, or (ii) OWNER, ENGINEER and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

14.10.1 OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially completed, the provisions of paragraphs 14.8 and 14.9 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

14.10.2 No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 5.15 in respect of property insurance.

Final Inspection:

- 14.11 Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

Final Application for Payment:

- 14.12 After CONTRACTOR has completed all such corrections to the satisfaction of ENGINEER and delivered in accordance with the Contract Documents all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance required by paragraph 5.4, certificates of inspection, marked-up record documents (as provided in paragraph 6.19) and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including not limited to the evidence of insurance required by subparagraph 5.4.13, (ii) consent of surety, if any, to final payment, and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu of such releases or waivers of Liens and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and (ii) all payrolls, material and equipment bills and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

Final Payment and Acceptance:

- 14.13 If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied

GENERAL CONDITIONS

that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.15. Otherwise, ENGINEER will return the Application to CONTRACTOR indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after the presentation to OWNER of the Application and accompanying documentation, in appropriate form and substance and with ENGINEER's recommendation and notice of acceptability, the amount recommended by ENGINEER will become due and will be paid by OWNER to CONTRACTOR.

- 14.14 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Waiver of Claims:

- 14.15 The making and acceptance of final payment will constitute:
- 14.15.1 a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.11, from failure to comply with the Contract Documents or terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and
- 14.15.2 a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work:

- 15.1 At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 11 and 12.

OWNER May Terminate:

- 15.2 Upon the occurrence of any one or more of the following events:
- 15.2.1 if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials and equipment or failure to adhere to the progress schedule established under paragraph 2.9 as adjusted from time to time pursuant to paragraph 6.6);
- 15.2.2 if CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;
- 15.2.3 if CONTRACTOR disregards the authority of ENGINEER; or
- 15.2.4 if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents.

OWNER may, after giving CONTRACTOR (and the surety, if any,) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses and damages sustained by OWNER arising out of or resulting from completing the Work such excess will be paid to CONTRACTOR. If such claims, costs, losses or damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and when so approved by ENGINEER incorporated in a Change Order, provided that when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

GENERAL CONDITIONS

- 15.3 Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies by OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.
- 15.4 Upon seven days' written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Agreement. In such case, CONTRACTOR shall be paid (without duplication of any items):
- 15.4.1 for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such work;
 - 15.4.2 for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 15.4.3 for all claims, costs, losses and damages incurred in settlement of terminated contracts with Subcontractors, Suppliers and others; and
 - 15.4.4 for reasonable expenses directly attributable to termination.
- CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from termination.

CONTRACTOR May Stop Work or Terminate:

- 15.5 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within thirty days after it is submitted or OWNER fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Agreement and recover from OWNER payment on the same terms as provided in paragraph 15.4. In lieu of terminating the Agreement and within thirty days after it is submitted, or OWNER has failed for thirty days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may upon seven days' written notice to OWNER and ENGINEER stop the Work until payment of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.5 are not intended to preclude CONTRACTOR from making claim under Articles 11 and 12 for an increase in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

If and to the extent that OWNER and CONTRACTOR have agreed on the method and procedure for resolving disputes between them that may arise under this Agreement, such dispute resolution method and procedure, if any, shall be as set forth in Exhibit GC-a, "Dispute Resolution Agreement," to be attached hereto and made a part hereof. If no such agreement on the method and procedure for resolving such disputes has been reached, and subject to the provisions of paragraphs 9.10, 9.11 and 9.12, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17 - MISCELLANEOUS

Giving Notice:

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

Computation of Times:

- 17.2.1 When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.
- 17.2.2 A calendar day of twenty-four hours measured from midnight to the next midnight will constitute a day.

Notice of Claim:

- 17.3 Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within reasonable time of the first observance of such injury or damage. The provisions of this paragraph 17.3 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

Cumulative Remedies:

GENERAL CONDITIONS

- 17.4 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 6.12, 6.16, 6.30, 6.31, 6.32, 13.1, 13.12, 13.14, 14.3 and 15.2 and all of the rights and remedies available to OWNER and ENGINEER thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

Professional Fees and Court Costs Included:

- 17.5 Whenever reference is made to "claims, costs, losses and damages," it shall include in each case, but not limited to, all fees and charge of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs.

BURNET COUNTY, TEXAS

CONFLICT OF INTEREST DISCLOSURE

IMPORTANT NOTICE TO VENDORS AND BIDDERS – STATE LAW

State law (Chapter 176 of the Local Government Code) requires the filing of Conflict of Interest Questionnaires by certain individuals and businesses.

The questionnaires require disclosures describing certain business and gift giving relationships, if any, the filers may have with Local Government Officers or a member of a governing body of a local government entity.

The law applies to:

- Businesses and individuals who contract with the City or County,
- Businesses and individuals who seek to contract with the City (regardless of whether a bidder is awarded the contract), and
- Agents who represent such businesses in their business dealing with the City or County

A copy of the required reporting form is attached. **Form CIQ**

If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of each individual, business and agent who is subject to the law's filing requirement.

If you are required to file a Conflict of Interest Questionnaire, you should file it with the Burnet County Auditor, 133 East Jackson St. Burnet, Texas 78611

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

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

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

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

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

Asphalt Inc., LLC dba Lone Star Paving Company

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

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

N/A

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

☐ Yes

☐ No

N/A

A. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

N/A

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

N/A

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

7 Signature of vendor doing business with the governmental entity

8/12/24
Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

BURNET COUNTY, TEXAS

CERTIFICATE OF INTERSTED PARTIES DISCLOSURE

IMPORTANT NOTICE – STATE LAW

State Law (House Bill 1295) requires the filing of Certificate of Interested Parties Disclosure (Form 1295) by business entities.

The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be filed with the governmental body or state agency with which the business entity is entering into the contract.

If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of each individual, business and agent who is subject to the law's filing requirement.

If you are required to file a Certificate of Interested Parties, you should file it online with the Texas Ethics Commission:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

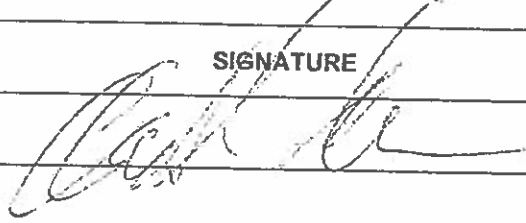
BID SUMMARY SHEET FOR CR 420 PAVING PROJECT

Acknowledgement of Addenda:

All Addenda must be acknowledged below in the space provided. Alternatively, Addenda may be acknowledged on the outside of the sealed envelope submitted for bid next to the project name. Inclusion of the full text of any Addendum in this bid packet will also constitute the bidder's acknowledgement of that Addendum.

Bidder's Name: Asphalt Inc., LLC dba LoneStar Paving Company
(Fill in Bidder's Name exactly as it appears on pages 2 and 3 of the Bid Form)

I have received, acknowledge, and accept all of the following Addenda:

ADDENDUM No.	SIGNATURE
N/A	

Total Bid Amount in numbers:

Total base bid in numbers (as tabulated on the Unit Price Schedule): \$ 361,438.85

Total bid alternate in numbers (as tabulated on the Unit Price Schedule): \$ N/A

The total bid in numbers above will be used to determine the apparent low bidder. The contract award will be based on bid amounts tabulated and verified by the Engineer.

BID FORM FOR CR 420 PAVING PROJECT

PROJECT IDENTIFICATION: CR 420 PAVING PROJECT

CONTRACT IDENTIFICATION AND NUMBER: N/A

THIS BID IS SUBMITTED TO: MS. KARIN SMITH, BURNET COUNTY AUDITOR, 133. E JACKSON ST., BURENT, TX 78611

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. BIDDER accepts all of the terms and conditions of the Advertisement of Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for sixty days after the day of Bid opening. BIDDER will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within fifteen days after the date of OWNER'S Notice of Award.
3. In submitting this bid, BIDDER represents, as more fully set forth in the Agreement, that:
 - (a) BIDDER has examined and carefully studied the Bidding Documents:
PROJECT MANUAL
DRAWINGS
SPECIFICATIONS (As specified on the cover sheet of the construction plans)
ADDENDA (Acknowledged on the Bid Summary Sheet or on the sealed bid envelope)
 - (b) BIDDER has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the Work;
 - (c) BIDDER is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work;
 - (d) BIDDER has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.2.1 of the General Conditions. BIDDER accepts the determination set forth in paragraph SC-4.2 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which BIDDER is entitled to rely as provided in paragraph 4.2 of the General Conditions. BIDDER acknowledges that such reports and drawings are not Contract Documents and may not be complete for BIDDER'S purposes. BIDDER acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the site. BIDDER has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by BIDDER and safety precautions and programs incident thereof. BIDDER does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance and furnishing of the Work in accordance with the times, price and other terms and conditions of the Contract Documents.
 - (e) BIDDER is aware of the general nature of Work to be performed by OWNER and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
 - (f) BIDDER has correlated the information known to BIDDER, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
 - (g) BIDDER has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that BIDDER has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to BIDDER, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
 - (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

4. Measurement shall be based solely on Plan Quantities as listed in the Unit Price Schedule; no quantities shall be measured in the field for payment purposes. BIDDER will complete the Work in accordance with the Contract Documents for the Unit Prices and Quantities listed on the Unit Price Schedule for the following price(s):

Total Bid in Figures (as tabulated on the Unit Price Schedule). To be entered on the Bid Summary Sheet

5. BIDDER agrees that the Work will be substantially complete, and completed and ready for final payment in accordance with the times specified in Article 3 of the Standard Form of Agreement.

BIDDER accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

6. The following documents are required to be attached to be made a condition of this Bid:

(a) Required Bid Security in the form of certified check, cashier's check or corporate surety bond.

7. Communications concerning this Bid shall be addressed to:

Greg Haley, P.E.
K.C. Engineering, Inc.
705 Hwy 281 North, Suite 103
Marble Falls, Texas 78654

The address of BIDDER indicated below:

8. Terms used in this Bid which are defined in the General Conditions or Instructions will have the meanings indicated in the General Conditions or Instructions.

9. SUBMITTED on August 20th, 2024.

State Contractor License No. N/A

If BIDDER is:

An Individual

By _____ (SEAL)
(Individual's Name)

doing business as _____

Business address: _____

Phone No.: _____

Email Address: _____

A Partnership

By Asphalt INC, LLC dba Lone Star Paving Company (SEAL)

Alex R
(Firm Name)

(General Partner) Alex Flores - E.V.P.

Business address: 11675 Jollyville Rd.
Austin, Tx 78759

Phone No.: 512-428-5778

Email Address: Alex@Lspaving.com

A Corporation

By _____ (SEAL)
(Corporation Name)

(State of Incorporation)

By _____ (SEAL)
(name of person authorized to sign)

(Corporate Seal) (Title)

Attest _____
(Secretary)

Business address: _____

Phone No.: _____

Email Address: _____

Date of Qualification to do business is _____

INSTRUCTIONS TO BIDDERS FOR CR 420 PAVING PROJECT

1. Defined Terms

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8)(1990 Edition) have the meanings assigned to them in the General Conditions.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

- 1.1 Bidder - one who submits a Bid directly to Owner as distinct from a Sub-Bidder, who submits a Bid to a Bidder.
- 1.2 Issuing Office - the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- 1.3 Successful Bidder - the lowest, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

2. Copies of Bidding Documents

- 2.1 Complete sets of the Bidding Documents in the number and for the fee, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Issuing Officer. The fee is non-refundable.
- 2.2 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bid for the Work and do not confer a license or grant for any other use.

3. Qualifications of Bidders

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days after Bid opening upon Owner's request, detailed written evidence such as financial data, previous experience, present commitments and other such data as may be called for below (or in the Supplementary Instructions). Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.

4. Examination of Contract Documents and Site

- 4.1 It is the responsibility of each Bidder before submitting a Bid:
 - 4.1.1 To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below);
 - 4.1.2 To visit the site to become familiar with and satisfy Bidder as to the general, local site conditions that may affect cost, progress, performance or furnishing of the Work;
 - 4.1.3 To consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;
 - 4.1.4 To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and
 - 4.1.5 To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents.
 - 4.1.6 The Contractor shall satisfy himself that all quantities of material and work listed in the contract documents, whether paid for directly or considered subsidiary to the work, are adequate for completion of the work. The Contractor shall notify the engineer of any alleged quantity discrepancies no later than 7 calendar days prior to the bid opening date. Failure of the contractor to make such timely notification constitutes Contractor's acceptance of the quantities listed, and the Contractor shall be entitled to no later adjustments or additional compensation based on alleged errors in quantities listed in any of the bid documents.
- 4.2 Reference is made to the Supplementary Conditions for identification of:
 - 4.2.1 Those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of "technical data" contained in such drawings but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction.

Copies of such reports and drawings will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.2 of the General Conditions has been identified and

established in Paragraph SC-4.2 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information.

- 4.3 Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineers by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- 4.4 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Paragraphs 4.2 and 4.3 of the General Conditions.
- 4.5 Before submitting a Bid, each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.6 On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such examinations, explorations, investigations, tests and studies.
- 4.7 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given the Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.
- 4.8 The provisions of 4.1 through 4.7, inclusive, do not apply to Asbestos, Polychlorinated biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material covered by Paragraph 4.5 of the General Conditions.

5. Availability of Lands for Work, etc.

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

6. Interpretations and Addenda

- 6.1 All questions about the meaning or intent of the Bidding Documents are to be directed to Engineer by email to gregg@kcengineering.com. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda emailed to all parties recorded by Engineer as having received the Bidding Documents. Questions received after 5:00 p.m. on the Friday prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda delivered to all parties by email will be binding. Neither owner or Contractor shall be responsible for any bidder's failure to receive emails sent to the address provided by bidder. Oral and other interpretations or clarifications will be without legal effect.
- 6.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

7. Bid Security

- 7.1 Each Bid must be accompanied by Bid Security made payable to Owner in an amount of five percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on form attached, if a form is prescribed) issued by a surety meeting the requirements of Paragraph 5.1 of the General Conditions. The Bid Security must be included in the bid submittal immediately behind the Bid Summary Sheet.
- 7.2 The Bid Security of Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid Security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen days after the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the thirty-sixth day after the Bid opening, whereupon Bid Security furnished by such Bidders will be returned. Bid Security with Bids which are not competitive will be returned within seven days after the Bid opening.

8. Contract Times

The number of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the term "Contract Times" is defined in paragraph 1.12 of the General Conditions) are set forth in the Agreement (or incorporated therein by reference to the attached Bid Form).

9. Liquidated Damages

Provisions for liquidated damages, if any, are set forth in the Agreement.

10. Substitute and "Or-Equal" Items

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications, without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Engineer is set forth in Paragraphs 6.7.1, 6.7.2 and 6.7.3 of the General Conditions.

11. Subcontractors, Suppliers and Others

Requirements placed on the Contractor in regard to the use of Subcontractors, Suppliers, and others are established the Contract Documents.

12. Bid Form

- 12.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from Engineer (or the Issuing Officer).
- 12.2 All blanks on the Bid Form must be completed by printing in black ink or by typewriter.
- 12.3 Bids by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.
- 12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 12.5 All names must be typed or printed in black ink below the signature.
- 12.6 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be indicated and signed on the Bid Summary Sheet or on the outside of the sealed bid envelope).
- 12.7 The address and telephone number for communications regarding the Bid must be shown.
- 12.8 Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State contractor license number, if any, must also be shown.
- 12.9 The Bid Summary Sheet is hereby referenced and incorporated as part of the Bid documents. At the Owner's discretion, any bid submittal that does not include a completed Bid Summary Sheet (Addenda may alternatively be acknowledged on the outside of the sealed bid envelope) may be considered an incomplete bid. The Bid Summary Sheet must be submitted as the second sheet of the bid submittal, immediately behind the Project Manual cover including the text "To be filled out and returned by bidder."

13. Submission of Bids

Bids shall be submitted at the time and place indicated in the Advertisement of Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title and name and address of Bidder and accompanied by the Bid Security. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

Each prospective Bidder is furnished one copy of the Bidding Documents with one separate unbound copy each of the Project Manual including the text "To be filled out and returned by bidder." The Bidding Documents may be retained by Bidder. The unbound copy of the Project Manual is to be completed and submitted in a sealed envelope labeled in the center of envelope as follows:

CR 420 PAVING PROJECT

The bidder's full name and contact information shall be listed on the upper left hand corner of the envelope.

14. Modification and Withdrawal of Bids

- 14.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 14.2 If, within twenty-four hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid. Thereafter, the Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

15. Opening of Bids

Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of the Bids.

16. Bids to Remain Subject to Acceptance

All Bids will remain subject to acceptance for sixty days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid prior to that date.

17. Award of Contract

- 17.1 Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, unresponsive, unbalanced or conditional Bids, and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Owner also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms other than price with the Successful Bidder.
- 17.2 In evaluating Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternatives, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 17.3 Owner also may consider the operating costs, maintenance requirements, performance date and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 17.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.
- 17.5 If the contract is to be awarded, it will be awarded to the lowest responsible Bidder, or to the bidder who provides best value to Owner, in accordance with Chapter 252 of the Texas Local Government Code.
- 17.6 If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within thirty-five days after the day of the Bid opening.
- 17.7 In evaluating bids, the following terms in the Unit Price Schedule in the Bid Form shall be used as described below:
1. "Unit Price" refers to the amount entered as the Unit Price in figures;
 2. "Amount" refers to the amount calculated by multiplying the Unit Price by the Quantity for that item and entered as the Amount {Quantity x Price};
 3. "Group" refers to the total of the Amount column for a specified group of work items; "General Requirements," Roadway Improvements," "Signs and Striping" are examples of "Groups;"
 4. "Group Total" refers to the sum of the Amount column for a Group;
 5. "Total" refers to the total (or subtotal) of the Amount column, including the Total Bid carried to the Bid Summary Sheet;
 6. "Unreadable figures" refers to any amount entered in the Unit Price Schedule (or elsewhere in the Bid Form) that is determined by the Engineer to be illegible, incomplete, or partially or completely indecipherable, all of which shall be determined by the Engineer at his sole discretion as the agent of the Owner;
 7. "Evaluated Bid" refers to the Total Bid, including Amounts and Unit Prices as corrected following the procedures in items a. through e., below.

In the evaluation of bids, the Engineer (acting as the Owner's Agent) shall resolve questions and/or discrepancies related to unreadable figures, incorrect calculations, incorrect totals, and omitted bid items using the procedure listed in subparagraphs a. through e., below:

- a. Incorrectly calculated Amounts, Group Totals, and/or Totals shall be resolved in favor of the correctly calculated Amount, Group Total, or Total.
- b. In the case of an Amount entered in unreadable figures, the correct Amount shall be determined as the corrected product of the Unit Price x Quantity as shown in the Unit Price Schedule.
- c. In the case of a Unit Price entered in unreadable figures, the correct Unit Price shall be determined by dividing the Amount by the Quantity in the Unit Price Schedule.
- d. In the case that both Unit Price and Amount are entered in unreadable figures for a single item, the correct Amount for that item shall be determined by subtracting the total of all other items within that Group from the Group Total for that Group. The Unit Price shall then be determined as described above.
- e. If the Contractor omits a bid item, or inadvertently leaves the Unit Price and Amount for a bid item blank, the Engineer will evaluate the bid using an Amount of zero dollars for that bid item.

In the event that all Amounts and/or Totals cannot be resolved to the Engineer's and Owner's satisfaction using the procedures listed above, the bid shall be rejected.

The Engineer shall provide the results of the bid evaluation to the apparent low bidder for his review and acceptance. If the bidder chooses to not accept the Contract based on the Evaluated Bid, he may withdraw his bid. If the bidder accepts the Evaluated Bid, payment for all bid items through the life of the Contract shall be adjusted according to the Unit Prices as included in the Evaluated Bid, and the Engineer shall then make recommendations to the Owner based on the Total Bid and Unit Prices as included in the Evaluated Bid.

By submitting a bid for the project described in these Instructions to Bidders, each bidder agrees to the determination of the low bidder and payment procedures described in this section 17.7, and each bidder further agrees that he is not, and will not be disadvantaged in any way by these bid evaluation procedures and/or subsequent bid award and/or payment procedures.

18. Contract Security

Paragraph 5.1 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required performance and payment Bonds.

19. Signing of Agreement

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within fifteen days thereafter, Contractor will sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification.

20. Prebid Conference

If an optional, non-mandatory, Prebid Conference is held, it will be at the date, time, and location specified in the Advertisement for Bid.

21. Sales and Use Taxes

As a subdivision of the State of Texas, Owner is exempt from Texas State Sales and Use Taxes on materials and equipment to be incorporated in the Work. Said taxes shall not be included in the Contract Price.

Provisions concerning retainage and Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

22. Retainage

Provisions concerning retainage and Contractor's rights to deposit securities in lieu of retainage are set forth in the Agreement.

23. Rights

Burnet County reserves the right to waive any informality that is not detrimental to any other bidder or potential bidder or to reject all bids or to accept the lowest responsible bidder that in the judgment of Burnet County will be in the best interest of Burnet County.

CONTRACTOR'S BID
FOR
CR 420 PAVING PROJECT
PREPARED FOR:



Checklist of items to be returned

The following items shall be returned in order for the bid submittal to be considered acceptable:

- ☒ Completed Bid Summary Sheet
- ☒ Bid Security (5% of the maximum bid amount)
- ☒ Completed Conflict of Interest Questionnaire (if required)
- ☒ Completed Bid Form
- ☒ Completed Unit Price Schedule

Print Bidder's Name

Asphalt Inc., LLC dba Lone Star Paving
(company)
(Fill in Bidder's Name exactly as it appears on pages 2 and 3 of the Bid Form)

RETURN THIS SHEET WITH BID

PREPARED BY:

GREG HALEY, P.E.

K.C. ENGINEERING, INC.



Registration No. F-977
August 2024

K.C. ENGINEERING, INC.

705 Hwy 281 North, Suite 103, Marble Falls, TX 78654

(830) 693-5635



Bids Bids <bids@burnetcountytexas.org>

Bid Submittal- Burnet CR 420 Paving Project ITB #24-6140-02

1 message

Andrew Warner <awarner@lspaving.com>

Mon, Aug 19, 2024 at 4:14 PM

To: "bids@burnetcountytexas.org" <bids@burnetcountytexas.org>

Attention Burnet County Auditor,

Attached is our electronic bid for the Burnet CR 420 Paving Project ITB #24-6140-02. Can you please confirm receipt and to ensure the PDF opens correctly (The first page of the document is the cover page). Occasionally PDF documents may contain an error typically caused by using different versions of Adobe or other programs.

Thank you,

Andrew Warner
Estimator
Lone Star Paving
512-906-5864
awarner@lspaving.com

Bid Submittal- Burnet CR 420 Paving Project- LSP 8-19-24

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

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 Bid Submittal- Burnet CR 420 Paving Project- LSP 8-19-24.pdf
3006K

**UNIT PRICE SCHEDULE
FOR
CR 420 PAVING PROJECT
BURNET COUNTY, TEXAS**

PAY ITEM	DESCRIPTION	UNIT	QUANTITY
010.16.1	SEQUENCE OF CONSTRUCTION	LS	1
010.16.2	FIELD ENGINEERING	LS	1
010.16.3	MOBILIZATION	LS	1
GEN. COND. ART. 5	BONDS AND INSURANCE	LS	1
TxDOT 354	PLANE (MILL) 0" - 2" DEPTH	SY	2,961
410.10	HOT MIX ASPHALT (2") - TxDOT TY C (ITEM 340)	SY	16,415
410.13	HOT MIX ASPHALT LEVEL-UP (TxDOT TY D) (ITEM 340)	TON	200
TxDOT 530	INTERSECTIONS, DRIVEWAYS, AND TURNOUTS	SY	1,845
TxDOT 502	BARRICADES, SIGNS, AND TRAFFIC HANDLING	LS	1
TxDOT 510	ONE-WAY TRAFFIC CONTROL	HR	40
TxDOT 662	WK ZN PAV MRK SHT TERM (TAB) TY Y-2	EA	684
TxDOT 666	REFL PAV MRK TY I (Y) 4" (SLD) (100 MIL)	LF	13,684
TxDOT 666	REFL PAV MRK TY I (W) 4" (SLD) (100 MIL)	LF	0
TxDOT 666	REFL PAV MRK TY I (W) 24" (SLD) (100 MIL)	LF	12
TxDOT 672	REFL PAV MRK TY II-A-A	EA	171
TxDOT 677	REMOVE EXIST REFL PAV MRKR	EA	340
SP 1000.1	PORTABLE CHANGEABLE MESSAGE SIGN	EA	2

Unit Price

\$ 3,700.00

\$ 250.00

\$ 3,825.00

\$ 4,125.00

\$ 5.75 ~~per~~ ^{hr}

\$ 12.45

\$ 112.00

\$ 33.50

\$ 1,225.00

\$ 500.00

\$ 2.55

\$ 1.10

\$ 1.10

\$ 10.00

\$ 7.75

\$.80

\$ 2,100.00

Note: Bid Form Leaks columns for our unit prices, Extensions, & Total. For clarity, see the following electronic print out.

Total
\$ 361,438.00

08/19/2024

15:46

AW-24-8-078

Burnet Co- CR 420 Paving Project

*** Andrew Warner

BID TOTALS

<u>Biditem</u>	<u>Description</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Bid Total</u>
10	SEQUENCE OF CONSTRUCTION	1.000	LS	3,700.00	3,700.00
20	FIELD ENGINEERING	1.000	LS	250.00	250.00
30	MOBILIZATION	1.000	LS	3,825.00	3,825.00
40	BONDS AND INSURANCE	1.000	LS	4,125.00	4,125.00
50	PLANE (MILL) 0" - 2" DEPTH	2,961.000	SY	5.75	17,025.75
60	HMAC (2") TXDOT TY-C (340)	16,415.000	SY	12.45	204,366.75
70	HMAC LEVEL-UP TXDOT TY-D (340)	200.000	TON	112.00	22,400.00
80	INTERSECTIONS, DRIVEWAYS, & TURNOUTS	1,845.000	SY	33.50	61,807.50
90	BARRICADES, SIGNS, & TRAFFIC HANDLING	1.000	LS	1,225.00	1,225.00
100	ONE-WAY TRAFFIC CONTROL	40.000	HR	500.00	20,000.00
110	WK ZN PAV MRK SHT TERM (TAB) TY Y-2	684.000	EA	2.55	1,744.20
120	REF PAV MRK TY I (Y) 4" (SLD)(100 MIL)	13,684.000	LF	1.10	15,052.40
130	REF PAV MRK TY I (W) 4" (SLD)(100 MIL)	0.000	LF	1.10	
140	REF PAV MRK TY I (W) 24" (SLD)(100 MIL)	12.000	LF	10.00	120.00
150	REFL PAV MRK TY II-A-A	171.000	EA	7.75	1,325.25
160	REMOVE EXIST REFL PAV MRKR	340.000	EA	0.80	272.00
170	PORTABLE CHANGEABLE MESSAGE SIGN	2.000	EA	2,100.00	4,200.00

 Bid Total 

\$361,438.85

Second Amendment to the Contract for Emergency Medical Services

SECOND AMENDMENT TO THE CONTRACT FOR EMERGENCY MEDICAL SERVICES BETWEEN MARBLE FALLS AREA EMS, INC. AND BURNET COUNTY

This Second Amendment ("Second Amendment") to the Contract for Emergency Medical Service entered into as of the 1st day of October 2018 (the "Agreement") between **MARBLE FALLS AREA EMS, INC.** ("PROVIDER"), and **BURNET COUNTY** ("COUNTY"), shall serve to amend the Agreement by replacing the text of the First Amendment thereto, entered into as of the 1st Day of October 2019, with the text that follows:

Amendment one. Section 13 of the Agreement is hereby amended in its entirety by replacing the existing language with the language (in *italics*) that follows:

13. COMPENSATION: *As compensation for fulfilling the duties of PROVIDER under the terms of this Contract, the COUNTY and PROVIDER agree to the following:*

For all services rendered under the term of this Contract, the COUNTY shall pay to PROVIDER the total sums (the Contract Fee) reflected in the table below. PROVIDER shall submit a monthly invoice to the County, by the 1st of each month, for each of the operational installments of the Contract Fee and the County shall pay each invoice by the 15th of each month, or as otherwise provided by applicable law.

<i>Term</i>		<i>Paid to Provider Annually</i>	<i>Monthly Installment</i>
<i>Year 1</i>	<i>October 1, 2024, to September 30, 2025</i>	<i>\$466,622.52</i>	<i>\$38,885.21</i>
<i>Year 2</i>	<i>October 1, 2025, to September 30, 2026</i>	<i>\$480,621.24</i>	<i>\$40,051.77</i>
<i>Year 3</i>	<i>October 1, 2026, to September 30, 2027</i>	<i>\$495,039.84</i>	<i>\$41,253.32</i>
<i>Year 4</i>	<i>October 1, 2027, to September 30, 2028</i>	<i>\$509,891.04</i>	<i>\$42,490.92</i>
<i>Year 5</i>	<i>October 1, 2028, to September 30, 2029</i>	<i>\$525,187.80</i>	<i>\$43,765.65</i>

Second Amendment to the Contract for Emergency Medical Services

Amendment two. Section 15 of the Agreement is hereby amended in its entirety by replacing the existing language with the language (in *italics*) that follows:

(a) **TERM OF CONTRACT:** *This Contract shall become effective October 1, 2024, and unless terminated in accordance with other sections of this Contract, shall continue in full force and effect until September 30, 2029, subject to applicable law, including COUNTY'S right of non-appropriation.*

EXCEPT AS HEREBY MODIFIED OR AMENDED, the remaining provisions of the Agreement not inconsistent with the terms hereof shall remain in full force and effect for all purposes.

This Second Amendment is executed, and is to be effective, on the ____ day of _____, 2024.

PROVIDER:

ATTEST:

Jeff Bingham, President

Cecilia Phillips, Secretary/Treasurer

COUNTY:

ATTEST:

James Oakley, County Judge

Janet Parker, County Clerk

BLUEBONNET TRAILS COMMUNITY SERVICES
Mental Health Jail Based Services
Interlocal Agreement

This Memorandum of Understanding for the provision of certain psychiatric services to inmates in the **Burnet County Jail** is made and entered into, by **Burnet County, Texas** (County) and **BLUEBONNET TRAILS COMMUNITY SERVICES (BTCS)** which are political subdivisions of the State of Texas.

Bluebonnet Trails Community Services and Burnet County hereby enter into the following agreement pursuant to authority contained in Sections 533.034 and 533.037 of the Texas Health and Safety Code.

I. SCOPE OF SERVICES

- A. BTCS will provide qualified mental health professionals to conduct crisis and emergency screenings to inmates presenting with a psychiatric emergency and need for immediate evaluation.
- B. BTCS will collaborate with the Burnet County Jail to ensure a seamless episode of care and maximize the use of available resources.
- C. Inmates not referred for psychiatric hospitalization may be referred for follow-up with the jail's mental health provider, when appropriate.
- D. BTCS will maintain, provide a copy of, and inform the County within five (5) business days of any changes to all certifications, licensure, or registrations required by law. In addition, Provider will maintain general and professional liability insurance in the minimum amount of one million dollars (\$1,000,000) for each occurrence.
- E. Both parties will work to maintain coordination between BTCS and jail-based Mental Health Providers.
- F. BTCS will provide services to any presented inmate housed in the Burnet County Jail.
- G. In addition to mental health crisis screening services, BTCS will provide written reports with information about defendants suspected of having a mental illness or intellectual disability. These reports are based on screenings prompted by either a 16.22 Order, or a positive match during a Continuity of Care Query (CCQ) in the State's Database. BTCS will provide electronic copies of screenings in a format that may not be altered to Jail Administration to oversee the entry of these documents into the jail's electronic health record.
- H. If a judge orders BTCS to conduct a mental health interview and collect information for a mandatory assessment in response to the Texas Code of Criminal Procedure Article 16.22 (as enacted by House Bill 601, 86th Texas Legislative Session), the county shall reimburse BTCS at \$30 per assessment. BTCS will provide electronic copies of assessments back to the magistrate in a format that may not be altered.

II. PAYMENT FOR SERVICES

BTCS will submit billing statements on a monthly basis for Services provided to County by the fifteenth (15th) working day following the end of the month services were rendered. The County shall pay BTCS for Services provided and verified pursuant to this Agreement at the rates identified below and billed according to the terms of this Agreement:

Service	Rate
Court-Ordered Mental Health Assessment	\$30/assessment

Payment must be made within thirty (30) days after receipt of the monthly statement.

Submission of Invoices:
Burnet County Auditor
133 E. Jackson St
Burnet, TX 78611

Payments shall be made to:
Bluebonnet Trails Community Services
Attn: Accounting Department
1009 N Georgetown St
Round Rock, TX 78664

III. MEDICATION REIMBURSEMENT

If the Jail would like to seek reimbursement for a period not to exceed ninety (90) days for medication for persons returning to the Jail from a state hospital after receiving competency restoration services:

- A. The Jail will notify BTCS when an individual is sent from the Jail to a state hospital for 46B competency restoration.
- B. The Jail will submit to BTCS a copy of the State Hospital Discharge Plan and a completed 46B Medication Request (Attachment A) via email (jail@bbtrails.org) within seven (7) days of the individual's return to the Jail after the individual is deemed competent to stand trial.
- C. For Detainees returned to the Jail as competent and awaiting trial, BTCS will request approval from the Texas Health and Human Services Commission (HHSC) or Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) to reimburse the Jail for up to 90 days of the medication, as prescribed upon discharge by the State Hospital. Reimbursement is based on authorization by HHSC/TCOOMMI and dependent upon availability of state fiscal year funding.
- D. The Jail will submit an invoice to BTCS via email (jail@bbtrails.org) within 10 days of month-end which includes itemized medication costs incurred by the Jail the previous month.
- E. Based on submission of required documentation from the Jail and HHSC/TCOOMMI approval, BTCS will reimburse the Jail on a monthly basis.
- F. Reimbursement for each Detainee will conclude once the Jail has been reimbursed for 90 days of medication or once the Detainee is released from Jail, whichever occurs first.
- G. BTCS reserves the right to request proof of the Jail's expenditures specific to those defendants who are committed under the Texas Code of Criminal Procedure, Chapter 46B and who will receive medications under this Agreement.

IV. TERM OF AGREEMENT

This Agreement is to begin October 1, 2024 and shall terminate August 31, 2025. It is noted that the period of this Agreement is to allow for the synchronizing of the term of this Agreement with the Burnet County budget cycle. This Agreement may be terminated by either party with a 60-day written notice to the corresponding party.

V. AMENDMENT

Any change, addition or deletion to the terms of this Agreement shall be in writing and executed by both parties. An executed facsimile copy will be sufficient to evidence the parties' agreement to any change, addition, or deletion to this Agreement.

VI. CONFIDENTIALITY

Both parties acknowledge that in receiving, storing and processing or otherwise dealing with any information about clients in the program, they are fully bound by the provision of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR.

Both parties agree to undertake to resist in judicial proceeding any effort to obtain access to information pertaining to clients otherwise than as expressly provided for in the federal confidentiality regulations, 42 CFR, Part 2.

VII. INDEMNIFICATION

BTCS hereby agrees to the extent permitted under the Constitution and the laws of the State of Texas to indemnify and hold harmless County and all of its trustees, directors, officers, employees, and agents from all liability suits, actions, claims, expenses (including attorney's fees and costs related to the investigation of any such claim, action, or proceeding) or cost of any character, type, or description (including obligations, losses, fines, penalties, and assessments) brought or made on account of any injuries, death, or damage received or sustained by any person or persons or property, including but not limited to clients, arising out of or occasioned by non-performance or any negligent acts of BTCS or BTCS's personnel, if any, or its agents or employees occurring during the performance of the services hereunder or in the execution of the performance of any of its duties under this Agreement.

County hereby agrees to the extent permitted under the Constitution and the laws of the State of Texas to indemnify and hold harmless BTCS and all of its trustees, directors, officers, employees, and agents from all liability suits, actions, claims, expenses (including attorney's fees and costs related to the investigation of any such claim, action, or proceeding) or cost of any character, type, or description (including obligations, losses, fines, penalties, and assessments) brought or made on account of any injuries, death, or damage received or sustained by any person or persons or property, including but not limited to clients, arising out of or occasioned by non-performance or any negligent acts of Burnet County or Burnet County Jail personnel, if any, or its agents or employees occurring during the performance of the services hereunder or in the execution of the performance of any of its duties under this Agreement.

VIII. NOTICE

All notices and correspondence given pursuant to this Agreement must be in writing and sent to the following individuals and addresses;

Bluebonnet Trails Community Services
Attn: Andrea Richardson, Chief Executive Officer
1009 N. Georgetown St
Round Rock, TX 78664-3289

Burnet County
Attn: Judge James Oakley
220 S Pierce St
Burnet, TX 78611

IX. GOVERNING LAW

The laws of the State of Texas will govern this Agreement. Venue shall be in Williamson County, Texas.

X. BINDING AUTHORITY

The individuals represented by the BTCS and County signatures below represent that they have full authority to enter into this Agreement.

This agreement shall be effective on the date of execution.

Executed this ____ day of _____, 2024.

Andrea Richardson, Chief Executive Officer
Bluebonnet Trails Community Services

Date

Judge James Oakley
Burnet County Judge

Date

Attachment A
46B Medication Request

Service Month & Year (YYYYMM)	Component Code (###)	SID # or CARE ID#	Medication Recipient Name (Last, First, Middle Initial)	Medication Name	Number of Days Supply	Amount Requested
	460					
	460					
	460					
	460					
	460					
	460					
	460					
	460					
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	460					
	460					
TOTAL	460					\$0.00

Burnet County Commissioners Court

Jim Luther Jr.
Precinct 1

Damon Beierle
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

Regular Session

17.

Meeting Date: 09/24/2024

Subject

Discussion and/or action concerning calling for Bids and Bid openings, request for proposals/qualifications and related openings:

- a. Go out for bids on hot mix asphalt
 - b. Go out for bids on road striping
 - c. Award of bid for the road work to be performed on CR 114
-

Attachments

CR 114 Bid Award



KC ENGINEERING, INC.

705 North Hwy 281, Suite 103 • Marble Falls, Texas 78654 • Phone 830.693.5635 • Fax 830.693.9664 • www.kcengineering.com

September 18, 2024
Project Number: 24-296

Mr. Jim Luther, Jr.
County Commissioner
Burnet County
220 S Pierce Street
Burnet, TX 78611

RE: CR 114 Paving Project

Commissioner Luther:

K. C. Engineering, Inc. (KCE) reviewed and tabulated four (4) bids received September 17, 2024, for the construction of the Burnet County Road 114 Paving Project. Each bidder provided a bid bond and other documents, as required. The bidders' unit prices were entered into an Excel spreadsheet and all bidders' calculations were checked for accuracy.

The total bid amounts received according to the Bid Summary Sheets are:

Lone Star Paving Company	\$445,849.75
Texas Materials Group	\$489,972.80
Alpha Paving Industries, LLC	\$532,010.50
CK Newberry, LLC	\$571,463.00

Based upon review of the bids received, KCE recommends that Burnet County enter into a contract with the low bidder, Lone Star Paving Company, for construction of the Burnet County Road 114 Paving Project.

Please note that the bid received from Alpha Paving Industries was submitted electronically to the Auditor's Office but not opened at the bid opening at 10:00 AM because it was discovered that the bid submittal email was accidentally routed by the Auditor's email client to a spam folder.

KCE is available to discuss this recommendation at your convenience.

Sincerely,

K.C. Engineering, Inc.
Firm Registration #:F-977

By:

Greg Haley, P. E.
President

GH/
Attachment: Bid Tabulations

**BID TABULATION
FOR
BURNET COUNTY ROAD 114 PAVING PROJECT
BURNET COUNTY, TEXAS**

PAY ITEM	DESCRIPTION	QUANTITY	UNIT	BIDDER															
				Lone Star Paving Company		Texas Materials Group, Inc.		Alpha Paving Industries, LLC		CK Newberry, LLC									
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT						
010.16.1	SEQUENCE OF CONSTRUCTION	1	LS	\$	4,100.00	\$	4,100.00	\$	3,500.00	\$	3,500.00	\$	5,000.00	\$	5,000.00	\$	10,000.00	\$	10,000.00
010.16.2	FIELD ENGINEERING	1	LS	\$	250.00	\$	250.00	\$	4,000.00	\$	4,000.00	\$	5,000.00	\$	5,000.00	\$	10,000.00	\$	10,000.00
010.16.3	MOBILIZATION	1	LS	\$	7,500.00	\$	7,500.00	\$	18,000.00	\$	18,000.00	\$	23,000.00	\$	23,000.00	\$	55,000.00	\$	55,000.00
GEN. COND. ART. 5	BONDS AND INSURANCE	1	LS	\$	5,000.00	\$	5,000.00	\$	2,275.00	\$	2,275.00	\$	8,500.00	\$	8,500.00	\$	10,000.00	\$	10,000.00
TxDOT 354	PLANE (MILL) 0" - 2" DEPTH	524	SY	\$	18.00	\$	9,432.00	\$	25.00	\$	13,100.00	\$	31.00	\$	16,244.00	\$	15.00	\$	7,860.00
410.1	HOT MIX ASPHALT (1.5") - TxDOT TY D (ITEM 340)	29,891	SY	\$	11.10	\$	331,796.10	\$	11.95	\$	357,197.45	\$	12.00	\$	358,692.00	\$	12.50	\$	373,637.50
TxDOT 530	INTERSECTIONS, DRIVEWAYS, AND TURNOUTS	1,843	SY	\$	21.00	\$	38,703.00	\$	25.50	\$	46,996.50	\$	20.00	\$	36,860.00	\$	30.00	\$	55,290.00
TxDOT 502	BARRICADES, SIGNS, AND TRAFFIC HANDLING	1	LS	\$	700.00	\$	700.00	\$	7,500.00	\$	7,500.00	\$	18,500.00	\$	18,500.00	\$	15,000.00	\$	15,000.00
TxDOT 510	ONE-WAY TRAFFIC CONTROL	40	HR	\$	500.00	\$	20,000.00	\$	275.00	\$	11,000.00	\$	400.00	\$	16,000.00	\$	150.00	\$	6,000.00
TxDOT 662	WK ZN PAV MRK SHT TERM (TAB) TY Y-2	1,177	EA	\$	1.40	\$	1,647.80	\$	1.00	\$	1,177.00	\$	2.00	\$	2,354.00	\$	1.00	\$	1,177.00
TxDOT 666	REFL PAV MRK TY I (Y) 4" (SLD) (100 MIL)	23,356	LF	\$	0.45	\$	10,510.20	\$	0.45	\$	10,510.20	\$	0.50	\$	11,678.00	\$	0.50	\$	11,678.00
TxDOT 666	REFL PAV MRK TY I (W) 4" (SLD) (100 MIL)	23,477	LF	\$	0.45	\$	10,564.65	\$	0.45	\$	10,564.65	\$	0.50	\$	11,738.00	\$	0.50	\$	11,738.50
TxDOT 666	REFL PAV MRK TY I (W) 24" (SLD) (100 MIL)	20	LF	\$	15.00	\$	300.00	\$	15.00	\$	300.00	\$	20.00	\$	400.00	\$	16.50	\$	330.00
TxDOT 672	REFL PAV MRK TY IIA-A	292	EA	\$	6.00	\$	1,752.00	\$	6.00	\$	1,752.00	\$	7.00	\$	2,044.00	\$	6.00	\$	1,752.00
TxDOT 677	REMOVE EXIST REFL PAV MRKR	0	EA	\$	10.00	\$	-	\$	-	\$	-	\$	-	\$	-	\$	5.00	\$	-
SP 1000.1	PORTABLE CHANGEABLE MESSAGE SIGN	2	EA	\$	1,800.00	\$	3,600.00	\$	1,050.00	\$	2,100.00	\$	8,000.00	\$	16,000.00	\$	1,000.00	\$	2,000.00
Total Bid Total of items in the Amount column above):				\$	445,849.75		\$	489,972.80		\$	532,010.50		\$	571,463.00					