

THE STATE OF TEXAS §  
  §  
COUNTY OF HIDALGO §

**CONSTRUCTION CONTRACT  
C-CAP-05-005-06-01**

This Agreement, entered into this 1<sup>st</sup> day of June, 2005 by and between Hidalgo County Precinct No. 2 (hereinafter called the "OWNER," and D.M. Roth, Inc. (a Texas corporation), of County of Hidalgo, and State of Texas, hereinafter called "CONTRACTOR".

**WITNESSETH**

That for and in consideration of the payments and agreement hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

**CAMPO ALTO SUBDIVISION  
STREET & DRAINAGE IMPROVEMENTS PROJECT**

Hereinafter called the project, for the sum of One Hundred Ninety Three Thousand Five Hundred Eighty Eight Dollars and Thirty Five Cents and all extra work in connection therewith, under the terms and stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions and Special Conditions printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by R. Gutierrez Engineering Corporation, entitled the Architect/Engineer, and as enumerated in Paragraph 1.01.A.12 of the General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The CONTRACTOR hereby agrees to commence work under this contract on or after a date to be specified in written "Notice to Proceed" of the OWNER and to fully complete the project within 120 consecutive calendar days thereafter. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$200.00 for each consecutive calendar day thereafter.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the contract, and to make payments on account thereof as provided in Paragraphs 14.02.C and 14.07.C of the General Conditions.

IN WITNESS WHEREOF, the parties to these present have executed this contract in four (4) counterparts, each of which shall be deemed an original, in year and day first above mentioned.

APPROVED BY COMMISSIONERS COURT ON, JUNE 1, 2005.

CONTRACTOR: D.M. Roth INC. Joe Roth

Name of Firm: D.M. Roth INC.

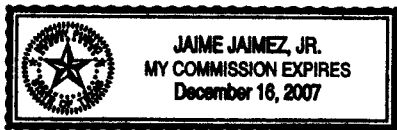
Address: 5820 N. CAGE PHASE TX. 78577

Fed. I.D. # / S.S.##: 74-2732341

STATE OF TEXAS

COUNTY OF HIDALGO

This instrument was acknowledged before me on this the 28<sup>th</sup> day of JUNE, 2005, by President Of and on behalf of D.M. Roth INC.  
(Title) (A corporation)



[Signature]  
Notary Public-Signature

APPROVED AS TO FORM:

A+lyc + Hall, LLP  
BY: [Signature]  
Atlas & Hall, LLP

ATTEST:

[Signature]  
Juan D. Salinas, III, County Clerk

COUNTY OF HIDALGO:

[Signature]  
Ramon Garcia, County Judge

Approved by Commissioners Court  
on 6-1-05

EXHIBIT "B"  
PAYMENT SCHEDULE

Payment Schedule shall be in accordance with "Bid Proposal for Hidalgo County Precinct Two –  
**HIDALGO COUNTY COLONIA ACCESS PROGRAM – ROAD CONSTRUCTION OF CAMPO  
ALTO SUBDIVISION – Bid No: 05-005-05-11**, included herewith, including Item 1 and any and all  
related provisions contained herewith.

BID PROPOSAL FOR  
HIDALGO COUNTY COLONIA ACCESS PROGRAM -  
ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION  
BID NO: 05-005-05-11

Martha L. Salazar. Purchasing Agent  
Hidalgo County Purchasing Department  
100 E. Cano, 4th Floor - Administration Building  
Edinburg, Texas 78539

Dear Ms. Salazar:

Pursuant to the foregoing "Advertisement for Bids", Notice and Instructions to Bidders for **HIDALGO COUNTY COLONIA ACCESS PROGRAM - ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION** located **Hidalgo County Precinct 2**, the undersigned Bidder having examined the plans and specifications with related documents and carefully read same, and having visited the site of the proposed work, hereby proposes to furnish all necessary superintendence, labor, machinery, equipment, tools, materials, and supplies to construct the project in accordance with the contract documents within the time set forth herein and at the price stated below and noted in the following pages (Note: Only those bid items identified shall be considered as pay items, all other work shall be incidental to bid items):

Estimated quantities are provided for information only.

BID PROPOSAL FORM  
 HIDALGO COUNTY COLONIA ACCESS PROGRAM  
 ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION

Item Number	Estimated Quantity	Unit	Item Description with Unit Bid Price in Words	Unit Price (in figures)	Total (in figures)
100	25.97 STA		Preparation of Right-of-Way <u>Four Hundred</u> <u>ZERO</u>	Dollars and Cents \$ <u>400.00</u>	\$ <u>10,382.00</u>
			Per Station		
110	2,869.00 CY		Excavation <u>Three</u> <u>Forty</u>	Dollars and Cents \$ <u>3.40</u>	\$ <u>9,754.60</u>
			Per Cubic Yard		
132	178.00 CY		Embankment	Dollars and Cents \$ <u>2.50</u>	\$ <u>445.00</u>
			Per Cubic Yard		
247	1,438.00 CY		Flexible Base (6") <u>NINETEEN</u> <u>FIFTY</u>	Dollars and Cents \$ <u>19.50</u>	\$ <u>28,041.00</u>
			Per Cubic Yard		
262	8,644.00 SY		Lime Treatment for Base Courses <u>TWO</u> <u>FIFTY</u>	Dollars and Cents \$ <u>2.50</u>	\$ <u>21,610.00</u>
			Per Square Yard		
262	21.58 TON		Lime (Ty A or B) <u>ONE Hundred thirty</u> <u>ZERO</u>	Dollars and Cents \$ <u>130.00</u>	\$ <u>2,805.40</u>
			Per Ton		
310	1,493.00 GAL		Prime Coat (MC-30) <u>FIVE</u> <u>TWENTY-FIVE</u>	Dollars and Cents \$ <u>5.25</u>	\$ <u>7,838.25</u>
			Per Gallon		

BID PROPOSAL FORM  
 HIDALGO COUNTY COLONIA ACCESS PROGRAM  
 ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION

Item Number	Estimated Quantity	Unit	Item Description, with Unit Bid Price in Words	Unit Price (in figures)	Total (in figures)
340	7,458.00	SY	Hot Mix Surface Course <u>FIVE</u> <u>Twentieth - FIVE</u> Per Square Yard	Dollars and Cents \$ <u>5.25</u>	\$ <u>39,154.50</u>
500	1.00	LS	Mobilization <u>FOUR THOUSAND</u> <u>ZERO</u> Per Lump Sum	Dollars and Cents \$ <u>4,000.00</u>	\$ <u>4,000.00</u>
502	3.00	MO	Barricades, Signs & Traffic Handling <u>TWO THOUSAND, FIVE HUNDRED</u> <u>ZERO</u> Per Month	Dollars and Cents \$ <u>2,500.00</u>	\$ <u>7,500.00</u>
529	4,748.00	LF	Concrete Curb & Gutter (Ty A)(Barrier) <u>SEVEN</u> <u>ZERO</u> Per Linear Foot	Dollars and Cents \$ <u>7.00</u>	\$ <u>33,236.00</u>
529	94.00	LF	Concrete Valley Gutter (4Ft) <u>TEN</u> <u>Eighty</u> Per Linear Foot	Dollars and Cents \$ <u>10.80</u>	\$ <u>1,015.20</u>
530	387.80	SY	Driveways (Ty PB) <u>Eighteen</u> <u>ZERO</u> Per Square Yard	Dollars and Cents \$ <u>18.00</u>	\$ <u>6,980.40</u>

BID PROPOSAL FORM  
 HIDALGO COUNTY COLONIA ACCESS PROGRAM  
 ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION

Item Number	Estimated Quantity	Unit	Item Description with Unit Bid Price in Words	Unit Price (in figures)	Total (in figures)
530	261.00	SY	Driveways (CONCRETE) <u>Eighteen</u> <u>ZERO</u> Per Square Yard	Dollars and Cents \$ <u>18.00</u>	\$ <u>4,698.00</u>
550	35.00	EA	Mailboxes (Single) <u>Three hundred Fifty</u> <u>ZERO</u> Per Each	Dollars and Cents \$ <u>350.00</u>	\$ <u>12,250.00</u>
644	7.00	EA	Small Rdsd Sgn Assm (Ty A) <u>Three hundred Fifty</u> <u>ZERO</u> Per Each	Dollars and Cents \$ <u>350.00</u>	\$ <u>2,450.00</u>
5010	12.00	SY	Construction Exits (Ty II) <u>Eighteen</u> <u>ZERO</u> Per Square Yard	Dollars and Cents \$ <u>18.00</u>	\$ <u>216.00</u>
5010	12.00	SY	Construction Exits (Ty II)(Remove) <u>Thirteen</u> <u>ZERO</u> Per Square Yard	Dollars and Cents \$ <u>13.00</u>	\$ <u>156.00</u>
5249	100.00	LF	Temp Sediment Control Fence (Install) <u>Six</u> <u>ZERO</u> Per Linear Foot	Dollars and Cents \$ <u>6.00</u>	\$ <u>600.00</u>

BID PROPOSAL FORM  
 HIDALGO COUNTY COLONIA ACCESS PROGRAM  
 ROAD CONSTRUCTION OF CAMPO ALTO SUBDIVISION

Item Number	Estimated Quantity	Unit	Item Description with Unit Bid Price in Words	Unit Price (in figures)	Total (in figures)
5249	50.00	LF	Temp Sediment Control Fence (Remove & Replace) <u>Three</u> <u>ZERO</u> Per Linear Foot	Dollars and Cents \$ <u>3.00</u>	\$ <u>150.00</u>
5249	100.00	LF	Temp Sediment Control Fence (Remove) <u>Three</u> <u>ZERO</u> Per Linear Foot	Dollars and Cents \$ <u>3.00</u>	\$ <u>300.00</u>
<u>One hundred ninety-three thousand</u> <u>Five hundred eighty and thirty-five</u> Total Base Bid Amount				Dollars and Cents \$ _____	\$ <u>193,588.35</u>

Alternate Number 1 - Construction of Sidewalks

531	520.00	SY	Concrete Sidewalk (4") <u>Twenty-six</u> <u>ZERO</u> Per Square Yard	Dollars and Cents \$ <u>26.00</u>	\$ <u>13,520.00</u>
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Bid Proposal From (Continued)

The undersigned Bidder agrees to commence work after written notice to commence work and to substantially complete the work on which he has bid 90 calendar days. The Contractor further agrees to pay, as liquidated damages, the sum of \$200.00 for each consecutive calendar day thereafter as hereinafter provided in the Construction Contract.

Enclosed with this Proposal is a Cashier's Check or Certified Check for \_\_\_\_\_ Dollars (\_\_\_\_\_)

or a Bid Bond in the sum of 5% Dollars (\_\_\_\_\_), which is agreed shall be collected and retained by the Owner under the conditions hereof within ten (10) days after the date this proposal is accepted; then otherwise the said bond or check shall be returned to the undersigned upon demand.

Receipts of the following Addenda on these dates shown is acknowledged:

DATE	ACKNOWLEDGE
#1. _____	_____
#2. _____	_____
#3. _____	_____
#4. _____	_____

Respectfully submitted,

D.M. Roth EXCAVATING  
Name of Firm

By: Sam McCoy 5/11/05  
Signature Date

Pres.  
Title

5820 N. CHASE  
Address

PHARR TX. 78577

(956) 787-0845  
Telephone Number

**THIS PROPOSAL MUST BE SIGNED BY AN OFFICER OF REPRESENTATIVE DULY AUTHORIZED BY THE BIDDER.**

(Seal, if BID is by a Corporation)

Attest \_\_\_\_\_

# AIA<sup>®</sup> Document A310<sup>™</sup> - 1970

## Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we  
(Here insert full name and address or legal title of Contractor)

D.M. Roth, Inc.  
5820 N. Cage  
Pharr, Texas 78577

as Principal, hereinafter called the Principal, and  
(Here insert full name and address or legal title of Surety)

Developers Surety and Indemnity Company  
1603 22nd Street, Suite 200,  
West Des Moines, Iowa 50266

a corporation duly organized under the laws of the State of Iowa as Surety, hereinafter  
called the Surety, are held and firmly bound unto  
(Here insert full name and address or legal title of Owner)

Hidalgo County Precinct #2  
100 E. Cano, 4th Floor  
Edinburg, TX 78539

as Obligor, hereinafter called the Obligor, in the sum of Five Percent of Accompanying  
Bid (\$ 5% of Bid ), for the payment of which sum well and truly to be made, the said  
Principal and the said Surety, bind ourselves, our heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for  
(Here insert full name, address and description of project)

Campo Alto Subdivision

NOW, THEREFORE, if the Obligor shall accept the bid of the Principal and the Principal  
shall enter into a Contract with the Obligor in accordance with the terms of such bid, and  
give such bond or bonds as may be specified in the bidding or Contract Documents with  
good and sufficient surety for the faithful performance of such Contract and for the prompt  
payment of labor and material furnished in the prosecution thereof, or in the event of the  
failure of the Principal to enter such Contract and give such bond or bonds, if the Principal  
shall pay to the Obligor the difference not to exceed the penalty hereof between the  
amount specified in said bid and such larger amount for which the Obligor 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.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed to its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Signed and sealed this Eleventh day of May, Two Thousand and Five

D.M. Roth, Inc.

(Principal)

(Seal)

(Witness)

*[Handwritten signature]*

(Witness)

(Title)

Developers Surety and Indemnity Company

(Surety)

*[Handwritten signature]*

(Title) William D. Miller, Attorney-in-fact

(Seal)



POWER OF ATTORNEY FOR  
DEVELOPERS SURETY AND INDEMNITY COMPANY  
PO BOX 19725, IRVINE, CA 92623 (949) 265-3300  
www.InsonDion.com

KNOW ALL MEN BY THESE PRESENTS, that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY does hereby make constitute and appoint:

\*\*\*Robert W. Kogley, Robert H. Walker, Suelien Bottomley, William D. Miller, Lewis Mark Spangler, jointly or severally\*\*\*

as its true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporation as surety, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as the corporation could do, but reserving to the corporation full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolution adopted by the Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY effective as of November 1, 2000:

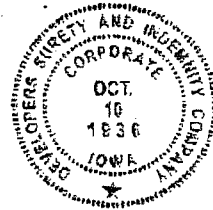
RESOLVED, that the Chairman of the Board, the President and any Vice President of the corporation be, and that each of them hereby is authorized to execute Powers of Attorney, qualifying the Attorney(s)-in-Fact named in the Powers of Attorney to execute, on behalf of the corporation, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporation be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY has caused these presents to be signed by its respective Executive Vice President and attested by its Secretary this 1st day of February, 2005.

By: [Signature]  
David H. Rhodes, Executive Vice-President

By: [Signature]  
Walter A. Crowell, Secretary



STATE OF CALIFORNIA )  
COUNTY OF ORANGE )

On February 1, 2005, before me, Nita G. Hiffmeyer, personally appeared David H. Rhodes and Walter A. Crowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal

Signature [Signature]



CERTIFICATE

The undersigned, as Executive Vice-President, of DEVELOPERS SURETY AND INDEMNITY COMPANY, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore, that the provisions of the resolution of the respective Board of Directors of said corporation set forth in the Power of Attorney, is in force as of the date of this Certificate

This Certificate is executed in the City of Irvine, California, the 11th day of May, 2005.

By: [Signature]  
David L. Kerrigan, Executive Vice-President

**NON-COLLUSION AFFIDAVIT OF  
PRIME BIDDER**

State of Texas  
County of Hidalgo

JOE ROTH being first duly sworn, deposes and says that

- (1) He is PRESIDENT, of D.M. ROTH INC. the Bidder that has submitted the attached bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such bid:
- (3) Such bid is genuine and is not a collusive or sham Bid:
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Owner or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

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

Joe Roth

Pres.

(Title)

Subscribed and sworn to before me this 28<sup>th</sup>

day of June, 2005

\_\_\_\_\_  
Notary Public

My Commission expires: 12/16/07



## EXHIBIT "C "

### Insurance Requirements

The Bidder awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the bidder in at least the following limits, to be in place prior to providing any services under this Contract and to continue at all times in force in effect during the term of this Contract:

1. Automobile liability insurance policy with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and \$500,000.00 per occurrence, consistent with potential exposure to County under the Texas Tort Claims Act. Coverage should include injury to or death of persons and property damage claims (with limits up to \$500,000.00) arising out of the services provided to County hereunder;
2. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
3. A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County consistent with potential exposure of County under the Texas Tort Claims Act;
4. Workers compensation insurance in amounts established by Texas law, unless the Bidder is specifically exempted from the Texas Workers' Compensation Act, Texas Labor Code Chapter 401, et. seq.

Certificates of insurance naming County as an additional insured shall be submitted to County for approval prior to any services being performed by Contractor. Each policy of insurance required hereunder shall extend for a period equivalent to, or longer than the term of the Contract, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County prior to the cancellation of any such coverage on the termination date, or otherwise. This Contract shall be automatically suspended upon the cancellation, or other termination, of any required policy of insurance hereunder, and such suspension shall continue until evidence adequate replacement coverage is provided to County. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.

**PAYMENT BOND**

BOND #716732P

**KNOW ALL MEN BY THESE PRESENTS**, that D.M. Roth, Inc.  
5820 N Cage Boulevard, Pharr, Texas 78577

(hereinafter called the Principal(s), as Principal(s), and Developers Surety and Indemnity Company, 1630 22nd Street, Suite 200, West Des Moines, Iowa 50266

hereinafter called the Surety(s), as Surety(s), are held and firmly bound onto Hidalgo County Precinct No. 2, 130 East Park, Pharr, Texas 78577

(hereinafter called the Oblige), in the amount of -One Hundred Ninety Three Thousand Five Hundred Eighty Eight & 35/100--

Dollars (\$ -193,588.35-) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has entered into a certain written contract with the Oblige, dated the 1st day of June, 2005, for the Campo Alto Subdivision Street & Drainage Improvements Project

Which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH**, that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided in said contract in accordance with the plans, specifications and contract documents, then this obligation shall be void; otherwise to remain in full force and effect.

**PROVIDED, HOWEVER**, that this bond is executed pursuant to the provisions of Texas Government Code, Section 2253.021(c) for the beneficiaries described by such sub-section, and provisions of said Section to the same extent as if it were copied in length herein.

**IN WITNESS WHEREOF**, this instrument is executed in four counterparts, each one of which shall be deemed an original, this the 31st day of May A.D., 2005.

D.M. Roth, Inc.

Principal

ATTEST:

Donna Roth  
(Principal) Secretary  
(SEAL)

x Donna Roth  
Signature

Sam Chang  
Witness to Principal  
5820 N. CAGE  
(Address)  
Pharr Tx 78577  
(City, State, Zip)

DONNA ROTH  
(Print / Type Name)  
5820 N Cage Boulevard  
(Address)  
Pharr, Texas 78577  
(City, State, Zip)

**PAYMENT BOND (Continued)**

Developers Surety and Indemnity Company

Surety

**ATTEST:**

N/A

(Surety) Secretary  
(SEAL)

Witness to Surety

1005 Laraway Road  
(Address)

New Lenox, IL 60451  
(City, State, Zip)

  
Attorney-in-Fact (Signature)

William D. Miller  
(Print / Type Name)

Columbian Agency/1005 Laraway Road  
(Address)

New Lenox, IL 60451  
(City, State, Zip)

Notes: Date of Bond must be prior to date of Contract.  
Provide correct name of Contractor, indicate corporation, partnership or an individual, as case may be.  
Provide correct name of Surety and Surety must attach its original power of attorney to this BOND.  
If Contractor is partnership, all partners must sign and execute BOND.  
Indicate County or Parish and State.

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, Donna Roth, certify that I am the secretary of the corporation named as Principal in the BOND; that William D. Miller who signed the BOND on behalf of Principal, was then ATTORNEY of the corporation; that I know his or her signature, and his or her signature is genuine; and that the BOND was duly signed for and on behalf of the corporation by authority of its governing body.

  
Secretary's Signature

(Corporate Seal)

**PERFORMANCE BOND**

BOND #716732P

KNOW ALL MEN BY THESE PRESENTS, that D.M. Roth, Inc.  
5820 N Cage Boulevard, Pharr, Texas 78577

(hereinafter called the Principal(s), as Principal(s), and Developers Surety and Indemnity  
Company, 1630 22nd Street, Suite 200, West Des Moines, Iowa 50266

hereinafter called the Surety(s), as Surety(s), are held and firmly  
bound onto Hidalgo County Precinct No. 2, 130 East Park, Pharr, Texas 78577

(hereinafter called the Oblige), in the  
amount of -One Hundred Ninety Three Thousand Five Hundred Eighty Eight  
& 35/100--

Dollars (\$ -193,588.35-) for the payment whereof, the said Principal and Surety bind  
themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally,  
firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the      
1st day of June, 2005, for the Campo Alto Subdivision  
Street & Drainage Improvements Project

Which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies  
at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said  
Principal shall faithfully perform the work in accordance with the plans, specifications and contract  
documents, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Texas  
Government Code, Section 2253.021 (b), for the benefit of Oblige and provisions of said Section to the  
same extent as if it were copied in length herein.

IN WITNESS WHEREOF, this instrument is executed in four counterparts, each one of which  
shall be deemed an original, this the 31st day of May  
A.D., 2005.

D.M. Roth, Inc.

Principal

x Donna Roth  
Signature

ATTEST:

Donna Roth  
(Principal) Secretary  
(SEAL)

Sam Chavez  
Witness to Principal  
5820 N. CAGE  
(Address)  
PHARR TX. 78577  
(City, State, Zip)

Donna Roth  
(Print / Type Name)  
5820 N Cage Boulevard  
(Address)  
Pharr, Texas 78577  
(City, State, Zip)

**PERFORMANCE BOND (Continued)**

Developers Surety and Indemnity Company  
Surety

**ATTEST:**

N/A  
(Surety) Secretary  
(SEAL)

[Signature]  
Witness to Surety

1005 Laraway Road  
(Address)

New Lenox, IL 60451  
(City, State, Zip)

[Signature]  
Attorney-in-Fact (Signature)

William D. Miller  
(Print / Type Name)

Columbian Agency/1005 Laraway Road  
(Address)

New Lenox, IL 60451  
(City, State, Zip)

Notes: Date of Bond must be prior to date of Contract.  
Provide correct name of Contractor, indicate corporation, partnership or an individual, as case may be.  
Provide correct name of Surety and Surety must attach its original power of attorney to this BOND.  
If Contractor is partnership, all partners must sign and execute BOND.  
Indicate County or Parish and State.

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, Donna Roth, certify that I am the secretary of the corporation named as Principal in the BOND; that William D. Miller who signed the BOND on behalf of Principal, was then ATTORNEY of the corporation; that I know his or her signature, and his or her signature is genuine; and that the BOND was duly signed for and on behalf of the corporation by authority of its governing body.

[Signature]  
Secretary's Signature

(Corporate Seal)

## DISCLOSURE RIDER

### Terrorism Risk Insurance Act of 2002

The Terrorism Risk Insurance Act of 2002 created a three-year program under which the Federal Government will share in the payment of covered losses caused by certain events of international terrorism. The Act requires that we notify you of certain components of the Act, and the effect, if any, the Act will have on the premium charged for this bond.

Under this program, the Federal Government will cover 90% of the amount of covered losses caused by certified acts of terrorism, as defined by the Act. The coverage is available only when aggregate losses resulting from a certified act of terrorism exceed \$5,000,000.00. Insurance carriers must also meet a variable deductible established by the Act. The Act also establishes a cap of \$1,000,000,000.00 for which the Federal Government or an insurer can be responsible.

Participation in the program is mandatory for specified lines of property and casualty insurance, including surety insurance. The Act does not, however, create coverage in excess of the amount of the bond, nor does it provide coverage for any losses that are otherwise excluded by the terms of the bond, or by operation of law.

No additional premium has been charged for the terrorism coverage required by the Act.

Performance & Payment Bond # 716732P  
D.M. Roth, Inc.  
May 31, 2005

Developers Surety and Indemnity Company  
Indemnity Company of California  
17780 Fitch  
Irvine, CA 92614  
(949) 263 3300  
[www.inscodico.com](http://www.inscodico.com)

POWER OF ATTORNEY FOR  
DEVELOPERS SURETY AND INDEMNITY COMPANY

PO BOX 19725, IRVINE, CA 92623 (949) 263-3300  
www.lnscoDico.com

KNOW ALL MEN BY THESE PRESENTS, that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY does hereby make, constitute and appoint:

\*\*\*Robert W. Kegley, Robert H. Walker, Suellen Bottomley, William D. Miller, Lewis Mark Spangler, jointly or severally\*\*\*

as its true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporation as surety, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as the corporation could do, but reserving to the corporation full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolution adopted by the Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY effective as of November 1, 2000:

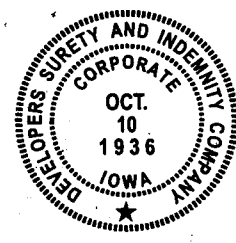
RESOLVED, that the Chairman of the Board, the President and any Vice President of the corporation be, and that each of them hereby is, authorized to execute Powers of Attorney, qualifying the Attorney(s)-in-Fact named in the Powers of Attorney to execute, on behalf of the corporation, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporation be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY has caused these presents to be signed by its respective Executive Vice President and attested by its Secretary this 1st day of February, 2005.

By: [Signature]  
David H. Rhodes, Executive Vice-President

By: [Signature]  
Walter A. Crowell, Secretary



STATE OF CALIFORNIA )  
 )SS.  
COUNTY OF ORANGE )

On February 1, 2005, before me, Nita G. Hiffmeyer, personally appeared David H. Rhodes and Walter A. Crowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal

Signature Nita G. Hiffmeyer



CERTIFICATE

The undersigned, as Executive Vice-President, of DEVELOPERS SURETY AND INDEMNITY COMPANY, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore, that the provisions of the resolution of the respective Boards of Directors of said corporation set forth in the Power of Attorney, is in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, the 31st day of May, 2005.

By: [Signature]  
David L. Kerrigan, Executive Vice-President

# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID SG  
DMROT01

DATE (MM/DD/YYYY)  
06/15/05

**PRODUCER**  
Cottingham & Butler, Inc.  
300 SECURITY BUILDING PO BX 28  
DUBUQUE IA 52001  
Phone: 563-587-5000 Fax: 563-583-7339

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

**INSURED**  
D. M. Roth, Inc.  
5820 N Cage Blvd  
Pharr TX 78577

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A American Cas Co of Reading PA	20427
INSURER B Valley Forge Insurance Company	20508
INSURER C Transportation Insurance Co	20494
INSURER D	
INSURER E	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TCP2083696026	05/29/05	05/29/06	EACH OCCURRENCE \$ 1000000 DAMAGE TO PRINTED PREMISES (Ea occurrence) \$ 100000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000
B		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS  <b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO  <b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE RETENTION \$	BUA2083695989	05/29/05	05/29/06	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY - EA ACC AGG \$ EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
C		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	WC2083695894	06/01/05	06/01/06	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> BOTH TR E1 EACH ACCIDENT \$ 500000 E1 DISEASE - EA EMPLOYEE \$ 500000 E1 DISEASE - POLICY LIMIT \$ 500000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 It is agreed that Hidalgo County Precinct No. 2 and R. Gutierrez Engineering Corporation are added as additional insured on the general liability if required by written contract as respects: Road Construction of Campo Alto Subdivision. Bid #05-005-05-11.

**CERTIFICATE HOLDER**  
HICOTX2  
  
HIDALGO COUNTY  
301 E STATE STREET  
PHARR TX 78577

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE  
 Dean F. Fair

PROJECT REQUIREMENTS  
ACKNOWLEDGMENT

This is to certify that I, D.M. Roth Inc., possess all of the  
**APPLICABLE:**

1. Licenses: N/A
2. Bonds: Bid BOND / PERFORMANCE BOND
3. Certificates: INSURANCE
4. Permits: N/A
5. Other: \_\_\_\_\_

necessary to carry out the required project. Furthermore, I am providing copies of the required documentation so that, if my company is awarded this bid, I may be eligible to enter into a contract with Hidalgo County and proceed to complete the project in a timely manner.

**\* Any licenses, bonds, certificates, permits, etc. which are required must be presented as part of the bid packet in order to expedite the bid evaluation process. Failure to provide said documentation will result in the disqualification of your bid.**

Joe V. Roth  
Authorized Signature

6/28/05  
Date

D.M. Roth Inc.  
Company

5820 N. CAGE  
Address

PHARR TX. 78577  
City, State, Zip

**SALES TAX AND LOCAL SALES TAX  
EXEMPTION CERTIFICATE FOR CONTRACTORS**

This Contract is to be performed for an exempt organization as defined by Article 20.04 (H) (4) of the Texas Limited Sales, Excise, and Use Tax Act and the undersigned hereby claims an exemption from payment of taxes under Chapter 20, Title 122A, revised civil statutes of Texas, and Article 1066 (C), entitle Local Sales and Use Tax, revised civil statutes of Texas.

The Contractor performing this Contract may purchase, rent, or lease all materials, supplies, equipment used or consumed in the performance of this Contract by issuing to his retailer an exemption certificate in lieu of the tax, said exemption certificate complying with State Comptroller's Ruling No. 95-9.07. Any such exemption certificate issued by the Contractor in lieu of the tax shall be subject to the provisions of the State Comptroller's Ruling No. 95.0.09 as amended to be effective October 2, 1968.

EXECUTED this the 28<sup>th</sup> day of JUNE, 2005.

D.M. Roth INC.  
Contractor