

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WEBB §

**Construction Contract
Webb County - Gilmar Construction Ltd.
Rio Bravo Drainage Outfall & Maintenance Improvement Project**

This Agreement is made and entered into by and between **Webb County, Texas**, a Political Subdivision of the State of Texas (hereinafter "Owner") and **Gilmar Construction, Ltd.**, (hereinafter "Contractor").

WHEREAS at the Webb County Commissioner's Court Meeting held on August 12, 2024, the Court, pursuant to Webb County's Competitive Sealed Proposal (CSP) 2024-007 entitled "**ARPA Project 20 - Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement Project**", and Contractor's responsive bid proposal, attached hereto as Exhibit "A", awarded this Project to Gilmar Construction LTD.

For and in consideration of the mutual covenants herein set forth, and other good and valuable consideration, the Parties do hereby agree as follows:

1. **DESCRIPTION OF PROJECT:** Overall restoration of Webb County's north Rio Bravo drainage channel outfall and to stabilize and restore the effluent line and manhole at the end of Centeno Lane, Rio Bravo, Texas. The existing infrastructure needs to be stabilized and restored. (and as further identified in the Construction/Plans/Drawings Exhibit "C").
2. **PREMISES DEFINED:** The drainage channel outfall is located immediately north of the city of Rio Bravo at the Rio Grande River and the effluent line is located at the end of Centeno Lane in Rio Bravo, Texas (Exhibit B) and as further depicted on Sheet C3.0 of the Construction Plans.
3. **SCOPE OF WORK:** The proposed scope of this project is to provide repairs to the drainage outfall north of city limits of Rio Bravo, Texas and the Rio Grande River and the effluent line and manhole at the end on Centeno Lane in Rio Bravo, Texas. The scope of work will consist of asphalt pavement construction, excavation, embankment, demolition, site grading, flexible base, subgrade preparation, storm drainage improvements, concrete pavement, and erosion control improvements (and as further identified in the Construction/Plans/Drawings Exhibit "C"). The work includes all appurtenances and all incidentals, including all labor and materials as shown and required by the construction documents, which are hereby incorporated by reference. Contractor agrees that all work shall be performed in a good and workmanlike manner and all materials incorporated into the work shall be new materials.
4. **CONTRACT SUM:** In exchange for Contractor's performance of services under this Agreement, Owner shall pay Contractor the following amount(s): Nine Hundred Sixty-Three Thousand Three Hundred Dollars (**\$963,300.00**). Any and all payments/disbursements by

Rev. 083024

FILED Sept. 17 20 24@1:00 p.m.
MARGIE RAMIREZ IBARRA
COUNTY CLERK, WEBB COUNTY, TEXAS
BY [Signature] DEPUTY

Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project
Webb County, Owner – Gilmar Construction LTD, Contractor

Webb County shall be made payable to contractor based on an numbered and itemized payment application for percentage of completion of the various base bid item(s), less retainage, for the project as agreed to and made by Contractor to Owner, which shall be approved by **the Director of the Webb County Capital Projects Infrastructure Department** after inspecting the progress of completed work and materials on site at the Premises. Said approvals shall not be unduly withheld or delayed.

5. Owner shall make final payment (including the costs and expenses incurred due to change order(s) completed during this project and completion of the Work and then release the **Five percent (5%) retainage** that OWNER previously retained) to Contractor on the day the Project is completed approved and accepted by OWNER. Said approvals shall not be unreasonably withheld or delayed.
6. ***It is hereby expressly acknowledged, consented and agreed to by Contractor that the final payment due for the services rendered pursuant to this Agreement shall not be issued to Contractor until Contractor has submitted a signed and sworn "Final Bills Paid Affidavit" confirming payment to each of its subcontractors, laborers, suppliers, and materialmen in full for all labor and materials furnished to Contractor for or in connection with, renovation of, or repair of improvements on or relating to the subject project/property or any portion thereof, pursuant to and in accordance with Sections 53.085 and 53.259 of the Texas Property Code, and that the intentional, knowing, or reckless making of a false or misleading statement in the Affidavit constitutes a criminal offense under said sections cited herein-above and is a Class A Misdemeanor.***
7. **RETAINAGE:** OWNER shall withhold from each installment payment to CONTRACTOR a retainage of FIVE (5%) percent. The retainage shall be paid to CONTRACTOR upon final completion of the work. Completion of the work shall be considered final upon acceptance and written approval by OWNER or his designated representative of the project.
8. **CHANGE ORDERS:** In the event either party requests a change from the agreed Scope of Work or Quote in this Agreement, a written change order making such a request shall be prepared by Contractor in accordance with the proposed change. If the Owner or a Third-Party Inspector ("Inspector") requests a change be executed, Owner or Inspector shall, in a timely manner, inform Contractor (via email) of the request. Contractor shall then prepare a written change order in accordance with said request and submit to Owner for Owner's approval and signature. As soon as Owner signs the change order approving the proposed change, Owner shall submit, via email, the approved/signed order to Contractor. Contractor shall begin performance in accordance with the change order only after Contractor receives the written and approved/signed change order. If Contractor requests a change order, Contractor shall prepare a written change order, submit it to Owner for its approval and signature, and the resultant change will only begin on the approved change after Contractor receives the signed change order. Change orders may increase the payment the Owner must pay to Contractor. **IN NO EVENT SHALL THE TOTAL COST OF CHANGE ORDERS EXCEED TWENTY-FIVE PERCENT (25%) OF THE TOTAL AMOUNT OF THIS AGREEMENT.**

9. **NOTICES/CONTACT PERSONS:** Any notice or communication required or permitted to be given hereunder shall be sufficient if sent via electronic transmission to the contact persons for CONTRACTOR and/or OWNER as follows:

To Contractor at: Gilmar Construction LTD
Attn: Sergio Alberto Aradillas
9804 Starla Ct.
Laredo, Texas 78045
Phone: (956) 645-7379
E-Mail: gilmar5493@sbcglobal.net

To Webb Engineer at: WEBB COUNTY, TEXAS
Attn: Webb County Engineer
Webb County Engineering Dept.
(956) 523-4054
Email: lperezgarcia@webbcountytexas.gov

10. **DATE OF COMMENCEMENT:** Contractor shall commence construction on the date set forth in the Notice to Proceed which said Notice to Proceed shall not issue before September 16, 2024 unless a prior date is agreed to in writing by Contractor.

11. **SUBSTANTIAL COMPLETION:** Substantial Completion is the stage in the progress of the completion of the work covered by this Agreement where the work on the Premises is sufficiently complete in accordance with the work specified in "Scope of Work" as set forth in 3. **SCOPE OF WORK**, above, including completion of all post-construction clean-up on and about the Premises, which shall be required to be confirmed in writing as being substantially completed, by the execution and issuance of a Certificate of Substantial Completion that is dated and signed by both the Webb County Project Engineer and Owner, so that the Owner (or Owner's tenant) can occupy and/or utilize the Premises for its intended use. Substantial Completion deadline is to be extended as provided in the General Conditions and/or because of things outside the control of Contractor such as: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or similar influenza or bacterial infection (which is defined by the United States Center for Disease Control as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (j) emergency state; and (k) other similar events beyond the reasonable control of the Contractor (the foregoing is referred to as "Force Majeure").

12. **DATE FOR FINAL COMPLETION/LIQUIDATED DAMAGES:** The date of final completion of this construction project shall be **One Hundred Eighty (180) CALENDAR**

DAYS after the date of commencement of construction as set forth in the written and dated Notice to Proceed issued by Owner to Contractor.

13. The time set forth in the proposal for the completion of the Work is an essential element of the Agreement. For each working day under the conditions described in the preceding Paragraph that any work shall remain uncompleted after the expiration of the working days specified in the Agreement, together with any additional working days allowed, the amount per day given in Section 15., below, will be deducted from the money due or to become due the Contractor, not as a penalty but as liquidated damages.
14. Said Contractor further agrees to **CONTINUOUSLY PURSUE AND COMPLETE THE WORK** within **ONE HUNDRED FIFTEEN (115) CALENDAR DAYS** from date of commencement.
15. **Contractor and Owner do hereby acknowledge that "actual damages are uncertain and would be difficult to ascertain" and therefore both parties do hereby mutually agree that the following stipulated sum of per diem liquidated damages is a reasonable amount. The parties further express and acknowledge that the amount of liquidated damages is meant to be "compensatory" and not "punitive", and Contractor further agrees to pay, as liquidated damages, the sum of FOUR HUNDRED DOLLARS (\$400.00) per day for each consecutive calendar day there-in-after the date of Substantial Completion and after the date of Final Completion.**
16. **INSURANCE:** **Contractor and Subcontractor Insurance:** The financial integrity of Contractor is of interest to the Owner, therefore, subject to the right of Contractor to maintain reasonable insurance deductibles in such amounts as are approved by the Owner. Contractor shall obtain and maintain in full force and effect for the entire duration of this agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- (VII) or better by A.M. Best Company (Best's Key Insurance Company Rating Guide, current edition and/or as amended) and/or otherwise acceptable to Webb County/Webb County Risk Manager, the following types and amounts:
 - a. The Contractor shall not commence work under this Agreement until it has obtained all the insurance required and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on its Subcontract until the insurance required of the Subcontractor has been so obtained and approved. The Contractor shall procure and shall maintain during the life of his Contract, insurance in the amounts required.
17. **PAYMENT AND PERFORMANCE BONDS:** *****PLEASE BE ADVISED THAT THIS PROJECT REQUIRES BOTH A PAYMENT & PERFORMANCE BOND FROM THE CONTRACTOR.*****

18. Contractor shall supply the required Performance/Payment bonds to the Webb County Purchasing Director within Seven (7) days of execution of this Agreement or not later than Two (2) working days prior the date of the scheduled pre-construction meeting which shall be the "DEADLINE" for compliance herewith and which both parties have mutually agreed to as an "Express Condition Precedent" to this contract.
- a. Bonds must be issued by companies authorized and admitted to do business in the State of Texas and rated A-:VII or better by A.M. Best Company (Best's Key Rating Guide, current Edition, and as amended) and/or otherwise acceptable to the Owner.
19. NOTICE TO PROCEED SHALL NOT BE ISSUED TO THE CONTRACTOR BY WEBB COUNTY WITHOUT THE DELIVERY OF ALL STATUTORILY REQUIRED PERFORMANCE AND/OR PAYMENT BONDS AND PROOF OF ALL REQUIRED INSURANCE POLICIES TO WEBB COUNTY BY CONTRACTOR NOT LATER THAN TWO (2) WORKING DAYS PRIOR THE DATE OF THE SCHEDULED PRE-CONSTRUCTION MEETING "DEADLINE". FAILURE OF CONTRACTOR TO PROVIDE SAID BONDS AND/OR INSURANCE POLICIES BY THE DEADLINE SHALL CONSTITUTE A DEFAULT OF YOUR CONTRACT AND WEBB COUNTY SHALL AT THEIR SOLE OPTION AWARD THE CONTRACT TO THE NEXT LOWEST BIDDER OR RE-ADVERTISE THIS PROJECT FOR NEW BIDS/PROPOSALS.
20. RELATIONSHIP OF PARTIES: Contractor is engaged under this Agreement as an "INDEPENDENT CONTRACTOR" and not as an agent or employee of Owner. Contractor is not entitled to benefits of any kind to which Owner's employees are entitled, including but not limited to unemployment compensation, workers' compensation, health insurance, or retirement benefits. Contractor assumes full responsibility for payment of all federal, state and local taxes or contributions, including but not limited to, unemployment insurance, social security, Medicare, and income taxes with respect to Contractor and Contractor's employees. This Agreement does not create a partnership or a joint venture between the parties hereto, nor does it authorize either party to serve as the legal representative or agent of the other. Neither party has any right or authority to assume, create, or incur any liability or any obligation of any kind, express or implied, against, or in the name of, or on behalf of the other party.
21. SUCCESSORS AND ASSIGNS: This Agreement may not be assigned or subcontracted, in full or in part, by either party without first obtaining written consent of the other party. The parties shall not be relieved of its full responsibility for completion of work because of subletting of any portion of the work. This Agreement shall be binding upon and shall ensue to the benefit of the parties hereto and their respective successors, transferees, and assigns.
22. INDEMNITY: CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD WEBB COUNTY, IT'S COMMISSIONERS COURT, DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS FROM ANY AND ALL LOSS, EXPENSE, COST, OR LIABILITY (INCLUDING REASONABLE LEGAL FEES AND EXPENSES), DIRECTLY ARISING FROM ANY CLAIM OR CAUSE OF ACTION FOR ANY LOSS

OR DAMAGE CAUSED BY OR ARISING FROM THE PERFORMANCE OF CONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE CONDUCT OF CONTRACTOR'S EMPLOYEES AND/OR ANY ACTS PERFORMED UNDER THIS CONTRACT AND THAT RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. IN CASE OF ANY SUCH CLAIM, CONTRACTOR, UPON NOTICE FROM OWNER, COVENANTS TO DEFEND ANY SUCH ACTION OR PROCEEDING. THE CONTRACTOR SHALL ALSO SAVE AND HOLD HARMLESS THE OWNER FROM AND AGAINST ANY AND ALL EXPENSES, COURT COSTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEY'S FEES THAT MIGHT BE INCURRED IN LITIGATION OR OTHERWISE DEFENDING OR PROSECUTING THE CLAIMS.

23. **COMPLIANCE WITH LAWS:** Contractor agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities, including, but not limited to, those pertaining to safety, and shall obtain all licenses, registrations, or other approvals required in order to fully perform its obligations hereunder. Contractor represents and warrants that all improvements made to the property shall comply with the Americans with Disabilities Act (ADA) and all other applicable Federal/State Codes, regulations, and laws.
24. **SEVERABILITY:** Should any part of this Agreement be rendered or declared invalid by a court of competent jurisdiction of the State of Texas, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.
25. **GOVERNING LAW/VENUE:** This agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas, without regard to choice of law rules of any jurisdiction. The parties hereby further agree that for any litigation regarding this agreement that venue lies exclusively in the State Courts of Webb County, Texas.
26. **DEFAULT AND TERMINATION:** In the event either party interferes with the general progress of this Project intentionally, or by negligence, or intentional or negligent delay, the non-defaulting party may complete the same or cause the same to be completed and charge all sums of money so expended for the completion of this Agreement against the defaulting party, and the defaulting party shall reimburse the non-defaulting Party for any loss sustained thereby.
27. **ATTORNEY'S FEES:** In the event either party breaches any of the terms of this Agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney's fees incurred by such other party.
28. **ENTIRE AGREEMENT:** This Agreement and its Exhibits shall constitute the complete and exclusive written expression of the intentions of the parties hereto and shall supersede all

previous communications, representations, agreements, promises or statements, either oral or written, by and between the parties. Any modifications to this Agreement must be in writing and signed by the party sought to be bound.

29. EXHIBITS: The following documents are attached hereto and fully incorporated herein by reference and made a part of this agreement as if fully set forth herein:

1. Contractor's Bid Proposal together attached hereto as **Exhibit "A"**.
2. Description of Premises **Exhibit "B"**
3. Construction/Plans/Drawings **Exhibit "C"**.
4. Webb County's General Conditions, **Exhibit "D"**.
5. Payment Bond - See sample form: (To be provided by Contractor Prior to Issuance of Notice to Proceed). (See Section 14**), Exhibit "E".
6. Performance Bond – See sample form: (To be provided by Contractor Prior to Issuance of Notice to Proceed). (See Section 14**), Exhibit "F".
7. Insurance Coverages, Liability, Worker's Comp., Builder's Risk, etc. (To be provided by Contractor Prior to Issuance of Notice to Proceed), Exhibit "G".
8. ARPA Supplement: This project is funded with ARPA federal funds which require Contractor to comply with federal law requirements as set forth in this **Exhibit "H"**

30. OMISSIONS: If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any portion of this Agreement shall be omitted here-from, then it is hereby declared that such omission was unintentional and that the omitted element shall be included in order to give meaning, validity, and/or effect to any portion of this Agreement.

31. MATERIALMEN/SUPPLIERS: Contractor within 10 days from the date of the execution of this agreement shall provide an updated and current listing of all Subcontractors and/or Materialmen or Suppliers, and all laborers, used by the Contactor to Webb County and Contractor shall notify the Owner in writing whenever changes occur, and Contractor shall provide the Owner with an updated listing within FIVE (5) working days of upon request for an updated listing. Contractor will immediately notify the Owner in writing of any Subcontractors and/or Materialmen or Suppliers, and all laborers, independent contractors, and/or other such materialmen and/or suppliers services that are discontinued and/or that have been added to their workforce.

32. REQUEST FOR PAYMENT SUBMISSION: All request for payments are to be made payable to Contractor by dated and signed invoice(s). Said invoice and/or request for progress payments shall be submitted in writing to Director, Webb County Capital Projects

Infrastructure Department, or its designated and authorized representative, on behalf of Owner for review and approval of same. Upon review and approval of the request for payment by the **Director of the Webb County Capital Projects Infrastructure Department**, on behalf of Owner, the Webb County Engineer shall then forward the approved request for the payment amount [less Five percent (5%) retainage] to the Webb County Business Office to process the progress payment request. Payment will be mailed to Contractor or made available for pick up at the Webb County Business Office.

- 33. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES:** Contractor agrees to comply at all times with all federal, state, county, and/or City of Laredo building, development codes, city building permits, rules, regulations, ordinances and laws, and Contractor shall not permit the Premises or any part thereof to be used for (a) any offensive, noisy, or dangerous activity that would pose a health or safety risk; (b) the creation or maintenance of a public nuisance, (c) anything which is against public regulations or rules of any public authority at any time applicable to the Premises; or (d) any purpose or any manner which will obstruct, interfere with, or infringe on the rights of other tenants or adjoining properties.
- 34. LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in the Agreement shall for any reason 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 Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 35. AMENDMENT:** No amendment, modification, or alteration of the terms of this Agreement hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and approved by the Webb County Commissioner's Court and duly executed by both of the parties hereto.
- 36. TIME OF ESSENCE:** Time is of the essence of this Agreement and each and every covenant, condition, and provision herein contained.
- 37. ADDITIONAL PROVISIONS:**
- a. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference for all intents and purposes.
 - b. **Inconsistencies.** Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.
 - c. **Entire Agreement.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties

or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.

- d. **No rights created.** This Agreement is not intended and does not create any rights or interest in persons not a party hereto.
- e. **Confidentiality.** Any confidential information provided to or developed by Consultant/Contractor in the performance of this Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual or organization without the prior approval of **WEBB COUNTY**.
- f. **Headings.** The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.
- g. **Waiver.** The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.
- h. **Consequential Damages.** Neither party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, will-full misconduct, negligent act or omission, or other wrongful act of either of them.
- i. **Counterparts.** This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same document.
- j. **Terminology and Definitions.** All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- k. **Rule of Construction.** The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement or any amendments or exhibits hereto.
- l. **Immunity.** Webb County does not waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, offices, employees and agents as a result of

the execution of this Agreement and performance of the functions and obligations described herein.

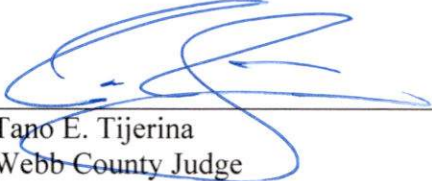
- m. **Submission of Certificate of Interested Parties Form 1295.** In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless 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, or (3) is for services that would require a person to register as a lobbyist under Chapter 305 of the Government Code. The County requires that business entities, as defined in Texas Government Code, Section 2252.908, who meet one or more of the three conditions listed above complete the on-line of Form 1295 "Certificate of Interested Parties" as promulgated by the Texas Ethics Commission (<https://www.ethics.state.tx.us/filinginfo/1295/>). Form 1295 is also required for any and all contract amendments, extensions or renewals. Prior to the issuance of Notice to Proceed or to any payment to Contractor hereunder, Contractor shall provide proof of submission to the County that the appropriate Form 1295 documentation has been submitted. Texas Ethics Commission Form 1295 must be submitted.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

IN WITNESS WHEREOF, the parties aforesaid have duly executed the foregoing instrument, or caused the same to be executed in duplicate originals on the dates set forth below.

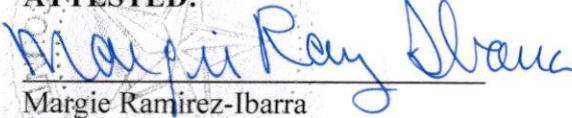
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WEBB COUNTY

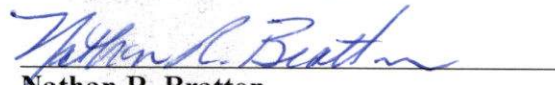

Tano E. Tijerina
Webb County Judge

Date: Sept. 9th 2024

ATTESTED:


Margie Ramirez-Ibarra
Webb County Clerk

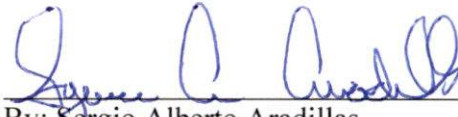
APPROVED AS TO FORM:


Nathan R. Bratton
Webb County Civil Legal Division

*By law, this office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

CONTRACTOR

Gilmar Construction, Ltd
BY: Aradillas & Aradillas, LC
General Partner


By: Sergio Alberto Aradillas,
Member
Aradillas & Aradillas, L.C.

Date: 9-16-24, 2024

Competitive Sealed Proposal (CSP) CSP 2024-007

“ARPA Project No. 20 – Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project”

Due: July 29, 2024 at/or before 4 p.m. (CT)

Webb County is seeking Competitive Sealed Proposals from qualified contractors for the Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project. The proposed scope of this project is to provide repairs to two (2) existing drainage outfalls near the Rio Grande River. The scope of work will consist of asphalt pavement construction, excavation, embankment, demolition, site grading, flexible base, subgrade preparation, storm drainage improvements, concrete pavement, and erosion control improvements. Bids shall be on a unit price basis. The estimated construction budget is \$800,000.00. This document outlines the requirements, selection process, and documentation necessary to submit a formal CSP. See attached plans and detailed specifications for more information on scope of work. This public works project is being solicited to assist Webb County in completing and implementing programs and/or projects funded with its allocation of American Rescue Plan Act (ARPA) funds. The solicitation will comply with the Texas Government Code; §2269.151 Contracts for Facilities: Competitive Sealed Proposals and with the Code of Federal Regulations §200.318 - §200.327 (General Procurement Standards). **NOTE: All interested vendors must be registered in SAM.gov. The registration process will take 30-40minutes. After registering, the time to become active in SAM.gov takes 7-10 days. If submitting a Bid and you are not registered in SAM.gov, please register ASAP so that your active registration can be submitted with your proposal.**

The accompanying CSP with its terms, conditions, attachments and all other forms in this CSP package are due by or before 4 p.m. (Central Time) on, July 29, 2024. CSP received after the due date and time will not be accepted. All CSP meeting the required deadline will be read publicly at the following location in accordance with Federal and State Procurement rules:

Webb County Purchasing Department
1110 Washington St., Ste. 101
Laredo, Texas 78040

This CSP solicitation can be viewed at the following online address. Interested Bidders/individuals may submit their Statement of Qualifications by registering on Webb County's e-Bid site and uploading their file to our "Response Attachments" tab. All new supplier registrations must be completed one workday prior to official due date of submittal. Should anyone need assistance please contact Mr. Juan Guerrero, Contract Administrator at (956) 523-4125.

<https://webbcountyebid.ionwave.net/Login.aspx>

WEBB COUNTY RESERVES THE RIGHT TO REJECT ANY AND ALL BID PROPOSALS, TO WAIVE INFORMALITIES IN THE CSP PROCESS, OR TO TERMINATE THE CSP PROCESS AT ANY TIME, IF DEEMED IN THE BEST INTEREST FOR WEBB COUNTY. IN ADDITION, WEBB COUNTY SHALL NOT, UNDER ANY CIRCUMSTANCES, BE BOUND BY OR BE LIABLE FOR ANY OBLIGATIONS WITH RESPECT TO THIS PUBLIC SOLICITATION UNTIL SUCH TIME (IF AT ALL) A CONSTRUCTION CONTRACT BEEN AWARDED AND ALL APPROVALS OBTAINED IN FORM AND SUBSTANCE SATISFACTORY TO WEBB COUNTY HAVE BEEN EXECUTED AND AUTHORIZED BY THE WEBB COUNTY COMMISSIONERS COURT, AND THEN ONLY TO THE EXTENT OF SUCH FULLY EXECUTED AGREEMENTS.

THIS FORM MUST BE INCLUDED WITH CSP PACKAGE; PLEASE CHECK OFF EACH ITEM INCLUDED WITH CSP PACKAGE AND SIGN BELOW TO COMPLETE SUBMITTAL / CONFIRMATION OF EACH REQUIRED ITEM.

“ARPA Project No. 20 – Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project”

- ☐ Bid Schedule form
- ☐ Statement of Bidder’s Qualifications form
- ☐ List of Proposed Sub-Contractors form
- ☐ Conflict of Interest Form (CIQ)
- ☐ Certification regarding Debarment (Form H2048)
- ☐ Certification regarding Federal lobbying (Form 2049)
- ☐ Webb County Purchasing Code of Ethics Affidavit
- ☐ House Bill 89 Form
- ☐ Senate Bill 252 Form
- ☐ SAMs Registration completed by Bidder **(See Section 1.13)**
- ☐ 5% Bid Bond **(See Section 1.35)**
- ☐ Proof of No Delinquent Tax Owed to Webb County

Seal (if incorporated)

Bidder Name: _____

Address: _____

City, State, Zip Code: _____

Contractor Number: _____

Contact Name: _____

Title: _____

Contact Phone Number: _____

Contact Email: _____

Signature of Authorized Agent of Bidder/Proposer: _____

Date: _____

TABLE OF CONTENTS

1.	Introductions to Bidders	6
1.1	Bidder’s Instructions	6
1.2	Governing Law.....	6
1.3	Ambiguity, Conflict, or other errors in the CSP	6
1.4	Notification of Most Current Address	6
1.5	BID Preparation Cost	7
1.6	Signature of Respondent	7
1.7	Economy of Presentation.....	7
1.8	Bidder Obligation.....	7
1.9	Intentionally Left Blank.....	7
1.10	Governing Terms.....	7
1.11	Implied Requirements.....	7
1.12	Compliance with CSP Specifications.....	7
1.13	Bidder Registration: SAM (System for Award Management)	7
1.14	Awarded Vendor(s): Submission of FORM 1295 (Texas Ethics Commission)	8
1.15	Acceptance of Sealed Hard Copy BID.....	9
1.16	Evaluation.....	9
1.17	Withdrawal of Bid	9
1.18	Small Business Enterprises, Minority Business Enterprises & Women’s Business Enterprises	9
1.19	Award	9
1.20	Ownership of Bid.....	10
1.21	Disqualification of Bidder	10
1.22	Contractual Development	10
1.23	Intentionally Left Blank	10
1.24	Contract Obligation	10
1.25	Termination.....	10
1.26	Inspections	10
1.27	Testing.....	10
1.28	Intentionally Left Blank	11

1.29 Taxes	11
1.30 Non-Discrimination	11
1.31 Intentionally Left Blank	11
1.32 Intentionally Left Blank	11
1.33 Acknowledgment of Insurance Requirements.....	11
1.34 Minimum Insurance Requirements	11
1.35 Bid Bond Requirement	11
1.36 Performance and Payment Bond Requirement.....	11
1.37 Special Accommodations	12
1.38 Webb County Purchasing Code of Ethics Policy.....	12
1.39 Bid Submissions During Time of Inclement Weather, Disaster, or Emergency	12
1.40 Questions	13
1.41 CSP Schedule of Events	13
1.42 Inspection of Site	13
1.43 Alternate Bid Items	13
1.44 Bids.....	13
1.45 Bid Modifications Prior to Bid/Proposal Opening.....	14
1.46 Unit Price.....	14
1.47 Award of Contract/Rejection of Bids	14
1.48 Equal Employment Opportunity	14
1.49 Certification Regarding Lobbying.....	14
1.5 Statement of Bidder's Qualifications.....	14
1.6 Contract Times	15
1.7 Liquidated Damages.....	15
1.8 Substitute and "Or Equal" Items.....	15
1.9 Sales and Use Taxes.....	15
2.0 Bidders Qualification of Subcontractors.....	15
2.1 Bidders Representations.....	15
2.2 Bidders Certification	16
2.3 Basis of Bid	16
2.4 Base Bid.....	17

2.5	Bid Schedule Form	17
2.6	Addendum Confirmation	17
3.0	Appendix II to Part 200.....	19
4.	Conflict of Interest	22
4.1	Confidential/Proprietary Information.....	22
5.	Background & Scope of Work.....	23
6.	Project Location	23
7.	Project Engineer.....	23
8.	No Related Entities	23
9.	CSP Evaluation Criteria and Evaluation Team.....	24

1. Introductions to Bidders

This CSP solicitation is a public invitation to all parties interested in submitting a formal Bid for the scope of services stipulated herein. The word "Bidder" "Proposer" and "Respondent" may be interchanged throughout the document, but have the same meaning as it pertains to this CSP; *An individual, Bidder, corporation or other entity supplying information/responding to a public solicitation.*

The following items are provided as general information and instructions as required by Webb County.

1.1 Bidder's Instructions

Read the document carefully. Follow all instructions. You are responsible for fulfilling all requirements of this CSP. Be sure you have a clear understanding of the CSP.

No oral interpretations will be made to any bidder. Each request for clarification shall be requested during the pre-bid meeting and/or questions may be submitted online via our e-procurement portal by deadlines stipulated under Section 1.41 CSP Schedule of Events -Questions/Answers. Clarifications and/or answers to questions submitted will be posted either by official addendum and/or in response to the Q&A deadlines on our e-procurement portal as per our CSP Schedule. It is, however, the bidder's responsibility to make inquiry as to any addenda issued and/or answers posted in the e-procurement portal. All such addenda shall become part of the contract documents and all bidders shall be bound by such addenda, whether or not received by the bidders.

1.2 Governing Law

Bidder is advised that these requirements shall be fully governed by the laws of the State of Texas and that Webb County may request and rely on advice, decisions, and opinions of the Attorney General of Texas and General Counsel for Webb County concerning any portion of these requirements.

1.3 Ambiguity, Conflict, or other errors in the CSP

If Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in the CSP, Bidder shall immediately notify the Webb County Purchasing Agent of such error in writing and request modification or clarification of the document. Modifications will be made by issuing Addenda. Written notice will be given to all parties who have been furnished with the CSP without divulging the source of the request for the same. If the Bidder fails to notify the Webb County Purchasing Agent prior to the date and time fixed for submission of Bid, an error or ambiguity in the CSP known to Bidder, or an error or ambiguity that reasonably should have been known to Bidder, then Bidder shall not be entitled to compensation or additional time by reason of the error or ambiguity or its later resolution.

The County may also modify the CSP, no later than 48 hours prior to the date and time fixed for submission of proposals, by issuance of an Addendum to all parties who have received the CSP. All addenda will be numbered consecutively, beginning with number one (1).

1.4 Notification of Most Current Address

Bidders in receipt of this CSP shall notify Mr. Juan Guerrero, Contract Administrator, of any address changes, contact person changes, and/or telephone number changes no later than 48 hours prior to the date and time fixed for submission of proposals. All electronic submittals can be retracted and resubmitted for same purpose prior to deadline. For instructions or additional information Mr. Guerrero can be reached at (956) 523-4149 or via email at juaguerrero@webbcountytexas.gov

1.5 BID Preparation Cost

Respondents submitting BID do so entirely at their expense. There is no express or implied obligation by the Webb County to reimburse a Bidder for any costs incurred in preparing or submitting a Bid proposal, providing additional information when requested by the Scoring Committee or Commissioners Court, participating in any selection interviews, site visits, or participating in this procurement, when applicable.

1.6 Signature of Respondent

A transmittal letter, which shall be considered an integral part of the Bid proposal, shall be signed by an individual who is authorized to bind the Bidder contractually. If the Bidder is a corporation, the legal name of the corporation shall be provided together with the signature of the officer or officers authorized to sign on behalf of the corporation. If applicable to Bid package. If the Bidder is a partnership, the true name of the Bidder shall be provided with the signature of the partner or partners authorized to sign. If the Bidder is an individual, that individual shall sign. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a power of attorney or equivalent document must be submitted prior to the deadline of CSP.

1.7 Economy of Presentation

BID shall not contain promotional or display materials, except as they may directly answer in whole or in part questions contained in the CSP. Such exhibits shall be clearly marked with the applicable reference number of the question in the CSP. Bids must address the technical requirements as specified in the CSP. All questions posed by the CSP must be answered concisely and clearly. BIDs that do not address each criterion may be rejected and not considered.

1.8 Bidder Obligation

The contents of the response to CSP and any clarification thereof submitted by the selected Bidder shall become part of the contractual obligation and incorporated by reference into the ensuing contract.

1.9 Intentionally Left Blank

1.10 Governing Terms

In the event of any conflict of interpretation of any part of this overall document, Webb County's interpretation shall govern. To include any Addendum(s) published.

1.11 Implied Requirements

Products and services not specifically mentioned in the CSP, but which are necessary to provide the functional capabilities described by the Bidder, shall be included in the PROPOSAL, if applicable.

1.12 Compliance with CSP Specifications

It is intended that this CSP describe the requirements and the response format in sufficient detail to secure comparable PROPOSAL. Failure to comply with all provisions of the CSP may result in disqualification.

1.13 Bidder Registration: SAM (System for Award Management)

Vendors doing business with Webb County are required to be registered with The System for Award Management (SAM), with an "active" status. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/Fed Reg, ORCA, and EPLS. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>
NOTE: All interested vendors must be registered in SAM.gov. The registration process will take 30-40 minutes. After registering, the time to become active in SAM.gov takes 7-10 days. If submitting a Bid and you are not registered in SAM.gov, please register ASAP so that your active registration can be submitted with your proposal.

1.14 Awarded Vendor(s): Submission of FORM 1295 (Texas Ethics Commission)

In accordance with House Bill 1295 (passed January 1, 2016), Vendors entering into contracts and professional agreements with Webb County will be required to complete a Certificate of Interested Parties (FORM 1295), unless contract is considered exempt as described below.

In 2017, the Texas legislature amended the law to require Form 1295 to include an "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The unsworn declaration, including the date of birth and address of the signatory, replaces the notary requirement that applied to contracts entered into before January 1, 2018. The TEC filing application does not capture the date of birth or street address of the signatory and it will not appear on forms that are filed using the TEC filing application.

Changes to the law requiring certain businesses to file a Form 1295 are in effect for contracts entered into or amended on or after January 1, 2018. The changes exempt businesses from filing a Form 1295 for certain types of contracts and replace the need for a completed Form 1295 to be notarized. Instead, the person filing a 1295 needs to complete an "unsworn declaration."

FORM 1295 Exemptions: What type of contracts are exempt from the Form 1295 filing requirement under the amended law? The amended law adds to the list of types of contracts exempt from the Form 1295 filing requirement. A completed Form 1295 is not required for:

- a. a sponsored research contract of an institution of higher education
- b. an interagency contract of a state agency or an institution of higher education
- c. a contract related to health and human services if: the value of the contract cannot be determined at the time the contract is executed; and or any qualified Bidder is eligible for the contract
- d. a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity
- e. a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code
- f. a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code

Upon entering into a contract or professional agreement, the Civil Legal Department will submit a request to the awarded Bidder to both:

1. Submit a FORM 1295 online via the Texas Ethics Commission website link below.

Vendors must enter the required information on Form 1295, and print a copy of the completed form. The form will include a certification of filing that will contain a unique certification number.

2. Submit a FORM 1295 hard copy (completed & signed by an Authorized Agent of the Awarded Bidder), to the Civil Legal Department.

FORM 1295, Completion Instructions, and Login Instructions are available via the Texas Ethics Commission Website at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

1.15 Acceptance of Sealed Hard Copy BID

Webb County will accept hard copy Competitive Sealed Bid Proposals, Bidders must provide one original and four (4) copies in a sealed envelope. Sealed envelope must contain the name and number of CSP on the top right corner of envelope and be delivered sealed to the following address prior to deadline (See CSP Schedule – Section 1.41)

Webb County Purchasing Agent's Office
1110 Washington Street, Suite 101
Laredo, Texas 78045
Attn: Juan Guerrero, Contract Administrator

BIDs received after the published deadline to submit will not be accepted and will be returned to Bidder unopened. **Webb County encourages all interested parties to register on our e-bid portal <https://webbcountybid.ionwave.net/Login.aspx> Click on "Supplier Registration" and submit your BID online.** For assistance on supplier registration please contact Mr. Juan Guerrero, Contract Administrator with the Purchasing Department at (956) 523-4125 or email at juaguerrero@webbcountytx.gov

1.16 Evaluation

Webb County reserves the right to use all pertinent information (also learned from sources other than disclosed in the CSP process) that might affect the County's judgment as to the appropriateness of an award to the best evaluated Bidder. This information may be appended to the BID evaluation process results. Information on a service provider from reliable sources, and not within the service provider's Bid proposal, may also be noted and made part of the evaluation file. Webb County shall have sole responsibility for determining a reliable source. If applicable.

1.17 Withdrawal of Bid

For hard copy submittals, the Bidder may withdraw its BID by submitting a written request over the signature of an authorized individual to the Purchasing Agent any time prior to the submission deadline. The Bidder may thereafter submit a new hard bid prior to the deadline in accordance with **Section 1.15 (Acceptance of Sealed Hard Copy Bid)**.

If Bidder submitted BID electronically (<https://webbcountybid.ionwave.net/Login.aspx>) Bidder may retract and resubmit BID prior to deadline without notification to the Purchasing Agent. **Modification or withdrawal of the Bid in any manner, oral or written, will not be considered if submitted after the deadline.**

1.18 Small Business Enterprises, Minority Business Enterprises & Women's Business Enterprises

Webb County encourages all Small Business Enterprises (SBE), Minority Business Enterprises (MBE), and Women's Business Enterprises (WBEs) to participate in this solicitation. Webb County will email the corresponding information to further promote participation of all SBEs, MBEs, and WBEs to the following email address MWBE@texasagriculture.gov

1.19 Award

Webb County may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for competitive sealed proposals for the contract in a manner prescribed by law, receives competitive proposals, and awards the CSP to the highest-ranking bidder by official action taken by the Webb County Commissioners Court.

1.20 Ownership of Bid

All BIDs/Proposals become the property of Webb County and will not be returned to Respondents.

1.21 Disqualification of Bidder

Upon submission of Bid proposals, a Bidder offering to sell supplies, materials, services, or equipment to Webb County certifies that the Bidder has not violated the antitrust laws of this state codified in Section 15.01, et seq, Business & Commerce Code, or the Federal Antitrust Laws, and has not communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. Any or all BID/PROPOSALS may be rejected if the County believes that collusion exists among the Bidders/Respondents.

1.22 Contractual Development

The contents of the CSP and the selected proposal will become an integral part of the contract, but may be modified by provisions of the contract as negotiated and in accordance with any and all applicable Local, State, and Federal regulations/provisions. Therefore, the Bidder must be amenable to inclusion in a contract of any information provided (in writing) either in response to this CSP or subsequently during the selection and negotiation process, if any.

1.23 Intentionally Left Blank

1.24 Contract Obligation

Webb County Commissioners' Court must award the contract, and the County Judge or other County Official authorized by Webb County Commissioners Court must sign the contract before it becomes binding on Webb County or the Bidder. **Elected Officials and Department heads are not authorized to sign contracts/agreements for Webb County for the exception of General Counsel with final approval and signature by the Webb County Judge.** Binding agreements shall remain in effect until all products and/or services covered by an executed agreement/contract have been satisfactorily delivered and accepted by Webb County.

1.25 Termination

Webb County reserves the right to terminate the agreement/contract for default if the awarded Bidder breached any of the terms stipulated on final executed agreement / contract between awarded Bidder and County, including warranties of Bidder, or if the Bidder becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies Webb County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all other requirements to Webb County's satisfaction, and/or to meet all other obligations and requirements. Contracts may be terminated without cause in accordance with final contract/agreement termination provisions with a written notice to either party unless otherwise specified.

1.26 Inspections

Webb County reserves the right to inspect any item(s) or service location(s) for compliance with specifications and requirements and needs of the using department. If a BID cannot furnish a sample of a proposed item for review, or fails to satisfactorily show an ability to perform, the County can reject the Bidder as inadequate.

1.27 Testing

Webb County reserves the right to test equipment, supplies, material and goods proposed for quality, compliance with specifications, and ability to meet the needs of the user. Demonstration units must be available for review. Should the goods or services fail to meet requirements and/or be unavailable for evaluation, the offer is subject to rejection, if applicable.

1.28 Intentionally Left Blank

1.29 Taxes

The Bidder and its sub-Bidders, agents and employees, as the case may be, will be responsible for the payment of all federal, state and local taxes, and deposits or contributions imposed or required by Local, State or Federal law.

1.30 Non-Discrimination

The successful Bidder will be required to comply with the Americans with Disabilities Act and with all provisions of federal, state, county and local laws and regulations to ensure that no employee or applicant for employment is discriminated against because of race, color, religion, sex, age, handicap or national origin.

1.31 Intentionally Left Blank

1.32 Intentionally Left Blank

1.33 Acknowledgment of Insurance Requirements

By signing its PROPOSAL, Bidder acknowledges that it has read and understands the insurance requirements for this Bid as stipulated under Section 1.34 (Insurance). Bidder also understands that evidence of required insurance must be submitted within five (5) working days following notification of award of its Bid offer; otherwise, Webb County may rescind its acceptance of the Bidder's PROPOSAL. Proof of required minimum insurance will need to be submitted directly to the Webb County Civil Legal Department.

1.34 Minimum Insurance Requirements

TBD via addendum.

1.35 Bid Bond Requirement

Bidders must submit with their bid proposal a bid security for five (5%) percent of total bid amount and must be executed with a surety company authorized to do business in the State of Texas. Bid security is required in accordance with the Texas Local Government Code; Section 262.032 (Bid or Performance Bond; Payment under Contract). All Bids formally received by the Purchasing Agent in accordance with the schedule attached herein are irrevocable and cannot be withdrawn for ninety (90) calendar days following the date scheduled for the opening of the Bid(s).

1.36 Performance and Payment Bond Requirement

*****PLEASE BE ADVISED THAT THIS PROJECT MAY REQUIRE BOTH A PAYMENT AND/OR A PERFORMANCE BOND FROM THE CONTRACTOR***** A Performance Bond is required for construction contracts exceeding \$100,000.00 and a Payment Bond is required if a construction contract is in excess of \$25,000 in statutory compliance with applicable provisions of the Texas Government Code; Chapter 2253, Sub-Chapter B General Requirements) and/or in compliance with the Texas Local Government Code; Section 262.032 (Bid or Performance Bond; Payment under Contract). The awarded Contractor shall supply the required Performance/Payment bonds to the Webb County Civil Legal Department within Seven (7) days of execution of the Construction Contract or not later than two (2) working days prior the date of the scheduled pre-construction meeting which shall be the "DEADLINE" for compliance and which both parties have mutually agreed to as an "Express Condition Precedent" to Webb County's contractual terms and conditions. Bonds must be issued by companies authorized and admitted to do business in the State of Texas and rated A-: VII or better by A.M. Best Company (Best's Key Rating Guide, current Edition, and as amended) and/or otherwise acceptable to the Owner.

****THE NOTICE TO PROCEED SHALL NOT BE ISSUED TO THE CONTRACTOR BY WEBB COUNTY WITHOUT THE DELIVERY OF ALL STATUTORILY REQUIRED PERFORMANCE AND/OR PAYMENT BONDS AND/OR PROOF OF ALL REQUIRED INSURANCE POLICIES TO WEBB COUNTY BY CONTRACTOR NOT LATER THAN TWO (2) WORKING DAYS PRIOR THE DATE OF THE SCHEDULED PRE-CONSTRUCTION MEETING "DEADLINE". IF THE CONTRACTOR FAILS TO PROVIDE SAID BONDS OR INSURANCE POLICIES BY THE DEADLINE SHALL CONSTITUTE A DEFAULT OF YOUR CONTRACT AND WEBB COUNTY SHALL AT THEIR SOLE OPTION AWARD THE CONTRACT TO THE NEXT LOWEST BIDDER OR RE-ADVERTISE THIS PROJECT FOR NEW BIDS/PROPOSALS****

1.37 Special Accommodations

To request special accommodations pursuant to the Americans with Disabilities Act (ADA), please notify the contact shown below, a minimum of 48 hours prior to a scheduled meeting. Mr. Juan Guerrero, Contract Administrator at (956) 523-4149 or email at juguerrero@webbcountytx.gov

1.38 Webb County Purchasing Code of Ethics Policy

The County of Webb will ensure that it will promote and enforce proper ethical conduct by all Vendors, Procurement Officials, Elected Officials and County employees directly or indirectly involved in the procurement process. All vendors wishing to participate in any solicitation **must sign and notarize the affidavit form included as part of this solicitation package** and upload with your electronic submission or included with your hard copy sealed submission. Failure to submit form will disqualify your bid package from being considered.

The Ethics Policy can be viewed at the Webb County Purchasing Agents website listed below for vendors to read prior to signing and submitting the affidavit form.

<http://www.webbcountytx.gov/PurchasingAgent/PurchasingEthicsPolicy.pdf>

The Webb County Purchasing Board approved the Code of Ethics policy on April 19, 2018 and adopted by the Webb County Commissioners Court on May 14, 2018.

When responding to an Active Solicitation, Vendors shall be required to disclose donations and campaign contributions by the Vendor or any individual or entity acting on the Vendor's behalf to the Purchasing Agent or his designee made within six (6) months prior to the date of the Active Solicitation. **Failure by a Vendor to accurately disclose such contributions may result in the Vendor's disqualification, debarment, or contract voidance as per Section 18 of the Ethics Policy.**

1.39 Bid Submissions During Time of Inclement Weather, Disaster, or Emergency

In case of inclement weather or any other unforeseen event causing the County to close for business on the date of a bid/proposal/request for statement of qualifications submission deadline, the bid/proposal/request closing will automatically be postponed until the next business day that County offices are open to the public. Should inclement weather conditions or any other unforeseen event cause delays in courier service operations, the County may issue an addendum to all known vendors interested in the project to extend the deadline. It will be the responsibility of the Bidder to notify the County of their interest in the project should these conditions impact their ability to submit a bid/proposal/statement of qualifications submission before the stated deadline. The Webb County Purchasing Agent reserves the right to make the final judgement call to extend any deadline. Should an emergency or unanticipated event interrupt normal County processes, and bid/proposal/statement of qualifications submissions cannot be received by the Webb County Purchasing Department's office by the exact time specified in the CSP and urgent County requirements preclude amendment to the CSP, the time specified for receipt of Bidwill be deemed to be extended to the same time of day specified in the solicitation on the first business day on which normal County processes resume.

1.40 Questions

Questions may be submitted by Respondents by signing in to our e-bid portal and using the "Questions" tab for submission by published deadline. All questions requiring an official response will be posted on e-bids for all interested parties to read in accordance with deadlines published under Section 1.41 (CSP Schedule of Events).

1.41 CSP Schedule of Events

Activity	Time	Date	Responsible Party
Public Notice/Newspaper	n/a	July 9 th , July 16 th	County Purchasing Office
Posted CSP on Website	n/a	July 5 th - Until awarded	County Purchasing Office
Pre-Bid Meeting	10 am	July 16 th	County Purchasing Office
Questions Due to County	No later than 5pm	July 16 th	Respondent
Posting of Answers	No later than 5pm	July 17 th	County Purchasing Office
CSP Due	4 pm (CT)	July 29 th	Respondent
Award of Contract	TBD	TBD	Governing Body
Finalization of Contract	TBD	TBD	Governing Body

Footnote: County reserves the right to adjust time and dates on above projected schedule if it is in the best interest for Webb County. Addendum will be issued to inform the Public and all interested parties.

A Pre-Bid meeting will be held on July 16, 2024 at 10 am (CT) at the Webb County Purchasing Department located on 1110 Washington St., Ste. 101, Laredo, TX 78040.

1.42 Inspection of Site

Each bidder should visit the site of the proposed work and should become acquainted with the existing conditions and facilities, the difficulties and restrictions pertaining to the performance of the proposed scope of work. The bidder should thoroughly examine and become familiar with the drawings, technical specifications and all other bid/contract documents. The contractor by the execution of the contract shall in no way be relieved of any obligation under it; due to failure to receive or examine any form or legal document or to visit the site or the conditions existing at the site.

1.43 Alternate Bid Items

No alternate bids or bid items will be considered unless they are specifically requested by the technical specifications and/or as listed on bid proposal form or through a formal addendum.

1.44 Bids

a. All bids must be submitted on the forms provided and are subject to all requirements of the bid Documents, including the Drawings.

b. All bids must be regular in every respect and no interlineation, excisions or special conditions may be made or included by the bidder.

c. Bid documents, including but not limited to the bid, the bid bond(s), the contractor's certifications, local opportunity plan, and the statement of the bidder's qualifications, shall be sealed in an envelope and clearly labeled with the project name and project number if submitting a sealed hard bid **(See section 1.15 for further instructions).**

d. The County may consider as irregular any bid on which there is an alteration of or departure from the bid form and, at its option, may reject any irregular bid.

e. If a bid proposal is awarded, it will be awarded to a responsible bidder on the basis of the published weighted criteria which includes but not limited to base price and the selected alternate bid items, if any by official Commissioners Court action. The construction contract will require the completion of the work in accordance with the contract documents.

1.45 Bid Modifications Prior to Bid/Proposal Opening

Any bidder may modify its bid by submitting a modification or supplemental bid at any time prior to the scheduled closing time for receipt of bids, provided such modification or supplemental bid is received by County prior to the closing time. **For further instructions, please refer to Section 1.17 (Withdrawal of Bid).**

1.46 Unit Price

The unit price for each of the several items in the bid shall include its pro rata share of overhead so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price bid represents the total bid. Any bid not conforming to this requirement may be rejected as informal. Special attention is drawn to this condition, as the unit prices will be used to determine the amount of any change orders resulting from an increase or decrease in quantities.

1.47 Award of Contract/Rejection of Bids

a. The contract will be awarded to the responsive, responsible Bidder submitting the best value proposal based on the weighted criteria published herein. The bidder selected will be notified at the earliest possible date. County reserves the right to reject any or all bids/proposals and to waive any informality in bids received where such rejection or waiver is in its interest.

b. The County reserves the right to consider as unqualified to do the work any bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the improvements embraced in this contract.

1.48 Equal Employment Opportunity

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

1.49 Certification Regarding Lobbying

Contractors who apply or bid for an award of \$100,000 or more shall provide the required certification that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer of employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a Federal contract, grant or any other award covered by 31 USC § 1352.

1.5 Statement of Bidder's Qualifications

To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit written evidence establishing its qualifications such as financial data, previous experience, and present commitments, as detailed in the Qualifications Statement form, which must be completed in ink and returned for evaluation with the Bid, along with any Owner required documentation. The criteria which will be used to determine the lowest responsive and responsible Bidder are as follows:

- A. Responsive Bidder: Means a Bidder who has submitted a Bid which conforms in all material respects to the Bidding Documents.

B. **Responsible Bidder:** Means a Bidder who has the capacity and capability in all respects to perform fully the contract requirements and who has the integrity and reliability to assure good faith performance. Among factors to be considered in determining whether the Bidder meets these standards, are:

1. Financial, material, equipment, facility, and personnel resources and expertise necessary to meet contractual requirements;
2. A record of integrity;
3. A record of Successful Completion defined as: completion of a project within a reasonable time and budget;
4. Qualified legally to contract with the Owner, and;
5. Has not failed to supply any necessary information in connection with the inquiry concerning responsibility.

A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract. No requirement in this section to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications. Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

1.6 Contract Times

The number of days within which, or the dates by which, milestones are to be achieved and the Work is to be substantially completed, will be included in construction contract with selected proposer.

1.7 Liquidated Damages

Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, will be included in construction contract with selected proposer.

1.8 Substitute and "Or Equal" Items

The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Owner authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Owner until after the Effective Date of the Contract.

All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or equal" or substitution requests are made at Bidder's sole risk.

1.9 Sales and Use Taxes

The project 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 Bid.

2.0 Bidders Qualification of Subcontractors

Bidder acknowledges to provide within five (5) days after bid opening (if requested by County); qualifications of sub-contractors listed as part of the formal proposal submitted.

2.1 Bidders Representations

In submitting this Bid, Bidder represents that: A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the all Addenda posted by the Webb County Purchasing Agent. ***See Bid Schedule Form for acknowledgement /signature of Bidder.***

2.2 Bidders Certification

Bidder certifies that:

- a) This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- b) Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- c) Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- d) Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Section:
 - "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - "Collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

2.3 Basis of Bid

Contingency Allowances:

- A. Bidder agrees that the following contingency efforts, products (materials and equipment) as further described on Bid Schedule form (Item 22) will be furnished and paid for on a cash allowance basis and that the amount shown is an estimated amount to be included in the Total Base Bid. Bidder further acknowledges that final payment will be based on actual costs as determined in conformance with the Bidding Documents and as authorized by Change Order. Bidder agrees that the following allowance is for the sole use of the Owner to cover unanticipated costs related to Utility Adjustments and Relocations as per plans.
- B. Bidder acknowledges that, at the sole discretion of the Owner, the Allowance, or the portion of unused allowance, may be removed from the Contract prior to authorization of the construction contract and/or throughout the construction period.
- C. Bidder acknowledges that, at the sole discretion of the Owner, the Allowance, or the portion of unused allowances, may be converted to alternative Contingency Allowance categories. Any portion of the Allowance, prior to use must be approved by the Owner through formal action by Webb County Commissioners Court.

Utility Adjustments and Relocation Allowance

Item no	Description	Allowance
22	Utility Adjustments and Relocation Allowance	\$25,000
Lump Sum for Allowance		\$25,000

2.4 Base Bid

- A. Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.
- B. Base bid items are detailed in Bid Schedule Form.

2.5 Bid Schedule Form

Bidders must use the attached Bid Schedule Form to submit all bid pricing listed under items 1 – 21, total calculated bid submitted will include allowance under item 22.

2.6 Addendum Confirmation

Bidders must initial and date each addendum posted by Owner. Submit acknowledgement with sealed proposal.

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

BIDDER: *[Indicate correct name of bidding entity]*

By:
[Signature]

[Printed name]

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:
[Signature]

[Printed name]

Title:

Submittal Date:

Address for giving notices:

Telephone Number:

Fax Number:

Contact Name and e-mail address:

3.0 Appendix II to Part 200

Contract Provisions for Non-Federal Entity Contracts under Federal Awards

The Following Federal provisions are applicable to this solicitation; Therefore, the Bidder/Bidder awarded a contract from this solicitation will be subject to compliance with the provisions under the Code of Federal Regulation Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, to include and not limited to the General Procurement Standards under §200.317 - §200.327. In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers

must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business Bidder or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Bidders Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) § 200.323 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a

satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) § 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Bidder or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Bidder, or Dahua Technology Bidder (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

(l) § 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

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

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

4. Conflict of Interest

Each Bidder must disclose any existing or potential conflict of interest relative to the performance of the requirements of this CSP. Examples of potential conflicts may include an existing business or personal relationship between the Bidder, its principal, or any affiliate or sub-Bidder, with the County or any other entity or person involved in any way in the project that is the subject of this CSP. Similarly, any personal or business relationship between the Bidder, the principals, or any affiliate or sub-Bidder, with any employee of the County or its suppliers must be disclosed. Any such relationship that might be perceived or represented as a conflict must be disclosed. Failure to disclose any such relationship or reveal personal relationships with state employees may be cause for contract termination. The County will decide if an actual or perceived conflict should result in Bid disqualification.

Each Bidder must reveal any past or existing relationship between the Bidder, its principal, employees, or any affiliate or sub-Bidder, with any county agency, entity, county employee, or other person in anyway involved in the county's procurement and/or contracting processes. It shall be the sole prerogative of the County to determine if such relationship constitutes a conflict of interest. By submitting a Bid in response to this CSP, all Bidders affirm that they have not given, nor intend to give, at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement and more specifically to any member of the Webb County Governing Body. The contract or contracts in this solicitation are subject to Texas Govt. Code Sec. 2261.252(b), which prohibits the Webb County from entering into contracts with certain private vendors in which certain Webb County officers and employees have a financial interest. Each respondent shall include in its BID a statement that it is not prohibited from entering into a contract with Webb County as a result of a financial interest as defined under Texas Govt. Code Sec. 2261.252(b).

4.1 Confidential/Proprietary Information

If any material in the Bid submission is considered by Bidder to be confidential or proprietary information (including manufacturing and/or design processes exclusive to the Bidder), Bidder must clearly mark the applicable pages of Bidder's Bid submission to indicate each claim of confidentiality. Additionally, Bidder must include a statement on Bidder letterhead identifying all Bid section(s) and page(s) that have been marked as confidential. Webb County will protect from public disclosure such portions of a proposal, unless directed otherwise by legal authority, including existing open records acts. Merely making a blanket claim that the entire Bid submission is protected from disclosure because it contains some proprietary information is not acceptable, and will make the entire Bid submission subject to release under the Texas Public Information Act. By submitting a PROPOSAL, Bidder agrees to reproduction by Webb County, without cost or liability, of any copyrighted portions of Bidder's Bid submission or other information submitted by Bidder.

5. Background & Scope of Work

Background - Webb County has designated funds to procure for professional engineering services to provide planning, engineering, surveying, construction contract procurement assistance and construction administration services for the Rio Bravo North Ditch Repair project. Following complete of design and the issuance of sign and sealed construction documents, Webb County will procure for proposals from qualified contractors to construct this new water service line up to completion and closeout of the project.

The scope of work for this project is an overall restoration of Webb County's north Rio Bravo drainage channel outfall and to stabilize and restore the effluent line and manhole at the end of Centeno Lane, Rio Bravo, Texas. The existing infrastructure needs to be stabilized and restored.

Scope of work –

Webb County is seeking Competitive Sealed Proposals from qualified firms for the Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project. The proposed scope of this project is to provide repairs to two existing drainage outfalls near the Rio Grande River. The scope of work will consist of asphalt pavement construction, excavation, embankment, demolition, site grading, flexible base, subgrade preparation, storm drainage improvements, concrete pavement, and erosion control improvements. Bids shall be on a unit price basis. The estimated construction budget is \$800,000.00. This document outlines the requirements, selection process, and documentation necessary to submit a formal CSP. **See attached plans and detailed specifications for more information on scope of work.**

6. Project Location

The proposed site will be at the end of Centeno Lane, Rio Bravo, Texas.

7. Project Engineer

The County has selected Top Site Civil Group, LLC., as the Project Engineer for this ARPA funded project. Top Site Civil Group, LLC. will be providing design, preparation of construction documents, & construction administration from inception to completion of this project: Mr. Jorge A. Martinez, PE, RPLS – is the Principal Civil Engineer for Top Site Civil Group, LLC.

8. No Related Entities

The Project Engineer, or any entity related to the Project Engineer, may not serve, alone or in combination with another person as the General Contractor awarded this CSP. An entity is related to the Project Engineer if the entity is a sole proprietorship, corporation, partnership, limited liability company or other entity that is a subsidiary, parent corporation or partner or any other relationship in which the Project Engineer is subject to common ownership or control, or is party to an agreement by which it will receive any proceeds of the General Contractor payment(s) from the County.

BY SUBMITTING A BID PROPOSAL TO THIS CSP, THE PROPOSER/BIDDER WILL BE WARRANTING TO THE OWNER THAT IT IS NOT AN ENTITY RELATED TO THE PROJECT ENGINEER NAMED ABOVE.

9. CSP Evaluation Criteria and Evaluation Team

Criteria	Explanation of Criteria	Weight (points)
Bid Pricing (Article 5 – Basis of Bid)	The County will consider the total contract bid cost as part of its evaluation. The County shall have the right to negotiate pricing on any item within the proposed pricing schedule with the highest-ranking proposer. The proposer submitting the lowest proposal pricing shall receive the highest number of points in this category, the proposer submitting the highest proposed pricing shall receive the lowest number of points in this category. <u>***See methodology on point system for price scoring below***</u>	50
Firm Experience & Reputation	The County will consider the proposer's specific experience and reputation as a general contractor in constructing projects of the same or similar type, size, nature, and class as the project being proposed. More specifically experience with construction of public safety facility projects.	20
Personnel Experience & Reputation	The County will consider qualifications, experience, and reputation of key personnel (i.e., Project Manager, Construction Superintendent) in constructing /renovating projects of similar or same size, type, nature, and class as the project being proposed. More specifically experience with construction of public safety facility projects.	10
Sub-Contractor Experience & Reputation	The County will consider the proposer's key sub-contractors specific experience & reputation in constructing projects of the same or similar type, size, nature and class as the project being proposed.	5
Proposed timeline and Approach	The County will consider the proposer's project timeline including major milestones and the ability to complete projects on time.	10
References	List at minimum five (5) prior clients where your firm has provided same or similar services as described by the scope of work within this solicitation for public entities. Provide Name of Client, address, Client's direct contact name and title, his/her email address and phone number including final project budget. This contact person must have direct knowledge of your firm's services / performance. Indicate if project is completed or ongoing.	5

*****Lowest price bidder will receive a score of 50 points. All other qualified bidders will be scored and allocated points for price using the following calculation:**

✓ **Lowest bid price / higher bid * 50% = total points scored*****

The following Webb County employees are involved in the evaluation process for this procurement:

- 1) Leroy Medford, Executive Administrator to Commissioners Court
- 2) Lalo Uribe, Chief Executive Administrator to the County Judge
- 3) Jacob Carlos Flores, Capital Projects Infrastructure Director
- 4) Jose Luis Neira, Road and Bridge Superintendent
- 5) Tomas Sanchez, Utilities Director

Note: Do not contact these individuals about this solicitation during the restricted contact period. [Please refer to our Purchasing Ethics Policy Section 6 \(Restricted Contact Period\)](#).

Restricted Contact Period. The Restricted Contact Period for any solicitation shall be in effect during the time the solicitation is considered an Active Solicitation under this Code of Ethics (regardless of when a Vendor submits a proposal or bid for the solicitation). All Vendor communications including, but not limited to, questions, comments, requests for clarification, and general information requests, during the Restricted Contact Period, regarding any Active Solicitation, must be directed solely to the Contact Person and the Contact Person's Designated Representatives (as defined by the Contact Person on a question-by-question basis). The Contact Person for any specific solicitation can be identified by visiting <https://webbcountyebid.ionwave.net/login.aspx> or by calling the Purchasing Department at (956) 523-4125.

VIOLATIONS. Any communication by Vendors with any Procurement Professionals, Elected Officials, or any of their respective staff members, agents, or representatives (excluding the Contact Person and Designated Representatives), regarding an Active Solicitation, will be considered a violation of the Restricted Contact Period unless the Vendor receives express written permission from the Purchasing Agent or his designee.

The Evaluation Committee may elect to require an oral presentation from each qualified respondent of the information contained in their proposal. Any invitation for an oral presentation will be solely for the purpose of clarifying information received from each respondent.

Upon completion of evaluation committee's review and any oral presentations requested, the evaluation committee will convene one or more times to discuss the proposals officially submitted for this CSP as a group. Each evaluation committee member will individually score each proposal independently utilizing the electronic scoring system. The Webb County Purchasing Agent will collect all electronic scores and tabulate scores of all evaluation committee members according to the published weighted criteria of this CSP. The Purchasing Agent will then submit an agenda item to Commissioners Court for consideration to award CSP based on the respondent with the highest-ranking score.

Upon the award of successful respondent, the Court shall authorize the Civil Legal Department and/or other designees to proceed with contract negotiations and attempt to finalize a written contract with the awarded respondent. Commissioners Court or their designee and Project Engineer may discuss with the selected respondent options for a scope or time modification and any price change associated with the modification.

If a contract cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest-ranking respondent may commence. This process may continue until a contract is signed or the County may, in its sole judgment and at any time upon failure of negotiations, choose to reissue or withdraw the CSP rather than continue with negotiations with any ranking & qualifying respondent(s).



You have 2 new alerts
[Show / Hide Alerts](#)



[Update Entity](#)

Review Current Registration Information

YOUR ENTITY

GILMAR CONSTRUCTION, LIMITED

Doing Business As: (blank)

Unique Entity ID R8XHPHJ46KW4	PURPOSE OF REGISTRATION (blank)	Physical Address 9804 STARLA CT LAREDO, TX 78045-8050 USA
CAGE Code (blank)	Registration Expiration (blank)	

- ☐ This is my entity's correct legal business name and address and I can provide documented proof.
- ☐ This is **not** my entity's correct information and I can provide documented proof of our correct legal business name and address.

Exhibit A
Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project
Webb County, Owner – Gilmar Construction LTD, Contractor
Page 26 of 63

AIA Document 310 - 2010 Bid Bond

CONTRACTOR (Name, legal status and address):

Gilmar Construction, Ltd.
9804 Starla Ct.
Laredo, TX 78045

SURETY (Name, legal status and principal place of business):

SureTec Insurance Company
2103 CityWest Boulevard, Suite 1300
Houston, TX 77042

OWNER (Name, legal status and address):

Webb County Purchasing Department
1110 Washington, Suite 101
Laredo, TX 78040

Bond Amount: Five Percent of the Greatest Amount Bid (5% GAB)

PROJECT: (Name, location or address, and Project number, if any):

ARPA Project No. 20 – Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project

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 in to 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 ninety (90) 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 ninety (90) 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 by the 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 here from 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 29th day of July, 2024

(Witness)

(Seal)

Troy Key
(Witness)

(Seal)

Gilmar Construction, Ltd.

(Principal)

Stephen A. Anderson

(Seal)

(Name & Title):

SureTec Insurance Company

(Surety)

Sandra Lee Roney

(Name & Title): Sandra Lee Roney, Attorney-in-Fact

Language conforms to AIA Document A310 Bid Bond
B1D70001ZZ03111

Exhibit A

Construction Contract

Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project

Webb County, Owner – Gilmar Construction LTD, Contractor

Page 27 of 63

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Debra Lee Moon, Sandra Lee Roney, Andrea Rose Crawford, Troy Russell Key, John R. Ward, Monica Ruby Veazey, Thomas Douglas Moore, Emily Allison Mikeska, Allyson W Dean, Colin E. Conly, Bryan Kelly Moore, Betty J. Reeh, Michael Donald Hendrickson, Andrew Gareth Addison, Elizabeth Ortiz, Patrick Thomas Coyle, Ana Owens, Faith Ann Hilty

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

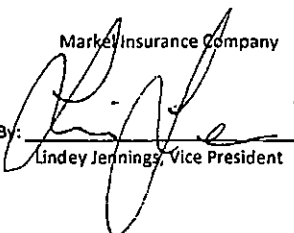
IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 10th day of January, 2024.

SureTec Insurance Company

By: 
Michael C. Keimig, President



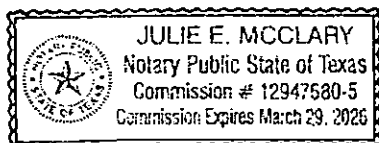
Markel Insurance Company

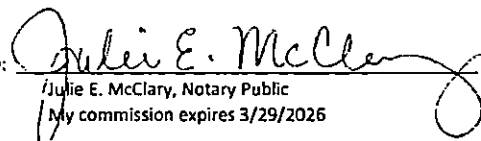
By: 
Lindey Jennings, Vice President

State of Texas
County of Harris:

On this 10th day of January, 2024 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.

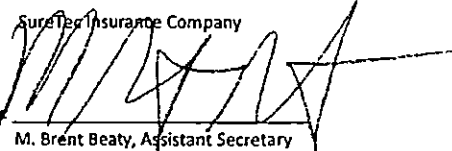


By: 
Julie E. McClary, Notary Public
My commission expires 3/29/2026

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 29th day of July, 2024.

SureTec Insurance Company

By: 
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

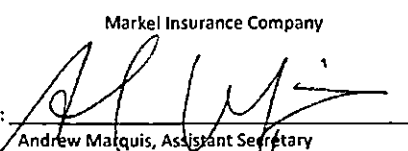
By: 
Andrew Marquis, Assistant Secretary

Exhibit A

Any Instrument issued in excess of the penalty stated above is totally void and voidable at the option of the obligee. For verification of the authority of this Power you may call (713) 812-0800 on any business day between 8:30 AM and 5:00 PM CST.

SureTec Insurance Company

IMPORTANT NOTICE

Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9500 Arboretum Blvd., Suite
400
Austin, TX 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-
9104
Fax#: 512-490-1007
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

NOTIFICATION OF ADDENDUM

ADDENDUM #1

July 23, 2024

Project: Webb County Rio Bravo Drainage Outfall Rehabilitation and Maintenance Improvement Project

Owner: Webb County, Texas

Prepared By: Top Site Civil Group, LLC
6262 McPherson Road Suite 206
Laredo, Texas 78041

To All Bidders:

Attached is **Addendum #2** for the above referenced project in Webb County, Texas.

This addendum shall be considered part of the Contract Documents as though it had been issued at the same time and shall be incorporated integrally therewith. Where provisions of the following data differ from those of the original Contract Documents, this Addendum shall govern and take precedence. You are required to acknowledge receipt of this addendum by completing required forms in the project specifications. Failure to acknowledge receipt of this addendum may result in your bid not being accepted.

Remove and Replace the following documents:

1. Specifications: Schedule of Values 'Bid Schedule' form – Revised Schedule of Values

End of Addendum #2



7.23.2024

**Webb County - Rio Bravo Drainage Outfall Rehabilitation and
Maintenance Improvement Project
BID SCHEDULE – Addendum 2**

PAGE 1 OF 5

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1.	1 LS	Mobilization including bonds, travel, mileage, rental equipment, per diem, lodging, insurance, move-in, move-out and related work, complete and in place for	\$ \$81,000.00	\$ \$ 81,000.00
2.	1 LS	Scarify, Excavation, Demolish, Remove, Haul Off all excess material existing drainage pipe as per plan, complete and in place for	\$ \$40,320.00	\$ \$ 40,320.00
3.	7,500 SF	Scarify, Excavation, Demolish, Remove, Haul Off all excess material existing reinforced concrete, conc., riprap/pavement, material as per plan, complete and in place for	\$ \$ 8.80	\$ \$ 66,000.00
4.	100 LF	Furnish and install 30" RCP Class III Storm Pipe complete as per plan complete and in place for	\$ \$ 231.00	\$ \$ 23,100.00
5.	4,950 SF	Furnish and install Reinforced Concrete Pavement/Riprap (5" min.) (w/ Exterior and Interior Grade Beams and footings) as per plan, complete and in place for	\$ \$ 29.50	\$ \$ 146,025.00
6.	2,100 SF	Furnish and install Reinforced Concrete Pilot Channel as per plan, complete and in place for	\$ \$ 22.00	\$ \$ 46,200.00
7.	1 LS	Furnish and install Reinforced Concrete Energy Dissapators as per plan, complete and in place for	\$ \$ 37,000.00	\$ \$ 37,000.00

Exhibit A

Construction Contract

Webb County Rio Bravo Drainage Outfall

Webb County Rio Bravo Drainage Outfall & Maintenance Improvement Project
Webb County Owner - Gilma Construction LTD, Contractor

7.23.2024

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
8.	1,480 SY	Furnish and install 4-Inch Compacted Flexible Base TxDOT Type B Gr 1-2 as per TxDOT Item 247-6230, per plan, complete and in place for	\$ <u>\$ 22.50</u>	\$ <u>\$ 33,300.00</u>
9.	1,480 SY	Furnish and install 6-Inch Moisture Conditioned Subgrade as per plan, complete and in place for	\$ <u>\$ 18.00</u>	\$ <u>\$ 26,640.00</u>
10	2,800 SF	Furnish and install Concrete Pavement/Riprap (drain exit crush existing concrete w/ mortar) as per plan, complete and in place for	\$ <u>\$ 8.10</u>	\$ <u>\$ 22,680.00</u>
11.	1 LS	Furnish install and reconstruct / replace existing manhole w/ 5' concrete manhole and watertight seal as per plan, complete and in place for	\$ <u>\$ 15,100.00</u>	\$ <u>\$ 15,100.00</u>
12.	1 LS	Connect Storm Drainage pipe to manhole as per plan, complete and in place for	\$ <u>\$ 3,500.00</u>	\$ <u>\$ 3,500.00</u>
13.	2,250 CY	Scarify, Excavation & Embankment, Grading to proposed elevations, per plan, complete and in place for	\$ <u>\$ 45.00</u>	\$ <u>\$ 101,250.00</u>
14.	220 LF	Furnish and install Concrete Retaining Wall as per plan, complete and in place for	\$ <u>\$ 310.00</u>	\$ <u>\$ 68,200.00</u>
15.	10 EA	Furnish and Install 6" Steel Bollards as per plan, complete and in place for	\$ <u>\$ 500.00</u>	\$ <u>\$ 5000.00</u>
16.	700 LF	Furnish and install reinforced silt fencing, complete as per plan complete and in place for	\$ <u>\$ 5.00</u>	\$ <u>\$ 3,500.00</u>

Exhibit A

Construction Contract

Webb County Rio Bravo Drainage Outfall

Webb County Rio Bravo Drainage Outfall
 Rehabilitation and Maintenance Improvements Project
 Webb County, Owner – Gilmar Construction LTD, Contractor

7.23.2024

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
17.	1 EA	Furnish and install stabilized construction entrances as per plan complete and in place for	\$ 1,800.00	\$ 1,800.00
18	10,500 SF	Furnish and install Pyramat 75 High Performance Erosion Control Mat installed as per manufacturer's recommendations (including required seeding, watering, etc), as per plan complete and in place for	\$ 6.52	\$ 68,460.00
19.	1 EA	Furnish and install concrete washout pit as per plan complete and in place for	\$ 800.00	\$ 800.00
20.	125 LF	Furnish and install rock filter berms per TxDOT detail and as per plan complete and in place for	\$ 65.00	\$ 8,125.00
21.	1 LS	Furnish and install trash and debris measures as per plan complete and in place for	\$ 1500.00	\$ 1,500.00
22.	1 LS	Perform all Traffic Control Measures, including erection maintenance, and installation/removal of all required traffic/pedestrian barricades, barrels, reflective fencing, temp lighting, flaggers, signage, traffic control devices, complete and in place for	\$ 3,800.00	\$ 3,800.00
23.	1 LS	Furnish and Install all project temporary storm sewer pumping / by-pass as required including all equipment, piping, backup generator appurtenances, etc as required throughout duration of construction, complete and in place for	\$ 45,000.00	\$ 45,000.00

Exhibit A

Construction Contract

Webb County Rio Bravo Drainage Outfall
 Rehabilitation and Maintenance, Improvement Project
 Webb County, Owner - Gilmar Construction LTD, Contractor

7.23.2024

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
24.	1 LS	Utility Adjustments and Relocations (Allowance) as per plan, complete and in place for	<u>\$35.000</u>	<u>\$35.000</u>
25.	1 LS	Project Contingency Allowance, complete and in place for	<u>\$80.000</u>	<u>\$80.000</u>

TOTAL PRICE SUBTOTAL (ITEMS #1 to #25) \$ \$ 963,300.00

WRITTEN IN WORDS _____

Nine hundred and Sixty three thousand Three hundred & No cents

I think the County could save money by eliminating or reducing the quantity on Item 18 Pyramat 75 High erosion Control Mat

**WEBB COUNTY PURCHASING DEPT.
QUALIFIED PARTICIPATING VENDOR CODE OF ETHICS
AFFIDAVIT FORM**

STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

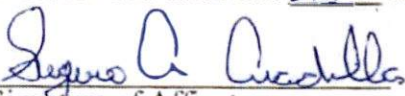
COUNTY OF WEBB *

BEFORE ME the undersigned Notary Public, appeared Sergio Alberto Aradillas, the herein-named "Affiant", who is a resident of Webb County County, State of Texas, and upon his/her respective oath, either individually and/or behalf of their respective company/entity, do hereby state that I have personal knowledge of the following facts, statements, matters, and/or other matters set forth herein are true and correct to the best of my knowledge.

I personally, and/or in my respective authority/capacity on behalf of my company/entity do hereby confirm that I have reviewed and agree to fully comply with all the terms, duties, ethical policy obligations and/or conditions as required to be a qualified participating vendor with Webb County, Texas as set forth in the Webb County Purchasing Code of Ethics Policy posted at the following address: <http://www.webbcountytx.gov/PurchasingAgent/PurchasingEthicsPolicy.pdf>

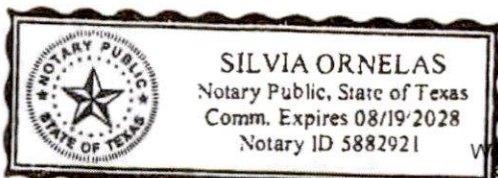
I personally, and/or in my respective authority/capacity on behalf of my company/entity do hereby further acknowledge, agree and understand that as a participating vendor with Webb County, Texas on any active solicitation/proposal/qualification that I and/or my company/entity failure to comply with the Code of Ethics policy may result in my and/or my company/entity disqualification, debarment or make void my contract awarded to me, my company/entity by Webb County. I agree to communicate with the Purchasing Agent or his designees should I have questions or concerns regarding this policy to ensure full compliance by contacting the Webb County Purchasing Dept. via telephone at (956) 523-4125 or e-mail to the Webb County Purchasing Agent to joel@webbcountytx.gov.

Executed and dated this 29 day of July, 2024.


Signature of Affiant

Sergio Alberto Aradillas Gilmar construction Ltd
Printed Name of Affiant/Company/Entity

SWORN to and subscribed before me, this 29 day of July, 2024




NOTARY PUBLIC, STATE OF TEXAS

References Form

Please list at minimum five (5) local governmental entities where similar scope of services were provided.

THIS FORM MUST BE RETURNED WITH YOUR OFFER.

REFERENCE ONE

Government/Company Name: Texas Department of Transportation

Address: 1817 Bob Bullock Loop

Contact Person and Title: Jesus Saavedra, P.E. Area Engineer

Phone: (956)712-7702 Fax: _____

Email Address: jesus.saavedra@txdot.gov Contract Period: _____

Description of Construction Services Provided: Various projects: Concrete flat work,
Sidewalks, Curb & Gutter, Handicap ramps, Road mediums,

REFERENCE TWO

Government/Company Name: Texas Department of Transportation

Address: 1817 Bob Bullock Loop Laredo Texas 78043

Contact Person and Title: Jesus Montoya Assistant Engineer

Phone: (956) 712-7702 Cell (956) 471-4263 Fax: _____

Email Address: jesus.montoya@txdot.gov Contract Period: _____

Description of Construction Services Provided: Various Projects: Concrete flatwork,
Excavation, Embankment, RCP pipe, SET, Handicap ramps, Curb & Gutter.

US-83 @ Soria Drive

REFERENCE THREE

Government/Company Name: Webb County Engineering Department
Address: 1620 Santa Ursula, 2nd Floor Laredo Texas 78040
Contact Person and Title: Guillermo B Cuella P,E. Webb County Engineer
Phone: 956-523-4185 Fax: _____
Email Address: gbcuellar@webbcountytx.gov Contract Period: _____
Description of Construction Services Provided: TexMex Parking lot
Welch Road Culvert Improvements Project

REFERENCE FOUR

Government/Company Name: Webb County Engineering Department
Address: _____
Contact Person and Title: Mario Santos III Engineering Project Manager
Phone: 956-523-4186 Fax: _____
Email Address: msantos@webbcountytx.gov Contract Period: _____
Description of Construction Services Provided: _____
Welch Road Culvert Improvements Project

REFERENCE Five

Government/Company Name: City Of Laredo Traffic Department

Address: 5512 Thomas AVE.

Contact Person and Title: Danny Magee, P.E. Traffic Director

Phone: 956-795-2550

Fax: _____

Email Address: dmagee@ci.laredo.tx.us

Contract Period: _____

Description of Construction Services Provided: Various projects

- **Additional pages are permitted if more space is required**

Space intentionally left Blank

CERTIFICATION
REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION FOR COVERED CONTRACTS

PART A.

Federal Executive Orders 12549 and 12689 require the Texas Department of Agriculture (TDA) to screen each covered potential contractor to determine whether each has a right to obtain a contract in accordance with federal regulations on debarment, suspension, ineligibility, and voluntary exclusion. Each covered contractor must also screen each of its covered subcontractors.

In this certification "contractor" refers to both contractor and subcontractor; "contract" refers to both contract and subcontract.

By signing and submitting this certification the potential contractor accepts the following terms:

1. The certification herein below is a material representation of fact upon which reliance was placed when this contract was entered into. If it is later determined that the potential contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Department of Health and Human Services, United States Department of Agriculture or other federal department or agency, or the TDA may pursue available remedies, including suspension and/or debarment.
2. The potential contractor will provide immediate written notice to the person to which this certification is submitted if at any time the potential contractor learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The words "covered contract", "debarred", "suspended", "ineligible", "participant", "person", "principal", "proposal", and "voluntarily excluded", as used in this certification have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549. Usage is as defined in the attachment.
4. The potential contractor agrees by submitting this certification that, should the proposed covered contract be entered into, it will not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department of Health and Human Services, United States Department of Agriculture or other federal department or agency, and/or the TDA, as applicable.

Do you have or do you anticipate having subcontractors under this proposed contract?

☒ Yes

☐ No

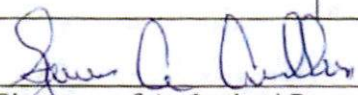
5. The potential contractor further agrees by submitting this certification that it will include this certification titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts" without modification, in all covered subcontracts and in solicitations for all covered subcontracts.
6. A contractor may rely upon a certification of a potential subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous. A contractor must, at a minimum, obtain certifications from its covered subcontractors upon each subcontract's initiation and upon each renewal.
7. Nothing contained in all the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required by this certification document. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for contracts authorized under paragraph 4 of these terms, if a contractor in a covered contract knowingly enters into a covered subcontract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, Department of Health and Human Services, United States Department of Agriculture, or other federal department or agency, as applicable, and/or the TDA may pursue available remedies, including suspension and/or debarment.

**PART B. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS**

Indicate in the appropriate box which statement applies to the covered potential contractor:

- ☒ The potential contractor certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency or by the State of Texas.
- ☐ The potential contractor is unable to certify to one or more of the terms in this certification. In this instance, the potential contractor must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation(s) to this certification.

Name of Contractor	Vendor ID No. or Social Security No.	Program No.
Sergio Alberto Aradillas	463-23-2412	


Signature of Authorized Representative

7-26-24
Date

Owner/ Manager

Printed/Typed Name and Title of
Authorized Representative

Exhibit A
Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project
Webb County, Owner – Gilmar Construction LTD, Contractor
Page 40 of 63

CERTIFICATION REGARDING FEDERAL LOBBYING
(Certification for Contracts, Grants, Loans, and Cooperative Agreements)

PART A. PREAMBLE

Federal legislation, Section 319 of Public Law 101-121 generally prohibits entities from using federally appropriated funds to lobby the executive or legislative branches of the federal government. Section 319 specifically requires disclosure of certain lobbying activities. A federal government-wide rule, "New Restrictions on Lobbying", published in the Federal Register, February 26, 1990, requires certification and disclosure in specific instances.

PART B. CERTIFICATION

This certification applies only to the instant federal action for which the certification is being obtained and is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid 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 these federally funded contract, subcontract, subgrant, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. (If needed, contact the Texas Department of Agriculture to obtain a copy of Standard Form-LLL.)

3. The undersigned shall require that the language of this certification be included in the award documents for all covered subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all covered subrecipients will certify and disclose accordingly.

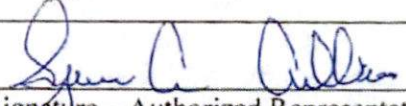
Do you have or do you anticipate having covered subawards under this transaction?

☒ Yes

☐ No

Name of Contractor/Potential Contractor Juan M Santos	Vendor ID No. or Social Security No. 449-41-8967	Program No.
--	---	-------------

Name of Authorized Representative Sergio Alberto Aradillas	Title Owner/ Manager
---	-------------------------


Signature – Authorized Representative

7-26-24
Date

PROOF OF NO DELINQUENT TAXES OWED TO WEBB COUNTY

Name Sergio Alberto Aradillas owes no delinquent property taxes to Webb County.

Gilmar Construction Ltd owes no property taxes as a business in Webb County.
(Business Name)

Sergio Alberto Aradillas owes no property taxes as a resident of Webb County.
(Business Owner)


Person who can attest to the above information

*** SIGNED NOTORIZED DOCUMENT AND PROOF OF NO DELINQUENT TAXES TO WEBB COUNTY.**

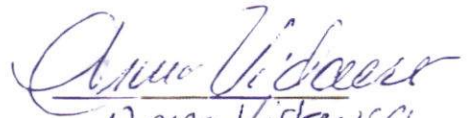
The State of Texas
County of Webb

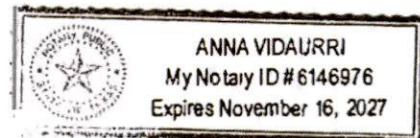
Before me, a Notary Public, on this day personally appeared Sergio Alberto Aradillas, know to me (or proved to me on the oath of Sergio Alberto Aradillas to be the person whose name is subscribed to the forgoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 26th day of July 2024

Notary Public, State of Texas

My commission expires the 26th day of July 2024


Anna Vidaurri
(Print name of Notary Public here)



Offeror: Complete & Return this Form with Response Submission.

House Bill 89 Verification

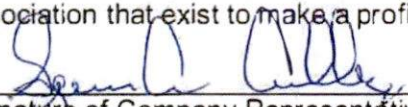
I, Sergio Alberto Aradillas, the undersigned representative of (company or business name) Gilmar Construction Ltd (heretofore referred to as company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made ordinary business purposes; and

2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or an limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business association that exist to make a profit.

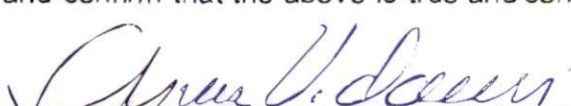

Signature of Company Representative

07-26-2024
Date

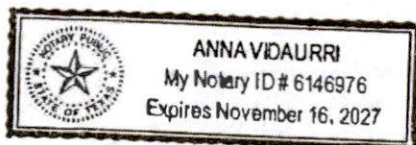
On this 26th day of July, 2024, personally appeared

Sergio Alberto Aradillas, the above named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

Notary Seal


Notary Signature

07-26-2024
Date

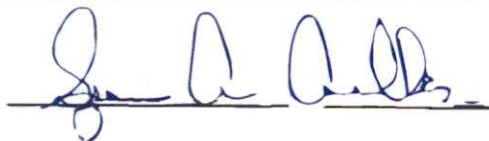


Offeror: Complete & Return this Form with Response Submission.
Senate Bill 252 Certification

SB 252 CHAPTER 2252 CERTIFICATION I, Sergio Alberto Aradillas, the undersigned representative of Gilmar Construction Ltd (Company or business name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify Mr. Jose Angel Lopez III, Webb County Purchasing Agent at (956) 523-4125 or via email atjoel@webbcountytx.gov

Sergio Alberto Aradillas

Name of Company Representative (Print)



Signature of Company Representative

7-26-24

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

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

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

☐ Yes

☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☒ No

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

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

7

Exhibit A

Construction Contract

Signature of vendor doing business with the governmental entity
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project

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.

Exhibit A
Construction Contract

Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project

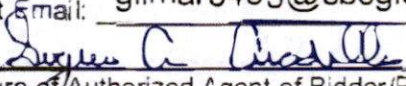
Webb County, Owner – Gilmar Construction LTD, Contractor

THIS FORM MUST BE INCLUDED WITH CSP PACKAGE; PLEASE CHECK OFF EACH ITEM INCLUDED WITH CSP PACKAGE AND SIGN BELOW TO COMPLETE SUBMITTAL / CONFIRMATION OF EACH REQUIRED ITEM.

"ARPA Project No. 20 – Webb County Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement project"

- ☒ Bid Schedule form
- ☒ Statement of Bidder's Qualifications form
- ☐ List of Proposed Sub-Contractors form
- ☐ Conflict of Interest Form (CIQ)
- ☒ Certification regarding Debarment (Form H2048)
- ☒ Certification regarding Federal lobbying (Form 2049)
- ☐ Webb County Purchasing Code of Ethics Affidavit
- ☒ House Bill 89 Form
- ☐ Senate Bill 252 Form
- ☐ SAMs Registration completed by Bidder (See Section 1.13)
- ☐ 5% Bid Bond (See Section 1.35)
- ☐ Proof of No Delinquent Tax Owed to Webb County

Seal (if incorporated)

Bidder Name: Gilmar Construction Ltd
Address: 9804 Starla Ct
City, State, Zip Code: Laredo TX. 78045
Contractor Number: _____
Contact Name: Sergio Alberto Aradillas
Title: Owner / Manager
Contact Phone Number: 956-645-7379
Contact Email: gilmar5493@sbcglobal.net

Signature of Authorized Agent of Bidder/Proposer:
Date: 7-29-2024

BIDDER: *[Indicate correct name of bidding entity]*

Gilmar Construction Ltd

By:
[Signature]

[Printed name] Sergio Alberto Aradillas

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:
[Signature]

[Printed name] Dr. Cynthia Aradillas

Title: Owner / Partner

Submittal Date: _____

Address for giving notices:

9804 Starla Ct Laredo TX 78045

Telephone Number: 956-645-7379

Fax Number: _____

Contact Name and e-mail address: Sergio A Aradillas gilmar5493@sbcglobal.net

QUALIFICATIONS STATEMENT

THE INFORMATION SUPPLIED IN THIS DOCUMENT IS CONFIDENTIAL TO THE EXTENT PERMITTED BY LAWS AND REGULATIONS

1. SUBMITTED BY:

Official Name of Firm: Gilmar Construction Ltd
Address: 9804 Starla Ct Laredo Texas 78045

2. SUBMITTED TO:

Webb County

3. SUBMITTED FOR:

Rio Bravo Drainage Project

Owner: Webb County

Project Name: Webb County- Rio Bravo Drainage Outfall

Rehabilitation and Maintenance Improvement Project

TYPE OF WORK:

Concrete paving, Excavation, Embankment, Demolition

Utilities, Asphalt Paving

4. CONTRACTOR'S CONTACT INFORMATION

Contact Person: Sergio Alberto Aradillas

Title: Owner/Manager

Phone: (956)645-7379

Email: gilmar5493@sbcglobal.net

5. AFFILIATED COMPANIES:

Name: N/A

Address: _____

6. TYPE OF ORGANIZATION:

☐ SOLE PROPRIETORSHIP

Name of Owner: _____

Doing Business As: _____

Date of Organization: _____

☒ PARTNERSHIP

Date of Organization: 2/23/2021

Type of Partnership: Limited Liability

Name of General Partner(s): Sergio Alberto Aradillas

Dr. Cynthia Aradillas

☐ CORPORATION

State of Organization: _____

Date of Organization: _____

Executive Officers: _____

- President: _____

- Vice President(s): _____

- Treasurer: _____

- Secretary: _____

☒ LIMITED LIABILITY COMPANY

State of Organization: Texas

Date of Organization: 2/30/2023

Members: _____

Sergio Alberto Aradillas

Dr. Cynthia aradillas

☐ JOINT VENTURE

N/A

State of Organization:

Date of Organization:

Form of Organization:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

7. LICENSING

Jurisdiction:

Type of License:

License Number:

Jurisdiction:

Type of License:

License Number:

Has firm listed in Section 1 ever been fined or suspended by a Contractor's licensing board?

☐ YES ☒ NO

If YES, attach as an Attachment details including where and why.

8. CERTIFICATIONS

CERTIFIED BY:

Disadvantage Business Enterprise:

TexDot

Minority Business Enterprise:

Woman Owned Enterprise:

Small Business Enterprise:

Other ():

9. BONDING INFORMATION

Bonding Company:

Sure Tec Insurance Company

Address:

2103 City West Boulevard Suite 1300

Houston Tx 77042

Bonding Agent:

Sandy Lee Roney

Address:

2103 City West Boulevard Suite 1300

Contact Name:

Sandy Lee Roney

Phone:

(972) 201-0100

Aggregate Bonding Capacity:

\$1,000000.00

Available Bonding Capacity as of date of this submittal:

0\$1,000000.00

10. FINANCIAL INFORMATION

Financial Institution:

Texas Community Bank

Address:

6721 McPherson Road

Laredo Texas 78045

Account Manager:

Mario Gonzales

Phone:

(956)722-8333

Credit available:

\$250,000.00

11. CONSTRUCTION EXPERIENCE:

Current Experience:

List on **Schedule A** all uncompleted projects currently under contract (If Joint Venture list each participant's projects separately).

Previous Experience:

List on **Schedule B** all projects completed within the last 5 Years (If Joint Venture list each participant's projects separately).

Has firm listed in Section 1 ever failed to complete a construction contract awarded to it?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Has any Corporate Officer, Partner, Joint Venture participant or Proprietor ever failed to complete a construction contract awarded to them in their name or when acting as a principal of another entity?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture)?

☐ YES ☒ NO

If YES, attach as an Attachment details including Project Owner's contact information.

12. SAFETY PROGRAM:

Name of Contractor's Safety Officer: Joe Bustamante

Include the following as attachments:

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) OSHA No. 300- Log & Summary of Occupational Injuries & Illnesses for the past 5 years.

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) list of all OSHA Citations & Notifications of Penalty (monetary or other) received within the last 5 years (indicate disposition as applicable) - IF NONE SO STATE.

Provide as an Attachment Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) list of all safety citations or violations under any state all received within the last 5 years (indicate disposition as applicable) - F NONE SO STATE.

Provide the following for the firm listed in Section V (and for each proposed Subcontractor furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) the following (attach additional sheets as necessary):

Workers' compensation Experience Modification Rate (EMR) for the last 5 years:

YEAR	<u>2023</u>	EMR	<u>.96</u>
YEAR	<u>2022</u>	EMR	<u>.96</u>
YEAR	<u>2021</u>	EMR	<u>.95</u>
YEAR	<u>2020</u>	EMR	<u>.90</u>
YEAR	<u>2019</u>	EMR	<u>.88</u>

Total Recordable Frequency Rate (TRFR) for the last 5 years:

YEAR	_____	TRFR	_____
YEAR	_____	TRFR	_____
YEAR	_____	TRFR	_____
YEAR	_____	TRFR	_____
YEAR	_____	TRFR	_____

Total number of man-hours worked for the last 5 Years:

YEAR	<u>2023</u>	TOTAL NUMBER OF MAN-HOURS	<u>10,900</u>
YEAR	<u>2022</u>	TOTAL NUMBER OF MAN-HOURS	<u>9,800</u>
YEAR	<u>2021</u>	TOTAL NUMBER OF MAN-HOURS	<u>9,000</u>
YEAR	<u>2020</u>	TOTAL NUMBER OF MAN-HOURS	<u>8,000</u>
YEAR	<u>2019</u>	TOTAL NUMBER OF MAN-HOURS	<u>10,400</u>

Provide Contractor's (and Contractor's proposed Subcontractors and Suppliers furnishing or performing Work having a value in excess of 10 percent of the total amount of the Bid) Days Away From Work, Days of Restricted Work Activity or Job Transfer (DART) incidence rate for the particular industry or type of Work to be performed by Contractor and each of Contractor's proposed Subcontractors and Suppliers) for the last 5 years:

YEAR	<u>2023</u>	DART	<u>0</u>
YEAR	<u>2022</u>	DART	<u>0</u>
YEAR	<u>2021</u>	DART	<u>0</u>
YEAR	<u>2020</u>	DART	<u>0</u>
YEAR	<u>2019</u>	DART	<u>0</u>

13. EQUIPMENT:

MAJOR EQUIPMENT:

List on Schedule C all pieces of major equipment available for use on Owner's Project.

I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HERewith, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF

NAME OF ORGANIZATION: Gilmar Construction Ltd

BY: Sergio Alberto Aradillas

TITLE: Owner/ Manager

DATED: 07-26-2024

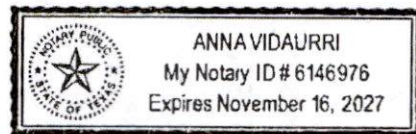
NOTARY ATTEST

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 26th DAY OF July, 2024

NOTARY PUBLIC - STATE OF Texas

MY COMMISSION EXPIRES 11/16/2027



REQUIRED ATTACHMENTS

1. Schedule A (Current Experience).
2. Schedule B (Previous Experience)
3. Schedule C (Major Equipment)
4. Evidence of authority for individuals listed in Section 7 to bind organization to an agreement.
5. Resumes of officers and key individuals (including Safety Officer) of firm named in Section 1.
6. Required safety program submittals listed in Section 13.

7

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SCHEDULE A

CURRENT EXPERIENCE

Project Name	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
Roadways repairs at at IH-35 Border Patrol Check Point	Name: CCI Facility Support Address: 19315 FM2252 Garden Ridge Tx Telephone: (210)426-0532	Name: Company: Telephone:	7/06/2024	Repair Roadway	Active	\$108,455.53
Domestic Waterline Repair @ IH35 Border Patrol Check point	Name: CCI Facility Support Address: Telephone: (210)426-0532	Name: Company: Telephone:	7/11/2024	Water Line Repair	Active	\$22,507.33
Supply Fill Dirt Loop 20 Bridges Webb US-59	Name: James Construction Address: 5880 West US Hwy 190 Belton Texas 76513 Telephone: (254)295-6472	Name: Company: TexDot Telephone:	6/13/2024	Supply Fill Dirt	Active	\$374,000.00
Hebbronville Facility Repairs Border Patrol Station	Name: CCI Facility Support Address: Telephone: (210)426-0532	Name: Company: Telephone:	11/19/2023	Concrete Repairs Asphalt Paving	Completed	\$175,796.66
TexDot Project STP 2023 (315) Soria @ US 83	Name: Triple H field Services PO Box 260608 Address: Corpus Christi Tx 78426 Telephone: (956)763-0189	Name: Company: TexDot Telephone:	09/25/2023	Concrete Flat Work Handy-cap Ramps RCP Pipe	Completed	\$88,306.30
US Customs & Border Protection Air & Marine	Name: J Clark Construction LLC 102 Kirby Heights St Address: San Antonio Tx 78219 Telephone: (210)852-7771	Name: Company: Telephone:	6/29/2023	Embankment Utilities	Completed	\$75,900.00
	Name: Address: Telephone:	Name: Company: Telephone:				

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Exhibit A

Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project
Webb County, Owner – Gilmar Construction LTD, Contractor
Page 57 of 63

Section 00 45 13
Qualifications Statement

SCHEDULE C - LIST OF MAJOR EQUIPMENT AVAILABLE

[illegible]

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Exhibit A

Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project
Webb County, Owner – Gilmar Construction LTD, Contractor
Page 58 of 63

Section 00 45 13
Qualifications Statement

Gilmar Construction Ltd

12/01/2015 To 12 /31/2021

Date	Owner	Project Name	Description	Contract Amount	Contact Person	Phone Number
11/31/2021 To 05/01/2021	Chart Construction LLC	Plasma Center	Building Footings, Driveways, Traffic Control, Side-walks, Handi- Cap Ramps, Concrete 7" Parking lot, Light poles	\$380,000.00	David Christie	337-319- 1849
07/31/2021 To 06/31/2019	Tex Dot	Install Raised Median Contract 6294-07-001	Install Raised Median Curb, Sidewalks, Handi- cap Ramps, Traffic Delineators , Traffic Control	\$360,000.00	Rafael Guzman Traffic Engineer	956-712- 7700
12/31/2020 To 03/15/2020	Webb County	County Parking Lot (TexMex)	Excavation Embankment, Driveways, Side-walks, Asphalt Parking lot 600 Tons, Islands Gated Entrance	\$312,124.00	Luis Perez Garcia (County Engineer)	956-523- 4125
02/31/2020 To 01/01/2020	CCI Utility Construction LLC	Border Patrol Station North	Drive-Ways, Gate Pads	\$17,490.00	Jason Walker	210-426- 0532
11/31/2019 To 6/31/2019	Beaver Construction	Curb & Gutter	Eagle Pass TexDot	\$58,000.00	Jerry Avila	(956) 744-9546
5/31/2019 To 6/22/2016	Tex Dot	Install Raised Median Control 6294-07-001	Install Raised Median Curb, Sidewalks, Handi- cap Ramps, Traffic Delineators , Traffic Control	\$298,607.00	Carlos G Rodriguez	(956) 712-7713
3/31/2019 To 2/21/19	Tciano Construction, LLC	Mesilla Valley Transport	Grading, remove & replace curb for drive- ways	\$17,712.00	Don Wittschiede	(210) 557-2447

Exhibit A
Construction Contract

Date	Owner	Project Name	Description	Contract Amount	Contact Person	Phone Number
2/25/2019 To 1/23/19	Tciano Construction, LLC	Forsa Transportation	Grading, Excavation & Embankment for building pad & Parking	\$42,650.00	Don Wittschiede	(210) 557-2447
1/13/2019 To 11/10/18	Schoenfelder Renovations	Staybridge Suites	Sidewalks, Fill Hot tub, Build Pavilion	\$23,881.00	Eric Langaard	(952) 426-8043
12/31/2018 To 10/10/18	Cherry Hill Apartments	Assisting Texas With Housing Inc	Remove Asphalt, Excavate Soft Areas & Compact In Place, Oil, Pave Type D Asphalt (650 Tons)	\$176,335.00	Charles Henderson	(512) 225-7122
10/13/2018 To 08/10/18	Carter Express Transports	Carter Express	Sidewalks, Curb, Repair washout using flowable fill	\$15,537.00	Juan Carlos Zamudio	(765) 620-7139
7/31/2018 To 06/10/18	Berry Construction Company	Nustar Terminal	Remove asphalt & Replace With 8" Concrete	\$63,247.00	Don Goodrum	(210) 260-2765
6/13/2018 To 5/31/18	Berry Construction Company	Nustar Terminal	Grading yard, Repair RCP, Concrete low water crossing	\$8,150.00	Don Goodrum	(210) 260-2765
5/13/18 To 3/10/18	Steven Covey Enterprises	Chick-Fil-A	Sidewalks, Curb, Construct new drive exit	\$37,392.00	Steven Covey	(210) 454-1142
3/01/2018 To 2/31/2018	Vanguard Modular Building	Urgent CareTravel Center	Sidewalks, Ramps, Striping	\$14,495.00	John Pittman	(952) 426-8043
2/1/2018 To 2/10/18	Judge Joe Lopez	Lopez Apartments 2118 Guerrero Laredo TX	Patches Repair Over- lay	\$10,000.00	Judge Joe Lopez	(956) 523-4237
1/31/2018 To 1/10/18	Pavement Exchange	Buffalo Wild Wings 6629 San Dario. Av Laredo TX	Patches Full Depth Repair Over- lay and Stripe	\$99,183.82	Steven Winstead	(704) 364-3725
12/31/17 To 4/1/2017	White Construction Company	Laredo Town Center Bobbullock Loop 20	29 Light Pole Bases Repair Grade Oil & Pave 4500 Exhibit A To Construction Contract	\$895,811.20	Daryl Brags	(601) 898-5180

Date	Owner	Project Name	Description	Contract Amount	Contact Person	Phone Number
6/30/2017 To 6/30/2016	Ranger Excavation	Laredo Town Center Acceleration Lanes TexDot	Install Median Acceleration lanes & Drive- ways	\$821,626.75	Will Lyons	(512) 343-9613
5/10/17 To 3/15/2017	Pavement Exchange	Penske Terminal	Patches Full Depth Repair Over- lay and Stripe	\$74,030.00	Steven Winstead	(704) 364-3725
3/31/17 To 3/01/2017	Pete Gallegos Pastor Norman Howell	Laredo Church of Crossroads 1301 International Blvd	Full dept. Parking Lot	\$28,000.00	Pastor Norman Howell	(956) 727-4774
3/11/17 To 2/10/2017	Pete Gallegos Laredo Premier Healthcare	Laredo Premier Healthcare 7215 McPherson Rd	Full dept. Parking Lot	\$78,000.00	Pete Gallegos	(956) 237-2728
12/17/2016 TO 9 /15/2016	Pavement Exchange	Realterm Terminal	Grading , Prepare Subgrade, concrete 8" Paving, Striping	\$193,575.00	Steven Winstead	(704) 364-3725
2/17/2017 TO 8 /15/2016	Urban Concrete Contractors Ltd	Land Star Cross Dock	Labor, Machinery for Mono Curb, Curb & Gutter	\$57,949.00	Coby Anderson	(210) 490-0090
6/10/2016 To 4/15/2016	Urban Concrete Contractors Ltd	Union Pacific	Labor, Machinery for Mono Curb, Curb & Gutter	\$39,259.00	Coby Anderson	(210) 490-0090
3/25/16 To 3/01/2016	PVC Facility Management	Fed-Ex	Full dept. Parking Lot	\$24,660.00	Brandon Flowers	(330) 590-8337
2/29/16 To 2/01/2016	Blattnerr Energy	Midando Wind Farm	Pave 10 farm Entrances	\$87,248.00	Patrick Brownell	(320) 248-2562
2/01/16 To 2/13/2016	Atlantic Southern Paving	Home Depot #6540	Asphalt Over-layer	\$56,473.00	Michele Cruz	(954) 581-5805
2/01/16 To 1/01/2016	Border Insulation	Border Patrol Station US 83	Water line repair & Asphalt repairs	\$12,887.00	Rene Ramos	(956) 740-0203
2/01/16 To 12/01/2015	Berry Construction Company	Nustar Terminal	Remove asphalt & Replace With 8" Concrete Construction Contract	\$24,435.00	Don Goodrum	(210) 260-2765
Webb County Rio Bravo Drainage Outfall & Maintenance Improvement Project Webb County, Owner – Gilmar Construction LTD, Contractor						

Equipment List Gilmar Construction 2024

Type	Make	Model	Year
Back-Ho	John Deer	JD-310G	2005
Curb Machine	Gomaco	120-G	1999
Skid Steer	Catapiller	c-210	2022
Asphalt Paver	Blaw-Knox	PF-875	2005
Double Drum Roller	Bomeg	BW-120	2005
Pneumatic Roller	Ingram	2800-PA	1990
Oil Distributor	Chausse	STLM-1000-4	1995
Concrete Saw	Husqvarna	FS-6600D	2010
Attenuator	Traffix	10002-TL3-12TA	2011

Utility Adjustments and Relocation Allowance

Item no	Description	Allowance
22	Utility Adjustments and Relocation Allowance	\$25,000
Lump Sum for Allowance		\$25,000

2.4 Base Bid

- A. Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.
- B. Base bid items are detailed in Bid Schedule Form.

2.5 Bid Schedule Form

Bidders must use the attached Bid Schedule Form to submit all bid pricing listed under items 1 – 21, total calculated bid submitted will include allowance under item 22.

2.6 Addendum Confirmation

Bidders must initial and date each addendum posted by Owner. Submit acknowledgement with sealed proposal.

Addendum no.: 1 *Gregory A. Obedtsky* Date: 7-24-24

Addendum no.: 2 *Gregory A. Obedtsky* Date: 7-24-24

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Addendum no.: _____ Date: _____

Exhibit B
Site Location



VICINITY MAP



CONSTRUCTION PLANS
FOR

RIO BRAVO DRAINAGE OUTFALL
REHABILITATION AND MAINTENANCE IMPROVEMENTS
RIO BRAVO, WEBB COUNTY, TEXAS

CLIENT INFORMATION:
**WEBB COUNTY,
TEXAS**
1000 HOUSTON STREET
LAREDO, TEXAS 78040

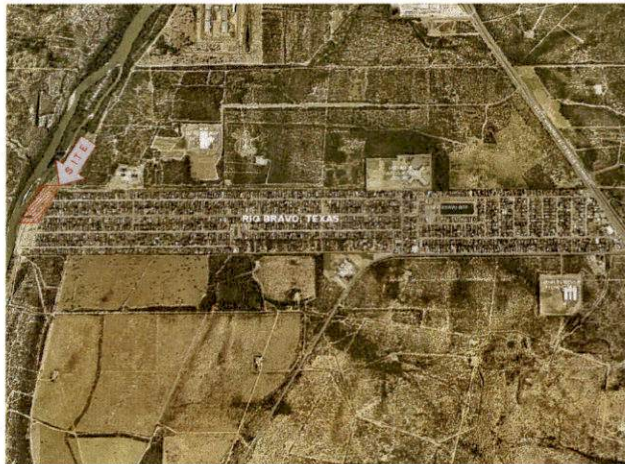


WEBB COUNTY, TEXAS

WEBB COUNTY JUDGE
HONORABLE TANO E. TIJERNA

COUNTY COMMISSIONERS

PRECINCT 1	JESSE GONZALEZ
PRECINCT 2	ROSAURA "WAWI" TIJERNA
PRECINCT 3	JOHN GALO
PRECINCT 4	RICARDO A. JAIME



VICINITY MAP

INDEX OF SHEETS

C1.0 COVER SHEET
C1.1 GENERAL NOTES
C1.2 GENERAL NOTES
C2.0 EXISTING SITE AND DEMOLITION PLAN
C3.0 PROPOSED SITE PLAN
C3.1 MARGARITA LANE DRAINAGE IMPROVEMENTS
C3.2 CENTENO LANE DRAINAGE IMPROVEMENTS
C3.3 DRAINAGE DETAILS
C3.4 DRAINAGE DETAILS
C4.0 EROSION CONTROL PLANS
C5.1 DETAILS
C5.2 DETAILS
C5.3 DETAILS

REVISIONS:



SHEET DESCRIPTION:

COVER SHEET

DRAWN BY: JFG	DATE: 6.20.2024
CHECKED BY: JFG	DATE: 6.20.2024
APPROVED BY: JFG	DATE: 6.20.2024
FILE	STATUS: FINAL

C1.0

TOPSITE
Civil Group

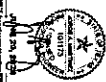


[illegible][illegible]

1. THE STATE FOR THE CONTRACTOR CONSISTS OF THIRTYFOUR (34) MONTHS. CONTRACTOR SHALL BE UTILIZED AT DETERMINED INTERVALS BY THE INDICATED SET PLAN.
2. CONTRACTOR SHALL SUBMIT A CONSTRUCTION SITE NOTICE (CSN) TO THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY FOR THE CONSTRUCTION SITE.
3. DETERMINED SET PLAN AND SITE WORK REQUIREMENTS REQUIRING MAINTENANCE PLAN FOR DESIGNER APPROVAL. APPROVED SET PLAN, BE OUT OF SET DESIGN CONSTRUCTION PERMITTING TO OBTAIN A SET NOTICE OF WORK (NOW) AS REQUIRED FOR THE PROJECT. SUBMIT A TOWER NOTICE OF TRAVELATION (NOT) WITHIN 35 DAYS AFTER PLAN STABILIZATION SHALL BE SUBMITTED AS REQUESTED FOR THE PROJECT.

1. CONTRACTOR IS REQUESTED TO INDICATE, IF THE BID, RELATING TO THIS ASPECTS WITH THE PROJECT, NO CONSTRUCTION SHALL COME WITHIN OR BE NEARLY APPROXIMATE.
2. ALL PROPOSED IMPROVEMENTS OR PLANS ON PLANS AND/OR SPECIFICATIONS THAT ARE NOT SPECIFICALLY SHOWN ON THE BID SHEET, SHALL BE CONSIDERED SUBJECT TO THE UNITED STATES GOVERNMENT FOR THE ROAD.
3. CONTRACTOR SHALL BE OBLIGATED TO PROVIDE SUFFICIENT FOR THE WORK COMPLETED AS PER CONTRACT REQUIREMENTS. THIS MEANS SPECIFICALLY.

**RIO BRAVO DRAINAGE OUTFALL
REHABILITATION & MAINTENANCE IMPROVEMENTS
WEBB COUNTY, TEXAS**



Age	14
Sex	Male
Height	5' 10"
Weight	160
Occupation	Student
Address	1234 Main St, Anytown, USA
Phone	555-1234
Signature	[Signature]

TOPSITE
Oil & Gas

C1.1

- OR CALL 811
AT 1-800-828-5127
1-800-828-5127
GROUP (INGTEZZ) AT 5
F. ENICO A. SALVAG
JVES, ASSOCIATE UNIVER
; 1-800-828-5127 G.O.C.
A (136) 721-0000 or J
A 721-0000
724-7181, (136) 725-5127

724-7011, 0303.855-32

IS CONTRACTOR SHALL COORDINATE AND PAY FOR ALL PROJECT CONSULTING MATERIALS REQUIRED

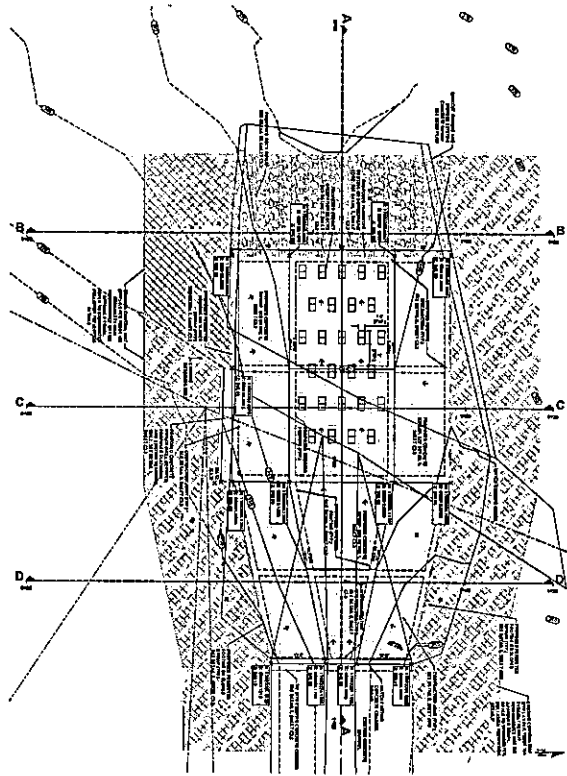
48. BURNLEY CNG COORDINATES (MAY 04 AT 1200) STA 17 PLANE CCG, SOUTH ZONE FOR PROPOS 27 APPROVED/INSTR

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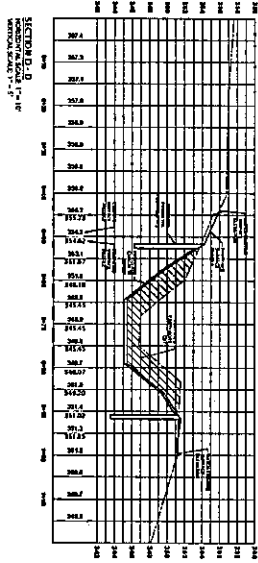
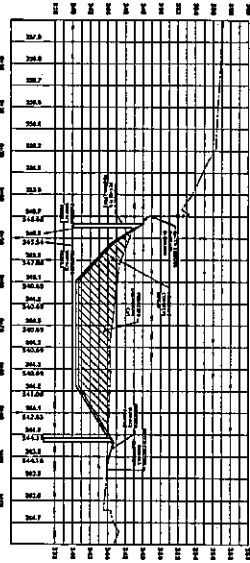
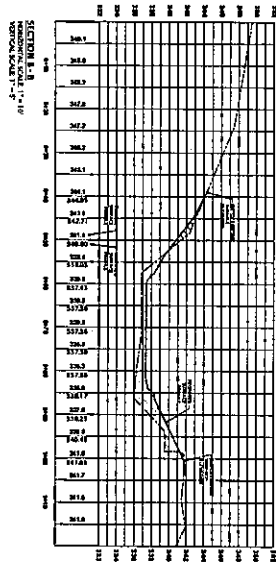
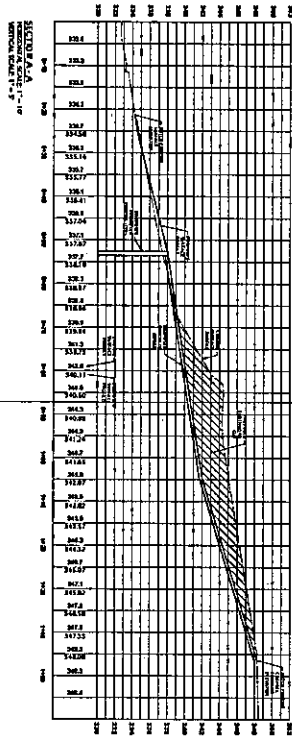


WEBB COUNTY, TEXAS



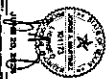


MARGARITA LANE DRAINAGE IMPROVEMENTS
PLAN VIEW



MARGARITA LANE DRAINAGE IMPROVEMENTS RIO BRAVO DRAINAGE OUTFALL REHABILITATION & MAINTENANCE IMPROVEMENTS WEBB COUNTY, TEXAS

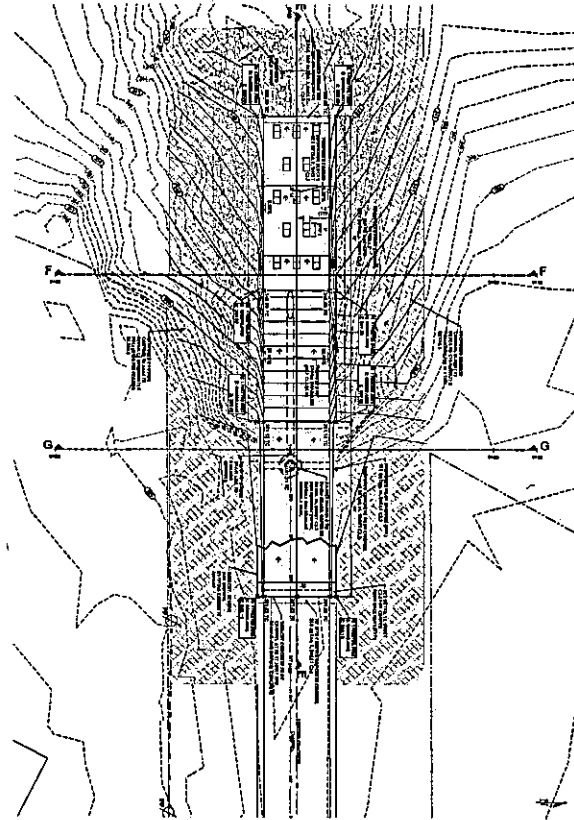
OWNER:
WEBB COUNTY
1000 HOUSTON STREET
LAREDO, TEXAS 78040



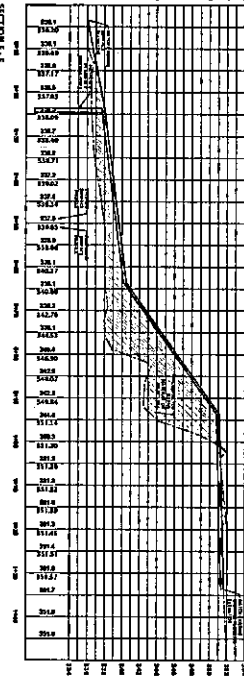
TOPSITE

C3.1

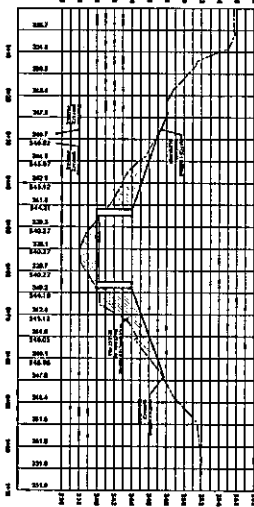
CENTENO LANE DRAINAGE CHANNEL IMPROVEMENTS



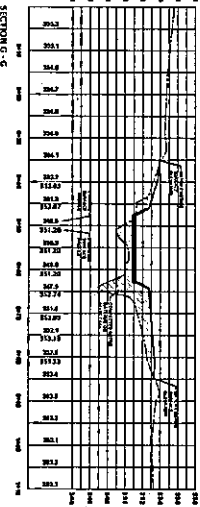
SECTION A
HORIZONTAL SCALE 1" = 10'
VERTICAL SCALE 1" = 2'

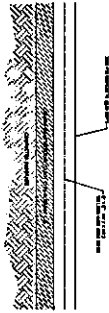


SECTION B
HORIZONTAL SCALE 1" = 10'
VERTICAL SCALE 1" = 2'

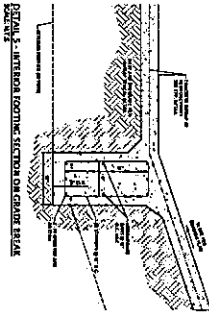
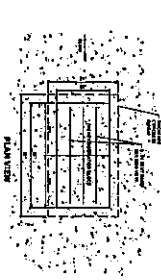


SECTION C
HORIZONTAL SCALE 1" = 10'
VERTICAL SCALE 1" = 2'

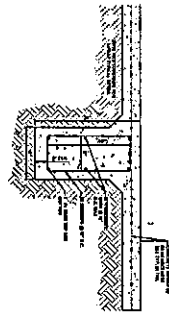




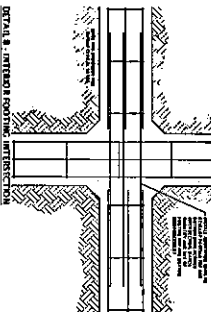
DETAIL 1: COMPLETE INROAD TYPICAL SECTION
SCALE: 1/4" = 1'-0"



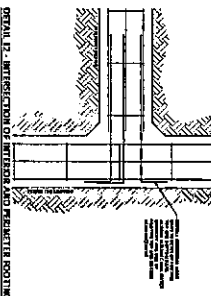
DETAIL 3: INTERIOR FOOTING SECTION ON GRADE
SCALE: 1/4" = 1'-0"



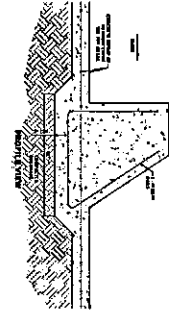
DETAIL 4: INTERIOR FOOTING SECTION
SCALE: 1/4" = 1'-0"



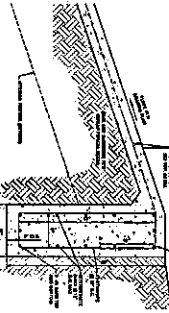
DETAIL 5: INTERIOR FOOTING INTERSECTION
SCALE: 1/4" = 1'-0"



DETAIL 6: INTERSECTION OF INTERIOR AND PERIMETER FOOTING
SCALE: 1/4" = 1'-0"



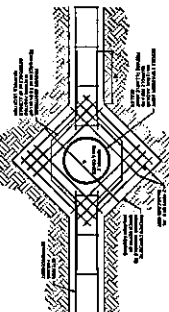
DETAIL 7: PERIMETER FOOTING ON CONCRETE BLOCK
SCALE: 1/4" = 1'-0"



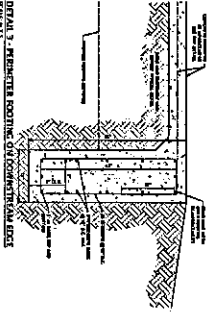
DETAIL 8: PERIMETER FOOTING SECTION ON GRADE
SCALE: 1/4" = 1'-0"



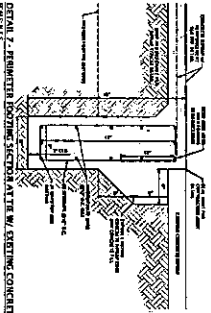
DETAIL 9: CONSTRUCTION/REPAIR DETAIL SECTION
SCALE: 1/4" = 1'-0"



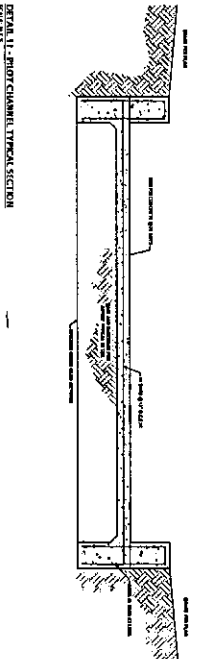
DETAIL 10: MANHOLE REINFORCEMENT
SCALE: 1/4" = 1'-0"



DETAIL 11: PERIMETER FOOTING ON CONCRETE BLOCK
SCALE: 1/4" = 1'-0"



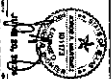
DETAIL 12: PERIMETER FOOTING SECTION WITH W. SYSTEM
SCALE: 1/4" = 1'-0"



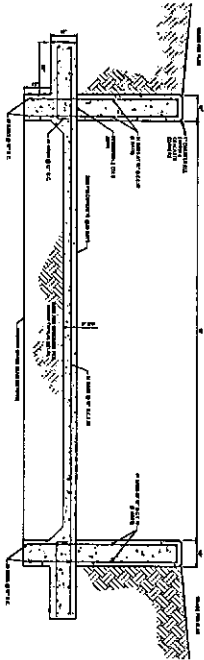
DETAIL 13: TYPICAL SECTION
SCALE: 1/4" = 1'-0"

OWNER:
WEBB COUNTY
1000 HOUSTON STREET
LAREDO, TEXAS 78040

DRAINAGE IMPROVEMENT DETAILS - 1 OF 2 RIO BRAVO DRAINAGE OUTFALL REHABILITATION & MAINTENANCE IMPROVEMENTS WEBB COUNTY, TEXAS



TOPSITE
C3.3

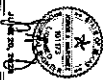


DETAIL 1 - PILOT CHANNEL W/ WALL TYPICAL SECTION
REV A

SEE SHEET C3.3 FOR
GENERAL NOTES AND
SECTION C3.4 FOR
SECTIONAL VIEW

OWNER:
WEBB COUNTY
1000 HOUSTON STREET
LAREDO, TEXAS 78040

DRAINAGE IMPROVEMENT DETAILS - 2 OF 2
RIO BRAVO DRAINAGE OUTFALL
REHABILITATION & MAINTENANCE IMPROVEMENTS
WEBB COUNTY, TEXAS



DATE	12/15/2023
BY	JLR
CHECKED	
DATE	
BY	
CHECKED	
DATE	

TOPSITE
Civil Engineering

C3.4

[illegible]

1. STATE OF NEW YORK and ALBA J. BAKER are the owners of the property described in the foregoing instrument.
2. ALBA J. BAKER is the owner of the property described in the foregoing instrument.
3. ALBA J. BAKER is the owner of the property described in the foregoing instrument.
4. ALBA J. BAKER is the owner of the property described in the foregoing instrument.
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8. ALBA J. BAKER is the owner of the property described in the foregoing instrument.
9. ALBA J. BAKER is the owner of the property described in the foregoing instrument.
10. ALBA J. BAKER is the owner of the property described in the foregoing instrument.

LOCATION OR UTILITIES SHOWN HEREIN
WERE DERIVED FROM BEST AVAILABLE
AERIAL PHOTOGRAPHS, SURVEYING
DATA AND FIELD SURVEYS. INSURANCE
DOES NOT WARRANT THE EXISTENCE
OR NON-EXISTENCE OF UTILITIES.
THE CONTRACTOR SHALL BE RESPONSIBLE
FOR DETERMINING THE EXACT LOCATION,
DEPTH AND SIZE OF ALL UNDERGROUND
UTILITIES AND STRUCTURES PRIOR TO
CONSTRUCTION AND SHALL BE LIABLE
FOR DAMAGE TO OR DESTRUCTION OF
PUBLIC OR PRIVATE UTILITIES. THE
OWNER SHALL BE RESPONSIBLE FOR
OBTAINING ALL NECESSARY PERMITS
AND APPROVALS FROM THE
APPLICABLE AGENCIES.
CALL 1-800-805-7338. CALL 1-800-844-8377 FOR
FREE INFORMATION AND UTILITY FORMS.
CONSTRUCTION

[illegible][illegible]

Construction Contract
1993 County of San Diego Construction Contract

C4.0

TOPSITE
Cul Group

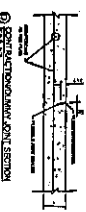
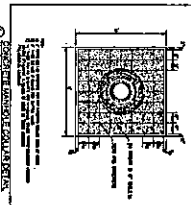
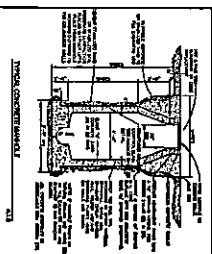
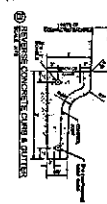
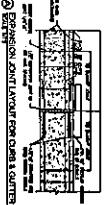


EROSION CONTROL PLAN

RIO BRAVO DRAINAGE OUTFALL
REHABILITATION & MAINTENANCE IMPROVEMENTS
WEBB COUNTY, TEXAS

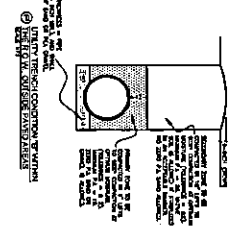
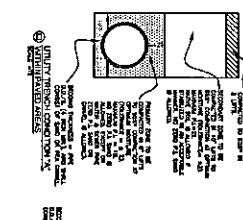
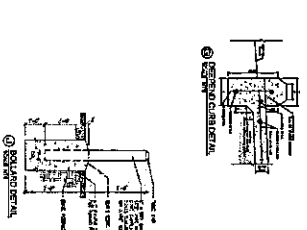
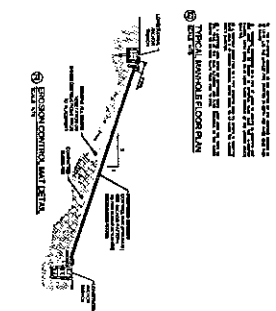
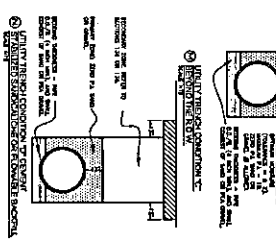
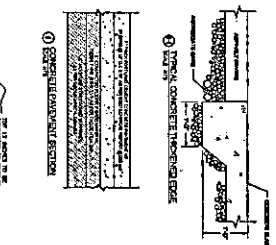
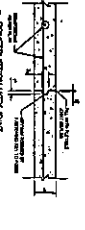
OWNER:
WEBB COUNTY
1000 HOUSTON STREET
LAREDO, TEXAS 78040

NOTE:
 1. ALL CONCRETE SHALL BE 4000 PSI STRENGTH.
 2. ALL REINFORCING SHALL BE #4 BARS.
 3. ALL DIMENSIONS SHALL BE IN FEET AND INCHES.
 4. ALL ELEVATIONS SHALL BE IN FEET ABOVE SEA LEVEL.
 5. ALL SLOPES SHALL BE AS SHOWN OR AS NOTED.



REINFORCING SCHEDULE

ITEM	DESCRIPTION	QUANTITY	UNIT
1	REINFORCING BARS	100	LB
2	CONCRETE	100	CU YD
3	EXPANSION JOINT LAYER	100	LB
4	SLATERS	100	CU YD

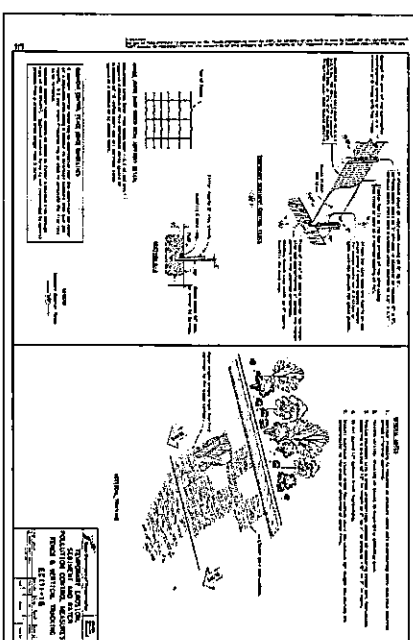
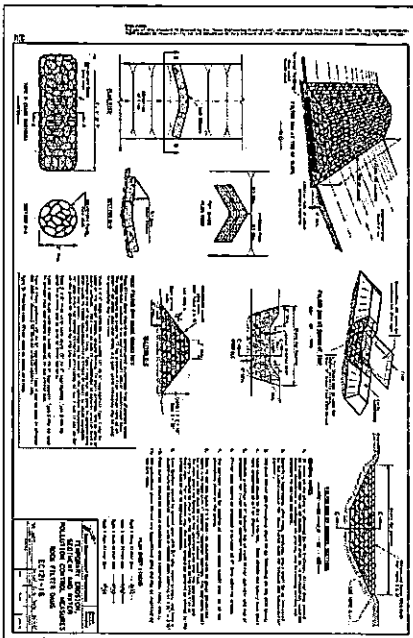
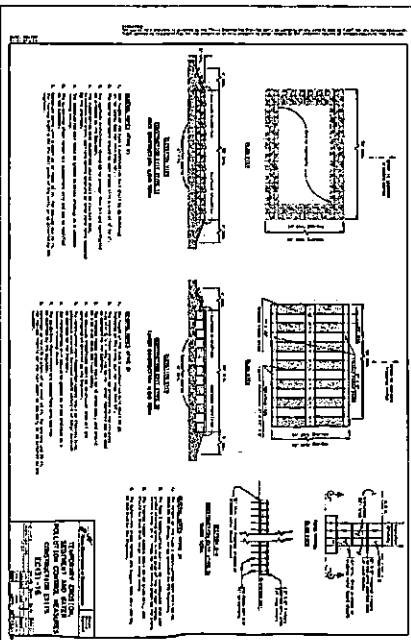
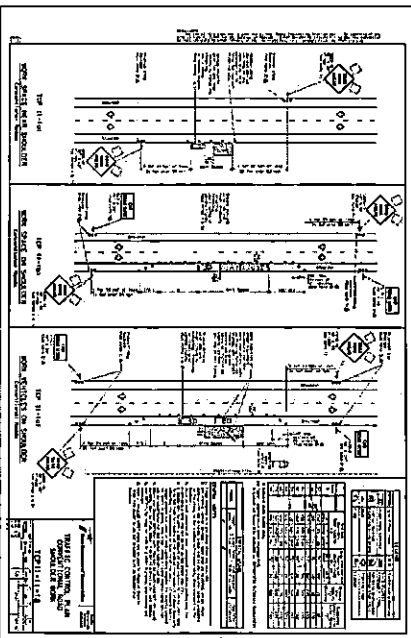


SEE SHEET C5.2 FOR
 ADDITIONAL DETAILS

DETAILS
 RIO BRAVO DRAINAGE OUTFALL
 REHABILITATION & MAINTENANCE IMPROVEMENTS
 WEBB COUNTY, TEXAS

OWNER:
 WEBB COUNTY
 1000 HOUSTON STREET
 LAREDO, TEXAS 78040

TOPSITE
 C5.1



DETAILS

**RIO BRAVO DRAINAGE OUTFALL
REHABILITATION & MAINTENANCE IMPROVEMENTS
WEBB COUNTY, TEXAS**



TOPSITE
Oil & Gas

C5.2

GENERAL CONDITIONS
Construction Contract
Webb County Rio Bravo Drainage Outfall
& Maintenance Improvement Project

TABLE OF CONTENTS

ARTICLE I. GENERAL PROVISIONS	6
1.1 CONTRACT DEFINITIONS	6
1.2 PRELIMINARY MATTERS	11
1.3 CONTRACT DOCUMENTS	12
ARTICLE II. WEBB COUNTY	16
2.1 GENERAL	16
2.2 INFORMATION AND SERVICES TO BE PROVIDED BY WEBB COUNTY	16
ARTICLE III. CONTRACTOR	17
3.1 GENERAL	17
3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR	18
3.3 SUPERVISION AND CONSTRUCTION PROCEDURES	19
3.4 LABOR AND MATERIALS	20
3.5 WARRANTY	24
3.6 TAXES.	26
3.7 PERMITS, FEES AND NOTICES	26
3.8 ALLOWANCES	27
3.9 SUPERINTENDENT/KEY PERSONNEL	28
3.10 CONTRACTOR'S PROJECT SCHEDULES	29
3.11 DOCUMENTS AND SAMPLES AT THE SITE	37
3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES	38
3.13 USE OF SITE	40
3.14 CUTTING AND PATCHING	41
3.15 CLEANING UP	41
3.16 ACCESS TO WORK.	42

3.17	PATENT FEES AND ROYALTIES.	42
3.18	INDEMNITY PROVISIONS	42
3.19	REPRESENTATIONS AND WARRANTIES.	45
3.20	BUSINESS STANDARDS.	45
	ARTICLE IV. ADMINISTRATION OF THE CONTRACT	45
41	DESIGN CONSULTANT.	45
42	ROLES IN ADMINISTRATION OF THE CONTRACT	46
43	CLAIMS AND DISPUTES	47
4.4	RESOLUTION OF CLAIMS AND DISPUTES	52
4.5	ALTERNATIVE DISPUTE RESOLUTION	53
4.6	INTERNET-BASED PROJECT MANAGEMENT SYSTEMS.	54
	ARTICLE V. SUBCONTRACTORS	54
5.1	DEFINITION	54
5.2	AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK	55
5.3	SUB-CONTRACTUAL RELATIONS	55
5.4	CONTINGENT ASSIGNMENT OF SUBCONTRACTS	56
	ARTICLE VI. CONSTRUCTION BY WEBB COUNTY OR BY SEPARATE CONTRACTS	56
6.1	WEBB COUNTY’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS	56
6.2	MUTUAL RESPONSIBILITY	57
6.3	WEBB COUNTY’S RIGHT TO CLEAN UP.	58
	ARTICLE VII. CHANGES IN THE WORK	58
7.1	GENERAL	58
7.2	CHANGE ORDERS	58
7.3	FIELD WORK DIRECTIVES	60
7.4	MINOR CHANGES TO THE WORK.	61
7.5	TIME REQUIRED TO PROCESS CHANGE ORDERS	62
	ARTICLE VIII. TIME	62

8.1	PROGRESS AND COMPLETION	62
8.2	DELAYS AND EXTENSIONS OF TIME	63
	ARTICLE IX. PAYMENTS AND COMPLETION	64
91	CONTRACT SUM.	64
92	SCHEDULE OF VALUES	64
93	APPLICATIONS FOR PAYMENT	64
94	PAY APPLICATION APPROVAL	65
95	DECISIONS TO REJECT APPLICATION FOR PAYMENT	66
9.6	PROGRESS PAYMENTS	66
9.7	SUBSTANTIAL COMPLETION	68
9.8	PARTIAL OCCUPANCY OR USE	69
9.9	FINAL COMPLETION AND FINAL PAYMENT	69
9.10	ADDITIONAL INSPECTIONS.	70
	ARTICLE X. PROTECTION OF PERSONS AND PROPERTY	71
10.1	SAFETY PRECAUTIONS AND PROGRAMS	71
10.2	SAFETY OF PERSONS AND PROPERTY	72
10.3	EMERGENCIES	73
10.4	PUBLIC CONVENIENCE AND SAFETY	74
10.5	BARRICADES, LIGHTS AND WATCHMEN.	74
10.6	PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED.	75
10.7	TEMPORARY STORM SEWER AND DRAIN CONNECTIONS.	75
10.8	ARRANGEMENT AND CHARGE FOR WATER, ELECTRICAL OR WIRELESS ACCESS FOR THE PROJECT	75
10.9	USE OF FIRE HYDRANTS.	76
10.10	ENVIRONMENTAL COMPLIANCE	76
	ARTICLE XI. INSURANCE AND BONDS	77
11.1	CONTRACTOR'S LIABILITY INSURANCE	77
11.2	PROPERTY INSURANCE	82

11.3	PERFORMANCE BONDS AND PAYMENT BONDS	83
11.4	'UMBRELLA' LIABILITY INSURANCE.	85
11.5	POLICY ENDORSEMENTS AND SPECIAL CONDITIONS	85
	ARTICLE XII. INSPECTING, UNCOVERING AND CORRECTING OF WORK	87
12.1	INSPECTING WORK	87
12.2	UNCOVERING WORK	87
12.3	CORRECTING WORK	88
12.4	ACCEPTANCE OF NONCONFORMING WORK	89
	ARTICLE XIII. COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION	89
13.1	FINAL COMPLETION OF CONTRACT	89
13.2	WARRANTY FULFILLMENT	89
13.3	TERMINATION BY WEBB COUNTY FOR CAUSE	90
13.4	TEMPORARY SUSPENSION OF THE WORK	92
	ARTICLE XIV. MISCELLANEOUS PROVISIONS	93
14.1	GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS	93
14.2	SUCCESSORS AND ASSIGNS.	93
14.3	WRITTEN NOTICE.	94
14.4	RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY WEBB COUNTY	94
14.5	INTEREST	94
14.6	INDEPENDENT MATERIALS TESTING AND INSPECTION	94
14.7	OFFICERS OR EMPLOYEES OF WEBB COUNTY NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF WEBB COUNTY.	95
14.8	Venue.	95
14.9	INDEPENDENT CONTRACTOR.	95
14.10	NON-DISCRIMINATION.	96
14.11	GIFTS TO PUBLICSERVANTS	96
	ARTICLE XV. AUDIT	96

151	RIGHT TO AUDIT CONTRACTOR'S RECORDS.	96
	ARTICLE XVI. ATTORNEY FEES	97
	SPECIAL CONDITIONS FOR HORIZONTAL PROJECTS	97
3.2.5	Differing Site Conditions (Adds this Section 3.2.5 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	97
3.4.7	Material Testing (Added to Section 3.4.7 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	98
7.2.5	Allowable Markups (Added to Section 7.2.5 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	99
7.2.5.1	Labor	99
7.2.5.2	Materials	99
7.2.5.3	Equipment	99
7.2.5.4	Subcontractor Markups	100
7.3.9	Field Work Directive Allowable Markups (Adds this Section 7.3.9 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	100
8.2.2	Standby Equipment Costs (Added to Section 8.2.2 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	100
10.11	Road Closures and Detour Routes (Adds this Section 10.11 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	101
10.12	Use of WEBB COUNTY Streets (Adds this Section 10.12 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	101
10.13	Maintenance of Traffic (Adds this Section 10.13 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	101
10.14	Abatement and Mitigation of Excessive or Unnecessary Construction Noise (Adds this Section 10.14 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	102
10.15	Incidental Work, Connections, and Passageways (Adds Section 10.15 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)	102

GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS

ARTICLE I. GENERAL PROVISIONS

1.1 CONTRACT DEFINITIONS

Wherever used in the Contract Documents and printed with initial capital letters, the terms listed below shall have the meanings indicated, which are applicable to both the singular and plural thereof.

1.1.1 **“ALTERNATE”** means a variation in the Work in which WEBB COUNTY requires a price separate from the Base Bid. If an Alternate is accepted by WEBB COUNTY, the variation shall become a part of the Contract through award of the Contract and the Base Bid shall be adjusted to include the amount quoted as stated in the Notice of Award to Contractor. If an Alternate is accepted by WEBB COUNTY, and later deleted, WEBB COUNTY shall be entitled to a credit in the full value of the Alternate as priced in Contractor’s Bid Proposal.

1.1.2 **“AMENDMENT”** is a written modification of the Contract prepared by WEBB COUNTY or Design Consultant and signed by WEBB COUNTY and Contractor, (and approved by the WEBB COUNTY COMMISSIONERS COURT, if required) which authorizes an addition, deletion or revision in the Work (specifically the services) or an adjustment in the Contract Sum or the Contract Times and is issued on or after the Effective Date of the Contract.

1.1.3 **“BASE BID”** is the price quoted for the Work before Alternates are considered.

1.1.4 **“CHANGE ORDER”** refer to **Article VII** herein for definition.

1.1.5 **“WEBB COUNTY”** is defined in **Article II** herein.

1.1.6 **“WEBB COUNTY COMMISSIONERS COURT”** means the duly elected members of the WEBB COUNTY COMMISSIONERS COURT of WEBB COUNTY, Texas.

1.1.7 **“CONSTRUCTION OBSERVER/INSPECTOR** (hereafter referred to as “COI”) is the authorized representative of WEBB COUNTY to observe and inspect any or all parts of the Project and the materials to be used therein. Also referred to herein as Resident Inspector.

1.1.8 **“CONTRACT”** means the Contract Documents which represent the entire and integrated agreement between WEBB COUNTY and Contractor and supersede all prior negotiations, representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only in writing by a Field Work Directive, Change Order or Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind between:

- (1) Design Consultant and Contractor;

- (2) WEBB COUNTY and a Subcontractor or Sub-Subcontractor; or
- (3) any persons or entities other than WEBB COUNTY and Contractor.

1.1.9 **“CONTRACT DOCUMENTS”** means the Construction Contract between WEBB COUNTY and Contractor, which consists of, but is not limited to, the following: the solicitation documents, the Notice of Award, an enabling WEBB COUNTY Ordinance and all other contract-related documents, which include:

- (1) General Conditions;
- (2) Vertical and/or Horizontal specific General Conditions and Special Conditions included by Special Provisions or addenda;
- (3) Drawings;
- (4) Specifications;
- (5) addenda issued prior to the close of the solicitation period;
- (6) other documents listed in the Contract, including Field Work Directives, Change Orders and/or Amendments; and
- (7) a written order for a minor change in the Work issued by Design Consultant and/or WEBB COUNTY, as described in **Article VII** herein.

The geotechnical and subsurface reports, which WEBB COUNTY may have provided to Contractor, specifically are excluded from the Contract Documents.

1.1.10 **“CONTRACT TIME”** means, unless otherwise provided, the period of time, including any authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. When the plural (“Contract Times”) is used, it refers to milestones designated in the Work Progress Schedule.

1.1.11 **“CONTRACTOR”** means the entity entering into a Contract with WEBB COUNTY to complete the Work. Contractor, as used herein, includes Construction Manager at Risk or other applicable entities performing work under a Contract with WEBB COUNTY.

1.1.12 **“DAY”** as used in the Contract Documents shall mean Calendar Day, unless otherwise specifically defined. A Calendar Day is a day of 24 hours, measured from midnight to the next midnight, unless otherwise specifically stipulated. For Projects not affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, a Working Day is measured from sunrise to sundown Monday through Friday, except legal holidays, or the hours during which Contractor has been authorized and/or directed to work by WEBB COUNTY. For Projects affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, a working day shall mean sunrise to sundown Monday through

Saturday, except legal holidays, or hours during which Contractor has been authorized and/or directed to work by WEBB COUNTY.

1.1.13 **“DEPARTMENT”** means the Webb County Engineering Department

1.1.14 **“DESIGN CONSULTANT”** means, unless the context clearly indicates otherwise, an Engineer, Architect or other Design Consultant in private practice, licensed to do work in Texas and retained for a specific project under a contractual agreement with WEBB COUNTY. In the event there is no private Engineer, Architect or other Design Consultant then the DEPARTMENT ENGINEER is the DESIGN CONSULTANT.

1.1.15 **“DEEMS” AND/OR “DEEMED”** means objectively and reasonably determined..

1.1.16 **“DRAWINGS”** (also referred to herein as **“Plans”**) are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of Work, generally including elevations, sections, details, schedules and diagrams.

1.1.17 Failings, neglect, defaults have to be substantial, material and/or significant as to result in loss or cost in more than nominal.

1.1.18 **“FIELD WORK DIRECTIVES” OR “FORCE ACCOUNT”** is a written order signed by WEBB COUNTY directing a change in the Work prior to agreement and adjustment, if any, in the Contract Sum and/or Contract, as further defined in **Section 7.3** herein.

1.1.19 **“HAZARDOUS SUBSTANCE”** is defined to include the following:

- (a) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophyllite or actinolite, whether friable or non-friable;
- (b) any polychlorinated biphenyls (“PCBs”), or PCB-containing materials, or fluids;
- (c) radon;
- (d) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste; any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;
- (e) any substance, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

- (f) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.;
- (g) the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and
- (h) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

1.120 **“LIQUIDATED DAMAGES”** reflect the daily monetary compensation, as designated in the Project’s solicitation documents, to be paid to WEBB COUNTY by Contractor for losses/damages incurred by WEBB COUNTY as a result of Contractor’s failure to achieve the contractual dates for Substantial Completion and/or Final Completion of the Project.

1.121 **“NOTICE TO PROCEED (HEREIN ALSO REFERRED TO AS “WORK PROJECT AUTHORIZATION” OR “NTP”)**” is a written notice given by WEBB COUNTY to Contractor establishing the date on which the Contract Time shall commence to run and the date on which Contractor may begin performance of its contractual obligations.

1.122 **“OWNER”** is defined in **Article II** herein.

1.123 **“OWNER’S DESIGNATED REPRESENTATIVE (ODR)”** means the person(s) designated by WEBB COUNTY to act for WEBB COUNTY.

1.124 **“PARTY”** shall refer to WEBB COUNTY or Contractor individually herein.

1.125 **“PARTIES”** shall refer to WEBB COUNTY and Contractor collectively herein.

1.126 **“PROJECT”** means the total design and construction of Work performed under the Contract Documents and may be the whole or a part of the Project and which may include construction by WEBB COUNTY or by separate contractors. All references in these General Conditions to or concerning the Work or the Site of the Work shall use the term “Project,” notwithstanding the Work referenced only may be a part of the Project.

1.127 **“PROJECT MANAGEMENT TEAM”** is composed of WEBB COUNTY, its representatives, Design Consultant and Program Manager (if any) for this Work.

1.128 **“SITE”** means the land(s) or area(s) (as indicated in the Contract Documents) furnished by WEBB COUNTY, upon which the Work is to be performed, including rights-of- way and easements for access thereto, and such other lands furnished by WEBB COUNTY which are designated for the use of Contractor.

1.1.29 **“SPECIAL CONDITIONS”** are terms and conditions to a contractual agreement which supplement and are superior to these General Conditions and grant greater authority or impose greater restrictions upon Contractor, beyond those granted or imposed in these General Conditions. WEBB COUNTY’s Horizontal Special Conditions are attached hereto, made a part of these General Conditions and shall be used as applicable.

1.1.30 **“SPECIFICATIONS”** are those elements of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, workmanship for the Work, performance of related services and other technical requirements.

1.1.31 **“SUBSTANTIAL COMPLETION”** is the date certified by WEBB COUNTY and Design Consultant, in accordance with **Section 9.8** herein, when the Work, or a designated portion thereof, is sufficiently complete in accordance with the Contract Documents so as to be operational and fit for the intended use by WEBB COUNTY.

1.1.32 **“TEMPORARY BENCH MARKS (TBM)”** are temporary affixed marks which establish the exact elevation of a place; TBMs are used by surveyors in measuring site elevations or as a starting point for surveys.

1.1.33 **“THE 3D MODEL”** is the Building Information Model prepared by Design Consultant in the format designated, approved and acceptable to WEBB COUNTY with databases of materials, products and systems available for use by Contractor to prepare schedules for cost estimating, product and materials placement schedules and evaluations of crash incidences. The 3D Model, if available, may be used as a tool, however all information taken from the Model is the responsibility of Contractor and not WEBB COUNTY or Design Consultant.

1.1.34 **“WORK”** means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by Contractor, or any Subcontractors, Sub-Subcontractors, material suppliers or any other entities for which Contractor is responsible, to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

1.1.35 **OTHER DEFINITIONS.** As used in the Contract Documents, the following additional terms have the following meanings:

- 1.1.33.1 “provide” means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and all other expenses necessary to complete in place and ready for operation or use;
- 1.1.33.2 “shall” means the mandatory action of the Party of which reference is being made;
- 1.1.33.3 “as required” means as prescribed in the Contract Documents; and
- 1.1.33.4 “as necessary” means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes and regulations.

1.2 PRELIMINARY MATTERS

1.2.1 Upon the WEBB COUNTY Commissioners Court's award of the project, a Notice of Award Letter shall be sent to Contractor by WEBB COUNTY, notifying Contractor of the award of a contract. In its Notice of Award Letter, Contractor shall be informed of a date certain by which Contractor's bond(s) and evidence of insurance shall be delivered to WEBB COUNTY.

1.2.2 **DELIVERY OF CONTRACT AND BONDS.** Not later than the Pre-Construction meeting and prior to the commencement of any Work on the Project, Contractor shall deliver a fully executed Contract to WEBB COUNTY, along with such bonds as Contractor may be required to furnish, including, but not limited to, a required payment bond in the form and amount specified in the Contract Documents and these General Conditions and a required performance bond in the form and amount specified in the Contract Documents and these General Conditions.

1.2.3 **DELIVERY OF EVIDENCE OF INSURANCE.** Not later than the Pre-Construction meeting, and prior to the commencement of any Work under this Contract, Contractor shall deliver evidence of insurance to WEBB COUNTY. Contractor shall furnish an original completed Certificate of Insurance and a copy of all insurance policies, together with all required endorsements thereto, required by the Contract Documents to WEBB COUNTY, or its delegated department, clearly labeled with the name of the Project and which shall contain all information required by the Contract Documents. Contractor shall be prohibited from commencing the Work and WEBB COUNTY shall have no duty to pay or perform under this Contract until such evidence of insurance is delivered to WEBB COUNTY. No officer or employee, other than WEBB COUNTY's Commissioners Court, shall have authority to waive this requirement.

1.2.4 **NOTICE TO PROCEED AND COMMENCEMENT OF CONTRACT TIMES.** Unless otherwise stated on the Notice to Proceed, the Contract Time shall commence to run on the date stated on the Notice to Proceed. No Work shall commence any earlier than the date stated on Notice to Proceed and no Work shall be performed by Contractor or any Subcontractor prior to issuance of the Notice to Proceed. Any work commenced prior to Contractor receiving a Notice to Proceed is performed at Contractor's risk.

1.2.5 **SUBMISSION OF PROJECT SCHEDULE(S).** Prior to commencement of Work (unless otherwise specified elsewhere in the Contract Documents), Contractor shall submit to the Webb County Engineer and Design Consultant or their designee the Project schedule(s), as defined in **Section 3.10** herein, a minimum of five (5) days prior to the Pre-Construction Conference.

1.2.6 **PRE-CONSTRUCTION CONFERENCE.** Before Contractor commences any Work on the Project, a Pre-Construction Conference attended by Contractor, Design Consultant, OWNER'S DESIGNATED REPRESENTATIVE(s) and others, as appropriate, shall be held to establish a working understanding among the Parties as to the Work and discuss, at minimum: the Project Schedule(s) referenced in this **Article 1**; the procedures for handling Shop Drawings and other submittals; the processing of Applications for Payment; and Contractor maintaining required records. The Notice to Proceed may be issued at the Pre-Construction Conference or issued by

WEBB COUNTY at any time at WEBB COUNTY's discretion. Said issuance of the Notice to Proceed shall not be unreasonably withheld by WEBB COUNTY.

1.2.7 Payments for services, goods, work, equipment and materials are contingent upon and subject to the availability and appropriation of funds. In the event funds are not available, appropriated or encumbered to fund a Project, then, at WEBB COUNTY's discretion, this Contract may be terminated immediately with no additional liability to WEBB COUNTY.

1.3 CONTRACT DOCUMENTS

1.3.1 **EXECUTION OF CONTRACT DOCUMENTS.** Execution of the Contract by Contractor is a representation Contractor has been provided unrestricted access to the existing improvements and conditions on the Project Site, Contractor thoroughly has investigated the visible conditions at the Site and the general local conditions affecting the Work and Contractor's investigation was instrumental in preparing its bid or proposal submitted to WEBB COUNTY to perform the Work. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum arising from conditions which Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's investigation.

1.3.2 **OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE.** The Drawings, Specifications and other documents, including those in electronic form, prepared by Design Consultant, its Consultants or other Consultants retained by WEBB COUNTY for the Project, which describe the Work to be executed by Contractor (collectively referred to as the "Construction Documents") are and shall remain the property of WEBB COUNTY, whether the Project for which they are made is executed or not. Contractor shall be permitted to retain one record set. Neither Contractor nor any Subcontractor, sub-Subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by Design Consultant or Design Consultant's Consultants. All copies of Construction Documents, except Contractor's record set, shall be returned or suitably accounted for to Design Consultant on request and upon completion of the Work. The Drawings, Specifications and other documents prepared by Design Consultant and Design Consultant's Consultants, along with copies thereof furnished to Contractor, are for use solely with respect to this Project. The drawings, Specifications or other documents are not to be used by Contractor or any Subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of WEBB COUNTY. Any such use without written authorization shall be at the sole risk and liability of Contractor. Contractor, Subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Design Consultant and the Design Consultant's Consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by Design Consultant and Design Consultant's Consultants. Submittal or distribution to meet official regulatory requirements or for other purposes, in connection with this Project, is not to be construed as publication.

- 1321 All of Contractor's non-proprietary, documentary Work product, including reports and correspondence to WEBB COUNTY, prepared pursuant to this Contract, shall be the property of WEBB COUNTY and, upon completion of this Contract and upon written request by WEBB COUNTY, promptly shall be delivered to WEBB COUNTY in a reasonably organized form, without restriction on its future use by WEBB COUNTY. For the avoidance of doubt, documentary Work product does not include privileged communications, proprietary information and documents used to prepare Contractor's Bid Proposal.
- 1322 Contractor may retain for its files any copies of documents it chooses to retain and may use its Work product as it deems fit. Any materially- significant Work product lost or destroyed by Contractor shall be replaced or reproduced at Contractor's non-reimbursable sole cost. In addition, WEBB COUNTY shall have access during normal business hours, during the duration this Contract is in effect and for four (4) years after the final completion of the Work, unless there is an ongoing dispute under the Contract, then such access period shall extend longer until final resolution of the dispute, to all of Contractor's records and documents covering reimbursable expenses, actual base hourly rates, time cards and annual salary escalation records maintained in connection with this Contract for purposes of auditing same at the sole cost of WEBB COUNTY. The purpose of any such audit shall be for the verification of such costs. Contractor shall not be required to keep records of, or provide access to, the makeup of any negotiated and agreed-to lump sums, unit prices or fixed overhead and profit multipliers. Nothing herein shall deny Contractor the right to retain duplicates. Refusal by Contractor to comply with the provisions hereof shall entitle WEBB COUNTY to withhold any payment(s) to Contractor until compliance is obtained.
- 1323 All of Contractor's documentary Work product shall be maintained within Contractor's offices, unless otherwise authorized by WEBB COUNTY. After expiration of this Contract, Contractor's documents may be archived in the Contractor's central record storage facility but shall remain accessible to WEBB COUNTY for the four (4) year period cited in **Section 1.3.22** herein.

1.3.3 CORRELATION AND INTENT. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all. Performance by Contractor shall be required only to the extent consistent with the Contract Documents and which reasonably is inferable from the Contract Documents as deemed necessary to produce the indicated results. In cases of discrepancy between any drawing and the dimension figures written thereon:

- (1) The dimension figures shall govern over scaled dimensions;
- (2) Detailed Drawings and accompanying notations shall govern over general Drawings;

- (3) Specifications shall govern over Drawings, subject to **Section 1.3.3.6** herein;
- (4) Supplemental Conditions shall govern over General Conditions;
- (5) Special Conditions shall govern over Specifications, Drawings and General/Supplemental Conditions; and
- (6) Negotiated Special Conditions shall govern over Special Conditions.

The most recent revision of Plans shall control over older revisions provided same are delivered to Contractor before the Work is commenced on the prior revisions. If Contractor is not provided the most recent and Contractor expended labor and material based on a prior revision, any removal and correction needed to comply with the most recent revision must be pursuant to a Change Order

1331 Organization of the Specifications into divisions, sections, articles, and the arrangement of Drawings shall not control Contractor in dividing the Work among Subcontractors or establishing the extent of Work to be performed by any trade.

1332 Unless otherwise stated in the Contract Documents, words having well- known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Where the phrases "directed by", "ordered by" or "to the satisfaction of" WEBB COUNTY, Design Consultant or WEBB COUNTY's Resident Inspector or other specified designation occur, it is understood the directions, orders or instructions to which they relate are those within the scope of and authorized by the Contract Documents.

1333 Reference to manufacturer's instructions, standard specifications, manuals or codes of any technical society, organization or association, laws or regulations of any governmental authority, or to any other documents, 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 Contractor's Bid Proposal, except as otherwise may be specifically stated or where a particular issue is indicated. Municipal and utility standards shall govern except in case of conflict with the Specifications. In case of a conflict between the Specifications and the referenced standard, the more stringent shall govern.

1334 The most recently issued Document takes precedence over previous issues of the same Document. The order of precedence is as follows, with the highest authority listed herein as "1" and in descending order:

1. Modifications to the Project Contract signed by Contractor, WEBB COUNTY and Design Consultant;
2. Addenda, with those of later date(s) having precedence over those with earlier date(s);

3. Special Conditions;
4. Supplemental Conditions;
4. General Conditions;
5. Special Provisions (Horizontal Projects);
6. Specifications;
7. Drawings;

1335 Should the Drawings and Specifications be inconsistent, contract pricing shall be based on the better quality and greater quantity of work indicated. In the event of the above-mentioned inconsistency, WEBB COUNTY shall determine the resolution of the inconsistency.

1336 In the Drawings and Specifications, where certain products, manufacturer's trade names or catalog numbers are given, such information is given for the sole and express purpose of establishing a standard of function, dimension, appearance and quality of design in harmony with the Work and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless such a substitution has been specifically accepted for use on this Project by WEBB COUNTY and Design Consultant.

1337 When the work is governed by reference to standards, building codes, manufacturer's instructions or other documents, unless otherwise specified, the edition currently in place as of the date of the submission of the bid shall apply.

1338 Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

1339 Special Provisions, if any, shall be issued by WEBB COUNTY directly to Contractor, shall become part of the Project Specifications and shall modify WEBB COUNTY's Standard Specifications.

1.3.4 CONFLICT RESOLUTION BETWEEN DOCUMENTS. Contractor and Consultant hereby agree and acknowledge if anything contained in Consultant's prepared Scope/Project Specifications or anything contained in any other document prepared by or on behalf of Consultant and included with the Project documents is in conflict with the Project solicitation documents and/or with these General Conditions for WEBB COUNTY Construction Contracts, the Project solicitation documents and these General Conditions for WEBB COUNTY Construction Contracts shall take precedence and control to resolve said conflict(s).

1.3.5 INTERPRETATION. In the interest of brevity, the Contract Documents frequently omit

modifying words such as "all" and "any" and articles such as "the" and "an", but the fact a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE II. WEBB COUNTY

2.1 GENERAL

2.1.1 WEBB COUNTY, Texas, a political subdivision of the State of Texas with its principal office located at 1000 Houston St., Laredo, Texas and identified as "WEBB COUNTY" or as "Owner" in the Contract and these General Conditions, is referred to throughout the Contract Documents as if singular in number. WEBB COUNTY shall designate in writing to Contractor a representative (hereafter referred to as "OWNER'S DESIGNATED REPRESENTATIVE" or "ODR") who shall have express authority to bind WEBB COUNTY, subject to OWNER's Commissioners Court approval of any change in the work that affects the Contract time or Contract Sum, with respect to all matters concerning this Contract requiring WEBB COUNTY's approval or authorization. Whenever the term "WEBB COUNTY" or "WEBB COUNTY" is found in this Contract or the Contract Documents, such term shall include WEBB COUNTY's agents, elected officials, employees, officers, directors, volunteers, representatives, successors and assigns.

2.1.2 Contractor acknowledges no lien rights exist, with respect to public property.

2.2 INFORMATION AND SERVICES TO BE PROVIDED BY WEBB COUNTY

2.2.1 WEBB COUNTY shall provide and maintain the Preliminary Budget and general schedule, if any, for the Project. The Preliminary Budget shall include the anticipated construction cost, contingencies for changes in the Work during construction and other costs that are the responsibility of WEBB COUNTY. The general schedule shall set forth WEBB COUNTY's plan for milestone dates and Substantial Completion and Final Completion of the Project.

2.2.2 WEBB COUNTY shall furnish surveys, if in existence and in WEBB COUNTY's possession, describing physical characteristics, legal limitations and utility locations. The furnishing of these surveys and reports shall not relieve Contractor of any of its duties under the Contract Documents or these General Conditions. Information or services required of WEBB COUNTY by the Contract Documents shall be furnished by WEBB COUNTY with reasonable promptness following actual receipt of a written request from Contractor. It is incumbent upon Contractor to identify, establish and maintain a current schedule of latest dates for submittal and approval by WEBB COUNTY, as required in **Section 3.10** herein, including when such information or services must be delivered. If WEBB COUNTY delivers the information or services to Contractor as scheduled and Contractor is not prepared to accept or act on such information or services, then Contractor shall reimburse WEBB COUNTY for all extra costs incurred by holding, storage, retention or performance, including redeliveries by WEBB COUNTY in order to comply with the current schedule.

2.2.3 Unless otherwise provided in the Contract Documents, Contractor shall be furnished, free of charge, up to three complete sets of the Plans and Specifications by Design Consultant. Additional complete sets of Plans and Specifications, if requested by Contractor, shall be furnished at reproduction cost to Contractor.

2.2.4 WEBB COUNTY's personnel may, but are not required to, be present at the construction site during progress of the Work, along with Design Consultant in the performance of its duties, to verify Contractor's record of the number of workers employed on the Work site, the workers' occupational classification, the time each worker is engaged in the Work and the equipment used by the workers in the performance of the Work, for purpose of verification of Contractor's Applications for Payment and payroll records.

2.2.5 WEBB COUNTY shall reimburse Contractor for the necessary Project-related approvals, fees and required permits with no markup paid to Contractor for these necessary Project-related approvals, fees and required permits costs, unless said costs are stipulated in the Contract Documents as a part of Contractor's cost of Work.

2.2.6 **WEBB COUNTY'S RIGHT TO STOP THE WORK.** If Contractor fails to correct Work reasonably deemed by WEBB COUNTY not in accordance with the requirements of the Contract Documents, as required by **Section 12.3** herein, fails to carry out Work in substantial accordance with the Contract Documents or fails to submit its preliminary schedule(s), bond(s), insurance certificate(s) or any other required submittals, WEBB COUNTY may issue a written order to Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The right of WEBB COUNTY to stop the Work shall not give rise to any duty on the part of WEBB COUNTY to exercise this right for the benefit of the Contractor or any other person or entity. This right shall be in addition to and not in restriction of WEBB COUNTY's rights pursuant to **Section 12.3** herein. WEBB COUNTY's issuance of an order to Contractor based on the foregoing to stop the Work shall not give rise to any claim by Contractor for additional time, cost or general conditions costs.

2.2.7 **WEBB COUNTY'S RIGHT TO CARRY OUT THE WORK.** If Contractor defaults, neglects or fails to carry out the Work in accordance with the Contract Documents and fails, within a three (3) work-day period after receipt of written notice from WEBB COUNTY, to commence and continue correction of such default, neglect or failure with diligence and promptness, WEBB COUNTY may, without prejudice to other remedies WEBB COUNTY may have, correct such deficiencies, neglect or failure. In such case, an appropriate Change Order may be issued deducting from payments then or thereafter due Contractor reflecting the reasonable cost of correcting such deficiencies, neglect or failure of Contractor, including all of WEBB COUNTY's incurred expenses and compensation for Design Consultant's additional services made necessary by such default, neglect or failure of Contractor. If payments then or thereafter due Contractor are not sufficient to cover such amounts for the Work performed, Contractor shall pay the difference to WEBB COUNTY.

ARTICLE III. CONTRACTOR

3.1 GENERAL

3.1.1 Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.1.2 Contractor shall perform the Work in a good and workmanlike manner, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship.

3.1.3 Contractor shall not be relieved of its obligations, responsibilities or duties to perform the Work in accordance with the Contract Documents, either by any activities or duties of Design Consultant in Design Consultant's administration of the Contract or by tests, inspections or approvals required or performed by WEBB COUNTY or any person other than the Contractor.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, Contractor carefully shall:

- (1) study and compare the various Drawings and other Contract Documents relative to that portion of the Work and the information furnished by WEBB COUNTY;
- (2) take field measurements of any existing conditions related to that portion of the Work; and
- (3) observe any conditions at the Site affecting the Work.

Any error, inconsistencies or omissions discovered by Contractor shall be promptly reported to WEBB COUNTY via a Request for Information in such form as WEBB COUNTY may require.

3.2.1.1 The exactness of existing grades, elevations, dimensions or locations given on any Drawings issued by Design Consultant, or the work installed by other contractors, is not guaranteed by WEBB COUNTY. Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions and locations, provided that same are as indicated on the Plans and Specifications.

3.2.1.2 In all cases of interconnection of its Work with existing conditions or with work performed by others, Contractor shall verify at the site all dimensions relating to such existing or other work. Any errors due to Contractor's failure to so verify all such grades, elevations, dimensions or locations shall comply with the Plans and Specification and shall promptly be rectified by Contractor without any additional cost to WEBB COUNTY.

3.2.2 As between WEBB COUNTY and Contractor, and subject to the provisions of **Section**

3.2.4 below, Contractor has no responsibility for the timely delivery, completeness, accuracy and/or sufficiency of the Specifications or Drawings (or any errors, omissions, or ambiguities therein), and is not responsible for any failure of the design of the facilities or structures as reflected thereon to be suitable, sound or safe. Contractor shall be deemed to have satisfied itself as to the design contained in and reflected by the Specifications and the Drawings. In particular, but without prejudice to the generality of the foregoing, Contractor shall review the Contract Documents to establish:

- 3.2.2.1 the information is sufficiently complete to perform the Work; and
- 3.2.2.2 there are no obvious or patent ambiguities, inaccuracies or inconsistencies within or between the documents forming the Contract; and
- 3.2.2.3 Contractor shall work with the aforementioned Contract Documents so as to perform the Work and of each and every part thereof to ensure the Work and each and every part thereof shall, jointly and severally, be in accordance with the requirements of the Contract Documents and, in particular but without limiting the generality of the foregoing, the Work as a whole and, as appropriate, each and every part thereof, shall comply with the requirements of any performance Specifications.

323 Any design errors or omissions noted by Contractor during its review shall be reported to WEBB COUNTY, but it is recognized the Contractor's review is made in Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor is not required to ascertain if Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to Contractor promptly shall be reported both to WEBB COUNTY and Design Consultant.

324 If Contractor believes additional cost or time is involved because of clarifications or instructions issued by Design Consultant, in response to the Contractor's Notices or Requests for Information, Contractor shall make Claims as provided in **Section 4.3.5** and **Section 4.3.6** herein. If Contractor fails to perform the obligations of **Section 3.2.1** and **Section 3.2.2** herein, Contractor shall pay such costs and damages to WEBB COUNTY, to include applicable Liquidated Damages, as would have been avoided if Contractor had performed such obligations. Contractor shall not be liable to WEBB COUNTY or Design Consultant for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents, unless Contractor recognized or should have recognized such obvious error, inconsistency, omission or differences and knowingly failed to report it to WEBB COUNTY and Design Consultant, as required by this **Section 3.2.3**.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

331 Contractor shall supervise, inspect, and direct the Work competently and efficiently, exercising the skill and attention of a reasonably prudent Contractor, devoting such attention, and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor solely shall be responsible for the means, methods, techniques, sequences, procedures, and coordination of all portions of the Work under the

Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods and/or techniques, Contractor then shall evaluate the jobsite safety thereof and, except as stated herein below, shall be fully and solely responsible for the jobsite's safety of such means, methods, techniques, sequences, or procedures. If, upon its evaluation, Contractor determines such means, methods, techniques, sequences, or procedures may not be safe, Contractor shall give timely written notice to WEBB COUNTY and Design Consultant and Contractor shall not proceed with that portion of the Work without further written instructions from WEBB COUNTY. Sequencing and procedures shall be coordinated and agreed upon by WEBB COUNTY, Design Consultant and Contractor.

332 Contractor shall be responsible to WEBB COUNTY for the acts and omissions of Contractor's agents and employees, Subcontractors and their agents and employees and other persons or entities performing portions of the Work for or on behalf of Contractor or any of its Subcontractors.

333 Contractor shall be responsible for inspection of portions of Work already performed, to determine which such portion are in proper condition to receive subsequent Work.

334 Contractor shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, Subchapter C, Sections 756.021, et seq.

335 It is understood and agreed the relationship of Contractor to WEBB COUNTY shall be of an independent contractor. Nothing contained or inferable in the Contract documents shall be read, deemed, or construed to make Contractor the agent, servant or employee of WEBB COUNTY or create any partnership, joint venture or other association between WEBB COUNTY and Contractor. Any direction or instruction by WEBB COUNTY, in respect of the Work, shall relate to the results WEBB COUNTY desires to obtain from the Work and shall in no way affect Contractor's independent contractor status, as described herein.

336 Contractor shall review Subcontractor(s) written safety programs, procedures, and precautions in connection with performance of the Work. However, Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g. a supplier), including any person or entity with whom Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state and local laws, rules, regulations and ordinances, which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this **Section 3.3.6** are not intended to impose upon Contractor any additional obligations Contractor would not have under any applicable state or federal laws including, but not limited to, any rules, regulations or statutes pertaining to the Occupational Safety and Health Administration.

3.4 LABOR AND MATERIALS

341 Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

342 **PREVAILING WAGE RATE AND LABOR STANDARD PROVISIONS.** The Provisions of Chapter 2258 of the Texas Government Code expressly are made a part of this Contract. In accordance therewith, a schedule of the general prevailing rate of per diem wages in this locality for each craft or type of worker needed to perform this Contract shall be obtained by Contractor from WEBB COUNTY and included in Contractor's Project bid package, prior to Contractor bidding of the Project and such schedule shall become a part hereof. If no prevailing wage rate of per diem wages has been adopted by Webb County then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. Section 276a, (which can be accessed on the internet at <https://www.dol.gov/> or <https://beta.sam.gov/>) effective as of the date of this Agreement. The establishment of prevailing wage rates, pursuant to Chapter 2258 of the Texas Government Code, shall not be construed to relieve Contractor from its obligation under any federal or state law, regarding the wages to be paid to or hours worked by laborers, workers, or mechanics, insofar as applicable to the work to be performed hereunder. Contractor, in the execution of this Project, agrees it shall not discriminate in its employment practices against any person because of race, color, creed, sex, or origin. Contractor agrees it shall not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, creed, national origin, sex, age, handicap or political belief or affiliation. This Contract provision shall be included in its entirety in all Subcontractor agreements entered into by the Contractor or any Subcontractor employed on the project.

343 **SUBSTITUTIONS**

3.4.3.1 Contractor's proposed substitutions and alternates may be rejected by WEBB COUNTY without explanation and shall be considered by WEBB COUNTY only under one or more of the following conditions:

- (a) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing;
- (b) specified products are unavailable through no fault of Contractor; and
- (c) when, in the judgment of WEBB COUNTY or Design Consultant, a substitution substantially would be in WEBB COUNTY's best interests in terms of cost, time or other considerations.

3.4.3.2 Contractor shall submit to WEBB COUNTY and Design Consultant:

- (a) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalog cuts, warranties, test results, installation

instructions, operating procedures and other like information necessary for a complete evaluation of the substitution;

- (b) a written explanation of the reasons the substitution is necessary, including the benefits to WEBB COUNTY and to the Work, in the event the substitution is acceptable to WEBB COUNTY;
- (c) the adjustment, if any, in the Contract Sum;
- (d) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and
- (e) in the event of a substitution under Section 3.4.3.1 herein, an affidavit stating:
 - (1) Contractor's proposed substitution conforms to and meets all the requirements of the pertinent Specifications and requirements shown on the Drawings; and
 - (2) Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by Design Consultant.

Proposals for substitutions shall be submitted to Design Consultant in sufficient time to allow Design Consultant no less than fourteen (14) calendar days for review. No substitutions shall be considered or allowed without Contractor's submittal of complete substantiating data and information as stated hereinbefore.

3.4.3.3 In the event of a substitution submittal under this **Section 3.4.3**, and whether or not any such proposed substitution is accepted by WEBB COUNTY or Design Consultant, Contractor shall reimburse WEBB COUNTY, at WEBB COUNTY's reasonable discretion, for any fees incurred and charged by Design Consultant or other Consultants for evaluating each proposed substitute.

3.4.3.4 Except as otherwise stipulated in the Contract Documents or required for safety or protection of persons or the Work or property at the Site or adjacent thereto, no Work shall be allowed by WEBB COUNTY between the hours of 10:00 p.m. and 6:00 a.m. of the following calendar day, unless directed by the ODR or requested in writing by Contractor and approved by WEBB COUNTY.

344 Contractor shall, at all times, enforce strict discipline and good order among persons working on the Project and shall not employ or continue to employ any unfit person on the Project or any person not skilled in the assigned work. Contractor shall be liable for and responsible to WEBB COUNTY for all acts and omissions of its employees, all tiers of its Subcontractors, material suppliers, anyone who Contractor may allow to perform any Work on the Project and their respective officers, agents, employees, and Consultants who Contractor may allow to come on the job site, with the exception of WEBB COUNTY or WEBB COUNTY's Designee. WEBB

COUNTY, at any time, for any reason or for no reason, may direct Contractor to remove any employee, Subcontractor, material supplier or anyone else from the Project and Contractor promptly shall comply with WEBB COUNTY's direction. In addition, if Contractor receives written notice from WEBB COUNTY complaining about any Subcontractor, employee or anyone who is a material hindrance that substantially interferes with or causes an unsafe workplace, or the proper or timely execution of the Work, Contractor shall remedy such complaint without delay to the Project and at no additional cost to WEBB COUNTY. This provision shall be included in all contracts between Contractor and all Subcontractors of all tiers.

345 Contractor recognizes, accepts and hereby acknowledges the Project Site is a public facility representing WEBB COUNTY. As such, Contractor shall prohibit the possession or use of alcohol, controlled substances, and any prohibited weapons on the Project Site and shall require appropriate dress of Contractor's forces consistent with the nature of the Work being performed, including the wearing of shirts at all times. Harassment of any kind, including sexual harassment, of employees of Contractor or any Subcontractor, employees or Consultants of WEBB COUNTY or of any visitor to the Project site, by Contractor, employee(s) of Contractor, a Subcontractor or an employee of Subcontractor is strictly forbidden. Any person, Contractor, employee of Contractor, Subcontractor or employee of Subcontractor who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by Contractor and/or WEBB COUNTY, including the removal and of the violating person(s) or employee(s) of Contractor or Subcontractor from the Project Site; removal or exclusion of a violating person(s) shall only be effectuated after consultation with representatives of WEBB COUNTY, the Contractor and the violating person(s) and, if WEBB COUNTY so elects, termination from the Project.

346 Contractor only shall employ or use labor in connection with the Work capable of working harmoniously with all trades, crafts and any other individuals associated with the Project.

347 All materials and installed equipment shall be as specified in the Contract Documents and, if not so specified, shall be new and of good quality, except as otherwise provided in the Contract Documents. If required by WEBB COUNTY or Design Consultant, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind and quality of materials and equipment installed. Contractor may make substitutions only with the consent of WEBB COUNTY, after Contractor's compliance with **Section 3.4.3** herein.

348 All materials shall be shipped, stored, and handled in a manner which shall protect and ensure their condition at the time of incorporation in the Work. After installation, all materials shall be properly protected against damage to ensure they are in the condition as required by **Section 3.5.1** herein when the Work is Substantially Completed or WEBB COUNTY takes over use and occupancy, whichever is earlier.

349 Contractor shall procure and furnish to WEBB COUNTY all guarantees, warranties, spares and maintenance manuals called for by the Specifications or which normally are provided by a manufacturer. The maintenance manual shall include a catalog for any equipment, materials, supplies, or parts used in the inspection, calibration, maintenance or repair of the equipment and items in the catalog shall be readily available for purchase, provided that same are available to Contractor.

34.10 During construction of the Work and for ten (10) years after final completion or longer if, during the duration of this Contract or during the ten (10) years after the final completion of the Work, a dispute between any parties to this Project exists, Contractor shall retain and shall require all Subcontractors to retain for inspection and audit by WEBB COUNTY all books, accounts, reports, files, time cards, material invoices, payrolls and evidence of all other direct or indirect costs related to the bidding and performance of this Work (hereinafter referred to "stored documents"). Upon request by WEBB COUNTY, a legible copy or the original of any or all such records shall be produced by Contractor at the administrative office of WEBB COUNTY. To the extent it requests copies of such documents, WEBB COUNTY shall reimburse Contractor and its Subcontractors for copying costs. Contractor shall not be required to keep records of or provide access to the makeup of any negotiated and agreed-to lump sums, unit prices or fixed overhead and profit multipliers. In lieu of the foregoing, Contractor may elect to deliver to WEBB COUNTY the Stored Documents or certified copies of same in fulfillment of these requirements.

3.5 WARRANTY

35.1 Contractor warrants materials and equipment furnished and installed under the Contract shall be new and of good quality, unless otherwise required or permitted by the Contract Documents, the Work shall be free from defects not inherent in the quality required or permitted and the Work shall conform to the requirements of the Contract Documents. Work not conforming to this warranty and these requirements, including substitutions not properly approved and authorized by WEBB COUNTY, may be considered "defective (this is the definition of "defective applied in the Contract Documents)". Contractor's warranty excludes remedy for damage or defect caused by abuse, Acts of God, Acts of Man (not associated with Contractor), shifting ground, water tables, floods, riots, failure of material as specified in the Contract Documents, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, normal wear and tear and normal usage, and additional damage or defects caused by WEBB COUNTY's failure to promptly notify Contractor. If required by WEBB COUNTY, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

35.2 A right of action by WEBB COUNTY for any breach of Contractor's express warranty herein shall be in addition to, and not in lieu of, any other remedies WEBB COUNTY may have under this Contract at law or in equity, regarding any defective Work but as limited in the Contract Documents.

35.3 The warranty provided in **Section 3.5.1** herein shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents. After Substantial Completion, such warranty is replaced with Contractor's one (1) year warranty against defective workmanship and/or defective materials, it being deemed that at Substantial Completion Contractor complied with the Work's Plans and Specification. During the post Substantial Completion warranty period, upon written timely demand by WEBB COUNTY to Contractor to replace defective workmanship and/or materials and re-execute any such defective Work disclosed to the Contractor by WEBB COUNTY within a period of one (1) year after Substantial Completion of the applicable Work, within one (1) year after discovery or by the exercise of due diligence should have been discovered by WEBB COUNTY. Latent Defects are limited to being discovered

within the one (1) year period and if not, same are not warranted.

354 All warranties shall be assignable to WEBB COUNTY. Submittal of all warranties and guarantees are required as a prerequisite to the final payment.

355 Except when a longer warranty time is specifically called for in the Specifications or is otherwise provided by law or by manufacturer, all warranties shall be for twelve (12) months and shall be in form and content otherwise reasonably satisfactory to WEBB COUNTY. WEBB COUNTY and Contractor acknowledge the Project may involve construction work on more than one (1) building or section of infrastructure of WEBB COUNTY's. While the overall Project shall have a single date for Substantial Completion of the Work and Final Completion of the Work, each building, section of infrastructure or approved phase of each section of infrastructure may have its own separate and independent date of Substantial Completion or Final Completion.

356 If separate dates for Substantial Completion and Final Completion are established and granted by WEBB COUNTY, at WEBB COUNTY's sole discretion and as a result of WEBB COUNTY electing partially to occupy areas prior to the Project's overall date for Substantial Completion, Contractor shall maintain a complete and accurate schedule of the dates of Substantial Completion and, if WEBB COUNTY accepts partial occupancy of those completed areas, the dates upon which the one (1) year warranty on each building, phase or section of infrastructure granted Substantial Completion shall expire. If separate dates are granted, Contractor agrees to provide notice of the warranty expiration date(s) to WEBB COUNTY and Design Consultant at least one (1) month prior to the expiration of the one (1) year warranty period on each building, section of infrastructure or each phase of the section of infrastructure which has achieved Substantial Completion.

357 Prior to termination of any one (1) year warranty period, Contractor shall accompany WEBB COUNTY and Design Consultant on re-inspection of the building, section of infrastructure or phase of the section of infrastructure and be responsible for correcting any reasonable additional deficiencies not caused by WEBB COUNTY or by the use of the building, section of infrastructure or phase of the section of infrastructure observed and/or reported during the re-inspection. However, Contractor will not be responsible for any matter excluded from warranty as stated in 3.5.1 above.

358 For extended warranties required by the Contract Documents, WEBB COUNTY shall notify Contractor of deficiencies which are included and not excluded under the Warranty under paragraph 3.5.1 above. Contractor shall start remedying these defects within seven (7) calendar days of initial notification from WEBB COUNTY. Contractor shall prosecute the work without interruption until accepted by WEBB COUNTY and Design Consultant, even though such prosecution may extend beyond the limit of the warranty period. If Contractor fails to provide notice of the expiration of the one (1) year warranty period at least one (1) month prior to the expiration date and conduct the required walk through with WEBB COUNTY, Contractor's warranty obligations described in this **Section 3.5.5** shall continue until such inspection is conducted and any deficiencies found in the inspection is corrected. However, such obligations are binding on Contractor only if it can be proven that the deficiencies occurred prior to the end of the one (1) warranty period.

359 Warranties shall become effective on a date established by WEBB COUNTY in accordance with the Contract Documents. This date shall be the date of Substantial Completion of the entire Work, unless otherwise provided in any Certificate of Partial Substantial Completion approved by the Parties, except for Work to be completed or corrected after the date of Substantial Completion and prior to final payment and those occurrences addressed in **Section 3.5.3** herein. Warranties for Work to be completed or corrected after the date of Substantial Completion and prior to Final Completion shall become effective on the later of the date the Work is completed or corrected and accepted by WEBB COUNTY and Design Consultant or the date of final completion of the Work.

35.10 Neither final payment nor compliance by Contractor with any provision in the Contract Documents shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve Contractor or its sureties of liability, with respect to any warranties or responsibility for faulty materials and workmanship. Contractor warrants all Work shall conform to the requirements of the Contract Documents. Non-acceptance must be based on material non-compliance with the Contract Documents.

35.11 Contractor agrees to assign to WEBB COUNTY, at the time of Final Completion of the Work, any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties, provided such assignment shall contain a reservation of Contractor's right also to enforce the manufacturer's warranties. As a condition precedent to final payment, Contractor shall prepare a notebook with reference tabs and submit three (3) copies of the notebook to WEBB COUNTY which shall include a complete set of warranties from Subcontractors, manufacturers or suppliers, as appropriate, and executed by and between Contractor and WEBB COUNTY, as required under this Contract, with a specified warranty commencement date, as required by the Contract Documents. Copies of the complete set of warranties from Subcontractors, manufacturers and/or suppliers, as appropriate, executed by Contractor as required by the Contract Documents, with and between WEBB COUNTY and Contractor. A specified warranty commencement date, as required by the Contract Documents, also shall be submitted to WEBB COUNTY in an electronic format (PDF) on a Compact Disc (CD).

3.6 TAXES.

Contractor shall not include in the Contract Sum or any modification thereto any amount for sales, use or similar taxes for which WEBB COUNTY is exempt. Upon request by Contractor, WEBB COUNTY shall provide Contractor with a tax exemption certificate or other documentation necessary to establish WEBB COUNTY's exemption from such taxes.

3.7 PERMITS, FEES AND NOTICES

37.1 **PERMITS.** Unless otherwise provided in the Contract Documents or by WEBB COUNTY, as per **Section 2.2.5** herein, it is the responsibility of and Contractor shall secure all permits, licenses and inspections. WEBB COUNTY and Design Consultant may assist Contractor, when necessary, in obtaining such permits, licenses and inspections necessary for the proper execution and completion of the Work. For federally funded construction projects, when

applicable, WEBB COUNTY shall prepare and submit the necessary paperwork to satisfy Texas Pollutant Discharge Elimination System (hereafter referred to as "TPDES"), regulations of the Texas Commission on Environmental Quality.

372 Contractor shall comply with and give all notices required by law, ordinance, rule, regulations, and lawful orders of public authorities applicable to performance of the Work.

373 It is not Contractor's responsibility to ascertain the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes and rules and regulations. However, if Contractor observes portions of the Contract Documents are at variance therewith, Contractor promptly shall notify WEBB COUNTY and Design Consultant in writing of any variances and all necessary changes shall be accomplished by appropriate modification(s) before Contractor performs any Work affected by such modification(s).

374 If Contractor performs Work knowing Work is contrary to laws, statutes, ordinances, building codes and rules and regulations, without such notice to and approval from WEBB COUNTY and Design Consultant, Contractor shall assume sole responsibility for performing such Work and shall bear all costs attributable to correct such Work.

375 Contractor also shall assist WEBB COUNTY in obtaining all permits and approvals and, at WEBB COUNTY's request, pay all fees and expenses, if any, associated with TPDES regulations of the Texas Commission on Environmental Quality, as well as local authorities, if applicable, which require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for a Project. Contractor's obligations under this paragraph do not require it to perform engineering services during the pre-construction phase to prepare proper drainage for the Project Site. However, any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. It shall be Contractor's responsibility to prepare and submit the permit approval documentation provided by the regulatory agencies prior to beginning any Work.

3.8 ALLOWANCES

381 Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as WEBB COUNTY may direct, but Contractor shall not be required to employ persons or entities to whom Contractor has reasonable objection.

382 Unless otherwise provided in the Contract Documents:

3.8.2.1 Allowances shall cover the cost to Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

3.8.2.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses, contemplated for stated allowance, shall be included in the allowances;

3.8.2.3 Whenever actual costs are more than or less than allowances, the Contract Sum

shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect both the difference between actual costs and the allowances under **Section 3.8.2.1** herein and all changes in Contractor's costs under **Section 3.8.2.2** herein.

383 Materials and equipment under an allowance shall be selected by WEBB COUNTY within such time as is reasonably specified by Contractor as necessary to avoid any delay in the Work.

3.9 SUPERINTENDENT/KEY PERSONNEL

391 At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who is able to communicate fluently in English, along with any necessary assistant(s) who is/are satisfactory to WEBB COUNTY. Any superintendent designee shall be identified in writing to WEBB COUNTY promptly after WEBB COUNTY issues written Notice to Proceed. The superintendent shall represent Contractor at all time and all directions given to the superintendent shall be binding on Contractor. The designated superintendent shall not be replaced without written notice to and the approval of WEBB COUNTY, which approval shall not be unreasonably withheld, except with good reason (including any termination or disability of the superintendent) or under extraordinary circumstances. The superintendent may not be employed on any other project prior to Final Completion of the Work without the approval of WEBB COUNTY, which approval shall not be unreasonably withheld.

392 Contractor shall furnish a list to Design Consultant and WEBB COUNTY of all Architects, Engineers, Consultants, Sub-Consultants, job-site superintendents, Subcontractors, and suppliers involved in the Project construction. Design Consultant also shall provide said information to WEBB COUNTY.

3.9.2.1 WEBB COUNTY, upon the showing of good and reasonable cause, may reject or require removal of any Architect, Engineer, Consultant, Sub-Consultant, job superintendent, employee of the Contractor, Subcontractor, or sub- Subcontractor and/or supplier involved in the Project.

3.9.2.2 Contractor shall provide an adequate staff for the proper coordination and expedition of the Work.

3.9.2.3 WEBB COUNTY reserves the right to utilize one or more of its employees or Consultants to function in the capacity of WEBB COUNTY's Inspector, whose primary function shall be daily inspections, checking pay requests or construction timelines and the verification of the storage of supplies and materials.

3.9.2.4 Contractor shall not change any key personnel or key Subcontractors without the prior written consent of WEBB COUNTY, which consent shall not be unreasonably withheld. In the event key personnel leaves Contractor's employment, such key personnel's replacement shall be subject to WEBB COUNTY's reasonable approval.

3.10 CONTRACTOR'S PROJECT SCHEDULES

3.10.1 PROJECT SCHEDULE METHOD. Contractor shall create and maintain a Critical Path Method (hereafter referred to as "CPM") Project Schedule, showing the manner of execution of Work which Contractor intends to follow, in order to complete the Project within the allotted time. The Project Schedule shall employ CPM for the planning, scheduling, and reporting of Work, as described in this **Section 3.10**. Contractor shall create and maintain the Project Schedule. The observance of the requirements herein is an essential part of the Work to be performed under the Contract.

3.10.2 SCHEDULING PERSONNEL. Unless otherwise indicated in writing by WEBB COUNTY, Contractor shall provide an individual, who shall be referred to hereafter as "Scheduler", to create and maintain the Project Schedule. Scheduler shall be proficient in CPM analysis, possess sufficient experience to be able to perform required tasks and able to prepare and interpret reports. Scheduler shall be made available for discussion or meetings when requested by WEBB COUNTY.

3.10.3 PROJECT SCHEDULE SUBMISSION

3.10.3.1 Unless indicated otherwise, Contractor shall submit Project Schedule(s) for the Work in relation to the entire Project to WEBB COUNTY and Design Consultant at least three (3) calendar days prior to the pre-construction conference.

3.10.3.2 All Project Schedule submittals shall be in the electronic form to include PDF plots of the schedule, a PDF plot defining the Critical Path and two week look-ahead, and include the native compatible scheduling file format. Contractor shall submit the schedule to WEBB COUNTY and Design Consultant via electronic mail, CD-Rom or any other electronic format acceptable to WEBB COUNTY.

3.10.3.3 This initial schedule shall indicate the dates for starting and completing the various aspects/phases required to complete the Work, including mobilization, procurement, installation, testing, inspection, and acceptance of all the Work of the Contract, including any contractually mandated milestone dates. The Project Schedule shall not exceed the time limits set forth in the Contract Documents. Contractor shall organize the Project Schedule and provide adequate detail, so the Schedule is capable of measuring and forecasting the effect of delaying events on completed and uncompleted activities.

3.10.3.4 The Project Schedule shall show the order in which Contractor proposes to carry out the Work in accordance with the final approved phasing plan, if any, and the anticipated start and completion dates of each phase of the Work. The Project Schedule shall be in the form of a time scaled work progress chart, to indicate the percentage of Work scheduled for completion at various critical milestones.

3.10.3.5 Contractor shall maintain a schedule of Shop Drawings and Sample Submittals, and

each submitted Shop Drawing and Sample Submittal shall list each required submittal and the expected time(s) for submitting, reviewing, and processing such submittal.

- 3.10.3.6 WEBB COUNTY shall review the Project Schedule within fifteen (15) calendar days for compliance with the Specifications and notify Contractor of its acceptability.

3.104 PROJECT SCHEDULE SEQUENCING. The Project Schedule shall show the sequence and interdependence of activities required for complete performance of the Work. Contractor shall be responsible for assuring all Work sequences are logical and show a coordinated plan of Work in accordance with the sequence of work outlined in the Plans. The purpose of WEBB COUNTY requiring the Project Schedule shall be to:

- 3.10.4.1 Ensure adequate planning during the execution and progress of the Work in accordance with the allowable number of calendar days and all milestones;
- 3.10.4.2 Assure coordination of the efforts of Contractor, WEBB COUNTY, utilities and others that may be involved in the Project and those activities are included in the Schedule highlighting coordination points with others;
- 3.10.4.3 Assist Contractor and WEBB COUNTY in monitoring the progress of the Work and evaluating proposed changes to the Contract; and
- 3.10.4.4 Assist WEBB COUNTY in administering the Contract time requirements.

3.105 PROJECT SCHEDULE ACTIVITIES. Contractor shall provide WEBB COUNTY a legend for all abbreviations used. The activities shall be coded so organized plots of the Project Schedule may be produced. Typical activity coding includes traffic control phase, location, and work type. Contractor shall show an estimated production rate per working day for each Work activity. Activity durations shall be based on production rates shown. Each activity on the Project Schedule shall include:

- 3.10.5.1 An activity number utilizing an alphanumeric designation system agreeable to WEBB COUNTY;
- 3.10.5.2 A concise description of the Work represented by the activity; and
- 3.10.5.3 Activity durations in whole work days, with a maximum of twenty (20) work days. Durations greater than twenty (20) work days may be used for non-construction activities (mobilization, submittal preparation, curing, etc.), and other activities mutually agreeable between WEBB COUNTY and Contractor.

3.106 PROJECT SCHEDULE WORK DURATION AND RESOURCES

- 3.10.6.1 The Project Schedule layout shall be grouped by Project and then by Work

Breakdown Structure (hereafter referred to as "WBS") for organizational purposes.

3.10.6.2 The original and remaining Work duration shall be displayed. The grouping band shall, by default, report Work days planned. One additional level of effort activity shall be added to the schedule as a "time calculator" with a seven (7) day calendar without holidays reflected. The calculation of days should be reflected in the appropriate duration columns.

3.10.6.3 Pursuant to the definitions in **Section 1.1.12** herein, if Contractor's Project does not affect WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, Work shall be scheduled based upon Contractor's five (5) day work week, utilizing the appropriate calendar assignments and using compatible Project Scheduling software. If Contractor's Project affects WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, Work shall be scheduled upon Contractor's six (6) day work week, utilizing the appropriate calendar assignments and using compatible Project Scheduling software.

3.10.6.4 Assign working calendars for the days Contractor plans to work. Contractor shall designate all twelve (12) WEBB COUNTY holidays as non-working days (holidays). For dates beyond the then-current calendar year, Contractor shall assume WEBB COUNTY holidays are the same as the current calendar year.

3.10.6.5 Seasonal weather conditions shall be considered and included in the Project Schedule for all work influenced by temperature and/or precipitation. Seasonal weather conditions shall be determined by an assessment of average historical climatic conditions. Average historical weather data is available through the National Oceanic and Atmospheric Administration (hereafter referred to as "NOAA"). These effects shall be simulated through the use of work calendars for each major work type (i.e., earthwork, concrete paving, structures, asphalt, drainage, etc.). Project and work calendars should be updated each month to show days actually able to work on the various work activities.

3.10.6.6 Only WEBB COUNTY responsible delays in activities affecting milestone dates or the Contract completion date, as determined by CPM analysis, shall be considered for a time extension.

3.10.7 PROJECT SCHEDULE - OTHER REQUIREMENTS. The Project Schedule shall:

3.10.7.1 have all Work coded and organized by WBS. An example of an acceptable WBS shall be provided, upon written request, by WEBB COUNTY to Contractor;

3.10.7.2 reflect Duration Percent complete as the percent complete type;

3.10.7.3 reflect Fixed Units as the duration type;

3.10.7.4 include submittals with a logical tie to what each drives;

3.10.7.5 add proposed Change Order(s) and those Change Order(s) shall be reflected on the Schedule as proposed Change Order(s). This task shall be linked to the schedule with logical ties and approved by WEBB COUNTY. Upon approval of a Change

Order, a task shall be renamed and shall identify Work performed and Change Order number and resources shall be added to the task;

3.10.7.6 only have constraints in accordance with the Plans;

3.10.7.7 include activity milestones for material delivery;

3.10.7.8 allow default progress; and

3.10.7.9 include a detailed explanation in the Project narrative, if Work is performed out of sequence.

3.10.8 PROJECT SCHEDULE JOINT REVIEW AND ACCEPTANCE

3.10.8.1 The Project Schedule and successive updates or revisions thereof are for Contractor's use in managing the Work. The Project Schedule is for the information of WEBB COUNTY and to demonstrate Contractor has complied with requirements for planning the Work. WEBB COUNTY's acceptance of a Schedule, Schedule update(s) or revisions constitutes WEBB COUNTY's agreement to coordinate its own activities with Contractor's activities, as shown on the schedule.

3.10.8.2 Within fifteen (15) calendar days of receipt of Contractor's proposed Project Schedule, WEBB COUNTY shall evaluate the Schedule for compliance with this specification and notify Contractor of its findings. If WEBB COUNTY requests a revision or justification, Contractor shall provide satisfaction to WEBB COUNTY within seven (7) calendar days. If Contractor submits a Project Schedule for acceptance, based on a sequence of work not shown in the Plans, Contractor shall notify WEBB COUNTY in writing of said sequence of work, separate from the Schedule submittal.

3.10.8.3 WEBB COUNTY's review and acceptance of Contractor's Project Schedule only is for conformance to the requirements of the Contract Documents. Review and acceptance by WEBB COUNTY of Contractor's Project Schedule does not relieve Contractor of any of its responsibility for the Project Schedule, Contractor's ability to meet interim milestone dates (if so specified) or meeting the Contract completion date, nor does such review and acceptance expressly or by implication warrant, acknowledge or admit the reasonableness of the logic, durations, manpower or equipment loading of Contractor's Project Schedule. In the event Contractor fails to define any element of Work, activity or logic and WEBB COUNTY's review does not detect this omission or error, such omission or error, whether or when discovered by Contractor or WEBB COUNTY, shall be corrected by Contractor at the next monthly schedule update and shall not affect the Project or Contract completion date.

3.10.8.4 Acceptance of the Project Schedule, or update and/or revision thereto, does not indicate any approval of Contractor's proposed sequences and duration.

3.10.8.5 Acceptance by WEBB COUNTY of the Project Schedule or updated Project Schedule which exceeds contractual time does not alleviate Contractor from meeting the contractual completion date.

3.1086 Acceptance of a Project Schedule update or revision indicating early or late completion does not constitute WEBB COUNTY's consent to any changes, alter the terms of the Contract, waive either Contractor's responsibility for timely completion, or waive WEBB COUNTY's right to damages for Contractor's failure to do so.

3.1087 Contractor's scheduled dates for completion of any activity or of the entire Work do not constitute a change in terms of the Contract. Change Orders are the only method of modifying the completion date(s) and Contract time.

3.1088 Submittal of a schedule, schedule revision or schedule update constitutes Contractor's representation to WEBB COUNTY, as of the date of the submittal, of the accurate depiction of all progress to date and Contractor shall follow the schedule as submitted in performing the Work.

3.10.9 PROJECT SCHEDULE UPDATES AND REVISIONS

3.1091 The Project Schedule shall be updated monthly, at a minimum, to reflect progress to date and current plans for completing the Work. A paper and an electronic copy of the update shall be submitted to WEBB COUNTY and Design Consultant as directed. WEBB COUNTY has no duty to make progress payments to Contractor unless Contractor's payment application accompanied by the updated Project Schedule. The anticipated date of Substantial Completion shall show all extensions of time granted through Change Order(s) as of the date of the update.

3.1092 The Project Schedule update shall be submitted no later than the date the pay application is submitted.

3.1093 Contractor shall meet with WEBB COUNTY each month, at a scheduled Project Schedule update meeting, to review actual progress made through the data date of the schedule update, as determined by WEBB COUNTY. The review of progress shall include dates of activities actually started and/or completed, the percentage of Work completed, the remaining duration of each activity started and/or completed and the amount of Work still to complete, with an analysis of the relationship between the remaining duration of the activity and the quantity of material to install over that given period of time with a citation of past productivity.

3.1094 The monthly Schedule Update shall include a progress narrative, explaining the Project's progress, identifying all progress made out of sequence, defining the Critical Path, identification of any potential delays, and other relevant data. A Project Schedule Narrative template shall be required for the narrative. Upon request, WEBB COUNTY shall supply said template to Contractor.

3.1095 Each Schedule shall segregate the Work into a sufficient number of activities to facilitate the efficient use of critical path method scheduling by Contractor, WEBB

COUNTY and Design Consultant. The Project Schedule layout shall be grouped first by Project then by WBS. The layout shall include the following columns:

- (1) Activity ID
- (2) Activity Description
- (3) Original Durations
- (4) Remaining Durations
- (5) Early Start and Early Finish Dates
- (6) Late Start and Late Finish Dates
- (7) Total Float
- (8) Performance Percent Complete
- (9) Display logic and target bars in the Gantt bar chart view

3.1096 Each schedule shall include activities representing manufacturing, fabrication or ordering lead time for materials, equipment or other items for which Design Consultant is required to review submittals, shop drawings, product data or samples.

3.1097 Each schedule, other than the initial schedule, shall:

- (1) indicate the activities, or portions thereof, which have been completed;
- (2) reflect the actual time for completion of such activities; and
- (3) reflect any changes to the sequence or planned duration of all activities.

3.1098 If any updated schedule exceeds the time limits set forth in the Contract Documents for Substantial Completion of the Work, Contractor shall include, along with its updated schedule, a statement of the reasons for the anticipated delay in achieving Substantial Completion of the Work and Contractor's planned course of action for completing the Work within the time limits set forth in the Contract Documents. If Contractor asserts the failure of WEBB COUNTY or Design Consultant to provide requested and required information to Contractor as the reason for anticipated delay in completion, Contractor also shall specify what information has been requested and is required from WEBB COUNTY or Design Consultant.

3.1099 Neither WEBB COUNTY nor Contractor shall have exclusive ownership of float time in the schedule and all float time shall inure to the benefit of the Project.

3.109.10 Submission of any schedule under this Contract constitutes a representation by Contractor, as of the date of the submittal:

- (1) the schedule represents the sequence in which Contractor intends to prosecute the remaining Work;
- (2) the schedule represents the actual sequence and duration used to prosecute the

completed Work;

- (3) to the best of its knowledge and belief, Contractor is able to complete the remaining Work in the sequence and time indicated; and
- (4) Contractor intends to complete the remaining work in the sequence and time indicated.

3.10.9.11 If Contractor desires to make major changes in the Project Schedule, Contractor shall notify WEBB COUNTY in writing and submit the proposed schedule revision. The written notification shall include the reason for the proposed revision, what the revision is composed of and how the revision was incorporated into the schedule. Major changes are hereby defined as those affecting compliance with the contract requirements and/or those that change the Project's critical path. All other changes may be accomplished through the monthly updating process without written notification.

3.10.10 COMPLETION OF WORK

3.10.10.1 Contractor is accountable for substantially completing the Work in the Contract Time or as otherwise amended by Change Order.

3.10.10.2 If, in the sole judgment of WEBB COUNTY, the Schedule update reflects Work is behind schedule and the rate of performance of Work is inadequate to regain scheduled progress to insure Contractor achieving any Project Milestones (including, but not limited to, Substantial Completion) in accordance with the Project Schedule, WEBB COUNTY may, at its sole option, give written notice to Contractor and direct Contractor, at Contractor's sole expense, to propose and adopt a plan to accelerate the Work so the Work conforms to the Project Schedule and Project Milestones previously agreed upon. Contractor may, but is not limited to, propose:

- (1) increasing Project work forces;
- (2) increasing Project equipment or tools;
- (3) increasing the hours of work or number of shifts per day;
- (4) expediting the delivery of Project materials;
- (5) changing, with the approval of WEBB COUNTY, the schedule logic and Work sequences; or
- (6) taking some other action as Contractor may propose, if acceptable to WEBB COUNTY.

3.10.10.3 Within ten (10) calendar days after such notice from WEBB COUNTY, Contractor shall notify WEBB COUNTY in writing of the specific measures taken and/or planned to be taken to increase the rate of progress of Work on the Project. Contractor shall include an estimate as to the date of scheduled full progress recovery and an updated Project Schedule, illustrating Contractor's plan for achieving timely completion of the Project Milestones and the Project's Substantial Completion.

3.10.104 Should WEBB COUNTY deem Contractor's plan of action inadequate to achieve the desired acceleration to bring the Work back on the Project Schedule and achieve Substantial Completion on time, WEBB COUNTY shall have the right to order Contractor, at Contractor's sole expense, to take any corrective measures WEBB COUNTY deems necessary to expedite the progress of Work including, without limitations:

- (1) increasing work forces and hours, to include Contractor working additional shifts of overtime;
- (2) supplying additional manpower, equipment and facilities;
- (3) re-sequencing the Work;
- (4) expediting the fabrication and supply of materials; and/or
- (5) other similar measures WEBB COUNTY may direct (hereafter (1) – (5) herein above collectively referred to as "Extraordinary Measures").

Such Extraordinary Measures WEBB COUNTY directs shall continue until the progress of the Work complies with the Milestone required by the Contract Documents.

3.10.105 WEBB COUNTY's right to require Extraordinary Measures solely is for the purpose of ensuring Project Milestones and Substantial Completion of the Work is achieved within the Contract Time. Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by WEBB COUNTY under or pursuant to this **Section 3.10.10.5**, except as may be provided under the provisions of **Section 4.3.11** herein.

3.10.106 WEBB COUNTY may exercise the rights furnished pursuant to this **Section 3.10.10.5** as frequently as WEBB COUNTY deems necessary to ensure Contractor's performance of the Work is in compliance with any milestone date or completion date(s) set forth in the Contract Documents.

3.10.107 If reasonably required by WEBB COUNTY, Contractor also shall prepare and furnish Project cash flow projections, manning data for critical activities and schedules for the purchase and delivery of all critical equipment and material, together with periodic updating thereof.

3.10.108 Contractor shall recommend to WEBB COUNTY and Design Consultant a schedule for procurement of long-lead time items, which shall constitute part of the Work as required to meet the Project Schedule.

3.10.11 PROJECT SCHEDULE TIME IMPACT ANALYSIS

3.10.10.1 Contractor shall notify WEBB COUNTY when an impact may justify an extension of Contract time or adjustment of milestone dates. Said notice shall be made by Contractor in writing as soon as possible, but no later than the end of the next estimate period after the commencement of an impact or the notice for a change is given to Contractor. Not providing notice to WEBB COUNTY within twenty (20) calendar days after receipt shall

indicate Contractor's approval of the time charges as shown on that time statement. Future consideration of that statement shall not be permitted and Contractor forfeits its right to subsequently request a time extension or time suspension, unless the circumstances prove Contractor could not reasonably have knowledge of the impact by the end of the next estimate period.

3.10.11.1 When changes are initiated or impacts are experienced, Contractor shall submit to WEBB COUNTY a written Time Impact Analysis describing the influence of each change or impact. A "Time Impact Analysis" is an evaluation of the effects of changes in the construction sequence, contract, Plans or site conditions on Contractor's plan for constructing the Project, as represented by the schedule. The purpose of the Time Impact Analysis is to determine if the overall Project has been delayed and, if necessary, to provide Contractor and WEBB COUNTY a basis for making adjustments to the Contract.

3.10.11.2 A Time Impact Analysis shall consist of one or all of the steps listed below:

- (1) Establish the status of the Project before the impact using the most recent Project Schedule Update prior to the impact occurrence.
- (2) Predict the effect of the impact on the most recent Project Schedule Update prior to the impact occurrence. This requires estimating the duration of the impact and inserting the impact into the schedule update. Any other changes made to the schedule including modifications to the calendars or constraints shall be noted.
- (3) Track the effects of the impact on the schedule during its occurrence. Note any changes in sequencing and mitigation efforts.
- (4) Compare the status of the work prior to the impact (**#1 above**) to the prediction of the effect of the impact (**#2 above**), and to the status of the work during and after the effects of the impact are over (**#3 above**). Note: if an impact causes a lack of access to a portion of the Project, the effects of the impact may extend to include a reasonable period for remobilization.

3.10.11.3 The Time Impact Analysis shall be electronically submitted to WEBB COUNTY. If the Project Schedule is revised after the submittal of a Time Impact Analysis but prior to its approval, Contractor promptly shall indicate in writing to WEBB COUNTY the need for any modification to its Time Impact Analysis. One (1) copy of each Time Impact Analysis shall be submitted within fourteen (14) calendar days after the completion of an impact. WEBB COUNTY may require **Step 1** and **Step 2** in **Section 3.10.11.2** herein of the Time Impact Analysis be submitted at the commencement of the impact, if needed to make a decision regarding the suspension of Contract time. Approval or rejection of each Time Impact Analysis by WEBB COUNTY shall be made within fourteen (14) calendar days after receipt, unless subsequent meetings and negotiations are necessary.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3111 Contractor shall maintain, on Site and for WEBB COUNTY's use, one record copy of the Drawings, Specifications, Addenda, Change Orders and other Amendments, in good order and currently marked, to record field changes and selections made during construction, along with one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These record copies also shall be available to Design Consultant and shall be delivered to Design Consultant for submittal to WEBB COUNTY upon completion of the Work.

3112 Contractor shall at all times maintain job records including, but not limited to, invoices, payment records, payroll records, daily reports, logs, diaries and job meeting minutes applicable to the Project. Contractor shall make such reports and records available for inspection by WEBB COUNTY, Design Consultant and/or their respective agents, during normal business hours if requested by WEBB COUNTY.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3121 Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures and other data prepared and furnished by Contractor or its agents, manufacturers, suppliers or distributors and which illustrate and detail some portion of the Work.

3122 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by Contractor to illustrate materials or equipment for some portion of the Work.

3123 Samples are physical samples of materials, equipment, or workmanship representative of some portion of the Work, furnished by the Contractor to WEBB COUNTY, to assist WEBB COUNTY and Design Consultant in the establishment of workmanship and quality standards by which the Work shall be judged.

3124 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittals is to demonstrate, for those portions of the Work for which submittals are required by the Contract Documents, the way by which Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by Design Consultant is subject to the limitations of **Section 4.2.8** herein. Informational submittals, upon which Design Consultant is not expected to take responsive action, may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Design Consultant without action.

3125 Contractor shall review for compliance with the Contract Documents, approve and submit to Design Consultant Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of WEBB COUNTY or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by Contractor may be returned by Design Consultant without action.

3126 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, Contractor represents it has determined and verified materials, field measurements and

filed construction criteria related thereto, or shall do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.7 Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal and review has been approved by Design Consultant. Design Consultant shall review and return such submittals within ten (10) calendar days or within a reasonable period so as to not delay the project.

3.12.8 The Work shall be in accordance with approved submittals, except Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by Design Consultant's approval of Shop Drawings, Product Data, Samples or similar submittals unless Contractor specifically has informed Design Consultant in writing of such deviation at the time of submittal and:

- (1) Design Consultant has given written approval in the specific deviation as a minor change in the Work; or
- (2) A Change Order or Field Work Directive has been issued authorizing the deviation. Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by Design Consultant's approval thereof.

3.12.9 Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by Design Consultant on previous submittals. In the absence of such written notice, Design Consultant's approval of a resubmission shall not apply to such revisions.

3.12.10 Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services specifically are required by the Contract Documents for a portion of the Work or unless Contractor needs to provide such services in order to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment specifically are required of Contractor by the Contract Documents, WEBB COUNTY and Design Consultant shall specify all performance and design criteria such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly Texas-licensed design professional, whose signature and seal shall appear on all drawings, calculations, Specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Design Consultant. WEBB COUNTY and Design Consultant shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided WEBB COUNTY and Design Consultant have specified to Contractor all performance and design criteria such

identified services must satisfy. Pursuant to this **Section 3.12.10**, Design Consultant shall review, approve or take other appropriate action on submittals only for the limited purpose of checking of conformance with information given and the design concept expressed in the Contract Documents. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

3.13 USE OF SITE

3131 Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

3132 Contractor shall not load nor permit any part of any structure to be loaded in any manner that shall endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that shall endanger it.

3133 Contractor shall abide by all applicable rules and regulations of WEBB COUNTY with respect to conduct, including smoking, parking of vehicles, security regulations and entry into adjacent facilities owned by WEBB COUNTY.

3134 Contractor shall provide access to residents and businesses affected by the construction of this Project to the greatest extent possible, including providing temporary base and asphalt as needed.

3135 Contractor shall erect and maintain on Site a Project Bulletin Board, accessible to all Contractor and Subcontractor employees, upon which Contractor shall post and maintain, throughout the Project's duration, all employment and safety information required by law. Contractor further shall post complete Payment and Performance Bond information on the Project Bulletin Board, listing Contractor's bonding and insurance agencies/providers, to include agency contact names, address and telephone numbers.

3136 As applicable, WEBB COUNTY shall have appropriate Temporary Bench Marks (hereafter referred to as "TBM") and a baseline (for both horizontal and vertical projects, as applicable) established. As of the date of the Notice To Proceed, it is Contractor's responsibility to protect, preserve and reestablish (if required) the TBM and/or baseline. Construction staking and tolerances shall be in accordance with the "Manual of Practice for Land Surveying in the State of Texas Category 5".

3137 As applicable, Contractor shall layout its work from an established baseline and TBM indicated on the drawings and shall be responsible for all measurements in connection with the layout. Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials and labor required to layout any part of the work. Contractor shall provide cut sheets to WEBB COUNTY's inspector at minimum seven (7) calendar days prior to construction of street and drainage work. Contractor shall establish the necessary offsets, hubs and guards marked showing control designation and offsets for Utility Work, if present. Contractor shall

provide cut sheets for improvements where Sewer profiles are provided for various phases of the project and cut sheets for Water profiles, if applicable. Contractor shall provide staking and preparation of cut sheets after receiving notice to proceed from WEBB COUNTY. If present, Contractor shall provide City Utilities with cut sheets at minimum (7) calendar days prior to commence of utility work. Contractor shall be responsible for maintaining and preserving a baseline and TBM indicated on the drawings for duration of construction. If such marks are destroyed, Contractor shall replace them at its own expense. At the end of construction of the Project, Contractor shall provide WEBB COUNTY a grade certificate prepared by a Registered Professional Land Surveyor. This certificate shall state the infrastructure is constructed in accordance to the construction documents or as approved by WEBB COUNTY and the Engineer of Record, which is noted on the record plan set.

3.14 CUTTING AND PATCHING

3.141 Contractor shall be responsible for all cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.142 Contractor shall not damage or endanger a portion of the Work or a fully or partially completed construction by either WEBB COUNTY or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. Contractor shall not cut or otherwise alter such construction by WEBB COUNTY or a separate contractor except with written consent of WEBB COUNTY and, if WEBB COUNTY so designates, of such separate contractor and said consent shall not be unreasonably withheld. Contractor unreasonably shall not withhold from WEBB COUNTY or WEBB COUNTY's separate contractor Contractor's consent to cutting or otherwise altering the Work.

3.143 Any part of the Work damaged by Contractor, either during installation or prior to Substantial Completion of the Work, shall be repaired by Contractor so as to be equal in quality, appearance, serviceability and other respects to an undamaged item or part of the Work. Where this repair cannot fully be accomplished, a damaged item or part shall be replaced by Contractor.

3.15 CLEANING UP

3.151 During the progress of the Work, Contractor shall keep the Project Site and surrounding area including, but not limited to, creeks, drainage channels, easements and private property free from accumulations of waste materials, rubbish and other debris resulting from the Work. As applicable, Contractor shall clean, sweep, mop, brush and polish, as appropriate, the interior of the improvements and/or renovated areas including, but not limited to, any floors, carpeting, ducts, fixtures and ventilation units operated during construction, and shall clean exterior gutters, drainage, walkways, driveways and roofs of debris. If Contractor fails to clean up as provided in the Contract Documents, WEBB COUNTY may elect to do so and all costs incurred by WEBB COUNTY shall be paid by Contractor.

3.152 Prior to Substantial Completion of the Work, Contractor shall remove all waste materials, rubbish and debris from and about the premises, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project Site clean and ready for occupancy by WEBB COUNTY. As applicable, Contractor shall clean, sweep, mop, brush

and polish, to WEBB COUNTY's satisfaction, the interior of the improvements and/or renovated areas including, but not limited to, any floors, carpeting, ducts, fixtures and ventilation units operated during construction, and shall clean exterior gutters, drainage, walkways, driveways and roofs of debris. Contractor shall restore to their original condition those portions of the Site not designated for alteration by the Contract Documents. If Contractor fails to clean up the premises as provided in the Contract Documents, WEBB COUNTY may elect to do so and all costs incurred by WEBB COUNTY shall be paid by Contractor.

3.16 ACCESS TO WORK.

Contractor shall provide WEBB COUNTY and Design Consultant access to Work in preparation and in progress, wherever located.

3.17 PATENT FEES AND ROYALTIES.

Contractor shall pay all license fees and royalties and assume all costs incident to the use of 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 WEBB COUNTY 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 by WEBB COUNTY in the Contract Documents.

3.18 INDEMNITY PROVISIONS

3.18.1 CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS, WEBB COUNTY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF WEBB COUNTY, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS (INCLUDING THIRD-PARTY CLAIMS), LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON WEBB COUNTY DIRECTLY OR ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR AND CONTRACTOR'S AND ITS SUBCONTRACTOR'S RESPECTIVE OFFICERS, AGENTS EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF THE RIGHTS OR PERFORMANCE OF THE DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF WEBB COUNTY, ITS OFFICERS OR ITS EMPLOYEES IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND WEBB COUNTY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE

STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO WEBB COUNTY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

3.182 The provisions of this Indemnity solely are for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Contractor shall advise WEBB COUNTY in writing within twenty-four (24) hours of any claim or demand against WEBB COUNTY or Contractor known to Contractor related to or arising out of Contractor's activities under this Contract and shall see to the investigation and defense of such claim or demand at Contractor's sole cost. WEBB COUNTY shall have the right, at its option and at its own expense, to participate in such defense without relieving Contractor of any of its obligations under this **Section 3.18**.

3.183 INTELLECTUAL PROPERTY INDEMNIFICATION. CONTRACTOR SHALL PROTECT, INDEMNIFY, AND DEFEND AND/OR HANDLE AT ITS OWN COST AND EXPENSE ANY CLAIM OR ACTION AGAINST WEBB COUNTY , ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF WEBB COUNTY , INDIVIDUALLY OR COLLECTIVELY, FOR INFRINGEMENT OF ANY UNITED STATES PATENT, COPYRIGHT OR SIMILAR PROPERTY RIGHT INCLUDING, BUT NOT LIMITED TO, MISAPPROPRIATION OF TRADE SECRETS AND ANY INFRINGEMENT BY CONTRACTOR AND ITS EMPLOYEE OR ITS SUBCONTRACTORS AND THEIR AGENTS, SERVANTS AND EMPLOYEES, BASED ON ANY DELIVERABLE OR ANY OTHER MATERIALS FURNISHED HEREUNDER BY CONTRACTOR AND USED BY EITHER WEBB COUNTY OR CONTRACTOR WITHIN THE SCOPE OF THIS CONTRACT (UNLESS SAID INFRINGEMENT RESULTS DIRECTLY FROM CONTRACTOR'S COMPLIANCE WITH WEBB COUNTY'S WRITTEN STANDARDS OR SPECIFICATIONS). CONTRACTOR DOES NOT WARRANT AGAINST INFRINGEMENT BY REASON OF WEBB COUNTY'S OR DESIGN CONSULTANT'S DESIGN OF ARTICLES OR THEIR USE IN COMBINATION WITH OTHER MATERIALS OR IN THE OPERATION OF ANY PROCESS. CONTRACTOR SHALL HAVE THE SOLE RIGHT TO CONDUCT THE DEFENSE OF ANY SUCH CLAIM OR ACTION AND ALL NEGOTIATIONS FOR ITS SETTLEMENT OR COMPROMISE, UNLESS OTHERWISE MUTUALLY AGREED UPON, EXPRESSED IN WRITING AND SIGNED BY THE PARTIES HERETO. CONTRACTOR AGREES TO CONSULT WITH WEBB COUNTY'S ATTORNEY DURING SUCH DEFENSE OR NEGOTIATIONS AND MAKE GOOD FAITH EFFORTS TO AVOID ANY POSITION ADVERSE TO THE INTEREST OF WEBB COUNTY. WEBB COUNTY SHALL MAKE AVAILABLE TO CONTRACTOR ANY DELIVERABLES AND/OR WORKS MADE FOR HIRE BY CONTRACTOR NECESSARY TO THE DEFENSE OF CONTRACTOR AGAINST ANY CLAIM OF INFRINGEMENT FOR THE DURATION OF CONTRACTOR'S LEGAL DEFENSE.

3.184 If such infringement claim or action has occurred or, in Contractor's judgment, is likely to occur, WEBB COUNTY shall allow Contractor, at Contractor's option and expense, (unless such infringement results directly from Contractor's compliance with WEBB COUNTY's written standards or Specifications or by reason of WEBB COUNTY's or Design Consultants' design of

articles or their use in combination with other materials or in the operation of any process for which WEBB COUNTY shall be liable) to elect to:

- (1) procure for WEBB COUNTY the right to continue using said deliverable and/or materials;
- (2) modify such deliverable and/or materials to become non-infringing (provided such modification does not adversely affect WEBB COUNTY's intended use of the deliverable and/or materials as contemplated hereunder);
- (3) replace said deliverable and/or materials with an equally suitable, compatible and functionally equivalent non-infringing deliverable and/or material at no additional charge to WEBB COUNTY; or
- (4) if none of the foregoing alternatives is reasonably available to Contractor, upon written request, WEBB COUNTY shall return the deliverable and/or materials in question to Contractor and Contractor shall refund all monies paid by WEBB COUNTY, with respect to such deliverable and/or materials, and accept return of same. If any such cure provided for in this **Section 3.18** shall fail to satisfy the third-party claimant, these actions shall not relieve Contractor from its defense and indemnity obligations set forth in this **Section 3.18**.

3.185 The Indemnification obligations under this **Section 3.18** shall not be limited in any way by the limits of any insurance coverage or any limitation on the amount or type of damages, compensation or benefits payable by, for or to Contractor or any Subcontractor, supplier or any other individual or entity under any insurance policy, workers' compensation acts, disability benefit acts or other employee benefits acts.

3.186 **WORKER SAFETY.** The Indemnification hereunder shall include, without limiting the generality of the foregoing, liability which could arise to WEBB COUNTY, its agents, Consultants and/or representatives or Design Consultant pursuant to State statutes for the safety of Contractor's or its Subcontractors' workers and, in addition, all Federal statutes and rules existing there under for protection, occupational safety and health to workers. It is agreed the primary obligation of Contractor is to comply with these statutes in the performance by Contractor of the Work and the obligations of WEBB COUNTY, its agents, Consultants and representatives under said statutes are secondary to that of Contractor.

3.187 **DEFENSE COUNSEL.** If permitted by Contractor's insurance and its sureties WEBB COUNTY shall have the right to approve defense counsel, of which approval shall not be unreasonably withheld, to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify WEBB COUNTY, unless such right is expressly waived by WEBB COUNTY in writing. Contractor shall retain WEBB COUNTY - approved defense counsel within ten (10) calendar days of WEBB COUNTY's written notice WEBB COUNTY is invoking its right to Indemnification under this Contract. If Contractor fails to retain counsel within such time period, WEBB COUNTY shall have the right to retain defense counsel on its own behalf and Contractor shall be liable for all costs incurred by WEBB COUNTY. WEBB COUNTY also shall have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

3.19 REPRESENTATIONS AND WARRANTIES.

Contractor represents and warrants the following to WEBB COUNTY (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to WEBB COUNTY to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work, Contractor:

3.19.1 is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

3.19.2 is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

3.19.3 is authorized to do business in the State of Texas and properly is licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work and the site of the Project;

3.19.4 is acting within its duly authorized powers to execute this Contract and execute the performance and obligations thereof; and

3.19.5 had directed its duly authorized representative(s) to visit the Site of the Work, familiarize itself with the local conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract Documents.

3.20 BUSINESS STANDARDS.

Contractor, in performing its obligations under this Contract, shall establish and maintain appropriate business standards, procedures and controls, including those necessary to avoid any real or apparent impropriety or adverse impact on the interest of WEBB COUNTY or affiliates. Contractor shall review with WEBB COUNTY, at a reasonable frequency during the performance of the Work hereunder, such business standards and procedures including, without limitation, those related to the activities of Contractor's employees, Subcontractors and agents in their relations with WEBB COUNTY's employees, Consultants, agents, representatives, vendors, Subcontractors, other third parties and those relating to the placement and administration of purchase orders and subcontracts.

ARTICLE IV. ADMINISTRATION OF THE CONTRACT

4.1 DESIGN CONSULTANT.

A Design Consultant is a person registered as an Architect pursuant to Tex. Occupations Code Ann., Chapter 1051, a Landscape Architect pursuant to Texas Occupations Code, Chapter 1052, and/or a person licensed as a professional Engineer pursuant to Texas Occupations Code, Chapter 1001, or a firm employed by WEBB COUNTY to provide professional architectural or engineering services and exercising overall responsibility for the design of a Project or a significant portion thereof, and performing certain contract administration responsibilities as set forth in its Contract and these General Conditions. If the employment of a Design Consultant is terminated, WEBB COUNTY shall employ a new Design Consultant whose status under the Contract Documents

shall be that of the former Design Consultant.

42 ROLES IN ADMINISTRATION OF THE CONTRACT

42.1 WEBB COUNTY and Design Consultant shall provide administration of the Contract, as described in the Contract Documents, and Design Consultant shall be WEBB COUNTY's representative:

- (1) during construction;
- (2) until final payment is due; and
- (3) with WEBB COUNTY's concurrence, from time to time during the one- year period for correction of Work described in **Article XII** herein.

Design Consultant only shall have authority to act on behalf of WEBB COUNTY to the extent provided in the Contract Documents, unless otherwise modified in writing by WEBB COUNTY in accordance with other provisions of the Contract Documents.

42.2 WEBB COUNTY's instruction to Contractor may be issued through Design Consultant and WEBB COUNTY reserves the right to issue instructions directly to Contractor or through other designated WEBB COUNTY representatives. Contractor understands WEBB COUNTY may modify the authority of such Design Consultant as provided in the terms of its contractual relationship with Design Consultant, and WEBB COUNTY shall, in such event, be vested with powers formerly exercised by such Design Consultant, provided written notice of such modification immediately shall be served on Contractor. Nothing herein shall authorize independent agreements between Contractor and Design Consultant, nor shall Design Consultant be deemed to have a legal relationship with Contractor.

42.3 Neither Design Consultant nor WEBB COUNTY shall have control over, charge of nor be responsible for the construction means, methods or techniques, or for the safety precautions, quality control program and other programs in connection with the Work, since these solely are Contractor's rights and responsibilities under the Contract Documents. Sequencing and procedures shall be coordinated and agreed upon by WEBB COUNTY, Design Consultant and Contractor and shall remain the responsibility of Contractor for implementation.

42.4 Design Consultant shall not be responsible for Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Design Consultant shall not have control over, charge of and shall not be responsible for acts or omissions of Contractor, Subcontractor, their respective agents, employees or any other persons or entities performing portions of the Work.

42.5 WEBB COUNTY and Contractor shall endeavor to communicate with each other directly, through Design Consultant and/or through the ODR about matters arising out of or relating to the Contract. Communications by and with Design Consultant's Consultants shall be through Design Consultant. Communications by WEBB COUNTY and Design Consultant with Contractor's employees Subcontractors and material suppliers shall be through Contractor. All communications

by and with WEBB COUNTY's separate contractors shall be through WEBB COUNTY.

426 Design Consultant shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Design Consultant shall perform these reviews in a timely fashion so as to not delay the Work. Design Consultant promptly shall respond to submittals such as Shop Drawings, Product Data and Samples pursuant to the procedures set forth in the Project Specifications. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of equipment or systems, all of which remain the responsibility of Contractor as required by the Contract Documents. Design Consultant's review of Contractor's submittals shall not relieve the Contractor of the obligations under **Sections 3.3, 3.5 and 3.12** herein. Design Consultant's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by Design Consultant, any construction means, methods, techniques, sequences or procedures. Design Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

427 Upon written request of WEBB COUNTY or Contractor, Design Consultant shall issue its interpretation of the requirements of the Plans and Specifications. Design Consultant's response to such requests shall be made in writing within a time limit agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of Design Consultant shall be furnished in compliance with this **Section 4.2**, then no delay shall be recognized on account of any failure by Design Consultant to furnish such interpretations except for actual substantiated delays, for which Contractor is not responsible, occurring more than fifteen (15) calendar days after written request is made for the interpretations.

428 Interpretations and decisions of Design Consultant shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings.

429 Design Consultant's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents and not expressly overruled in writing by WEBB COUNTY.

43 CLAIMS AND DISPUTES

43.1 **DEFINITION.** A Claim is a demand or assertion by one of the Parties seeking, as a matter of right, an adjustment or interpretation of Contract terms, payment of money, extension of time or other relief, with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between WEBB COUNTY and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. Except as contemplated by **Section 8.2** herein, every Claim of Contractor, whether for additional compensation, additional time or other relief including, but not limited to, claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind Contractor by his/her signature) of Contractor, verifying the truth and accuracy of the Claim. The responsibility to substantiate a Claim shall rest with the Party making the Claim.

432 **TIME LIMIT ON CLAIMS.** Except for those Claims resulting from unusually severe weather, as addressed in **Section 4.3.6** herein, Contractor Claims must be initiated within fifteen (15) calendar days after occurrence of the event giving rise to such Claim. Claims by Contractor must be submitted by written notice to both WEBB COUNTY and Design Consultant. Claims by WEBB COUNTY must be submitted by written notice to Contractor. Failure by Contractor to submit written notice of the claim within fifteen (15) calendar days shall constitute a waiver of such claim.

433 **CONTINUING CONTRACT PERFORMANCE.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in **Sections 4.5.1, Section 9.7.1 and Article 14.3** herein, Contractor shall proceed diligently with performance of the Contract and WEBB COUNTY shall continue to make payments in accordance with the Contract Documents.

434 **CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS.** If conditions are encountered at the Site which either are subsurface or are otherwise concealed physical conditions which were not known to Contractor and which differ materially from those indicated in the Contract Documents or in the reports of investigations and tests of subsurface and latent physical conditions provided by WEBB COUNTY to Contractor prior to the preparation by Contractor of its Bid, as referred to above, or are unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents in the general vicinity of the Project site, then Contractor promptly shall notify WEBB COUNTY and Design Consultant of such conditions before conditions are disturbed, and in no event more than three (3) workdays after first observation of the conditions. Upon notification by Contractor, Design Consultant promptly shall investigate such conditions and report its findings to WEBB COUNTY. If WEBB COUNTY and Contractor cannot agree on an adjustment to the Contract Sum or Contract Time, the adjustment shall be subject to dispute resolution pursuant to **Section 4.5** herein.

435 **CLAIMS FOR ADDITIONAL COST.** If Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in this **Section 4.3** shall be given and accepted by WEBB COUNTY before proceeding to execute the Work, provided prior notice is not required for Claims relating to an emergency endangering life or property. Contractor shall file a Claim in accordance with this **Section 4.3** if Contractor believes additional cost is involved for reasons including, but not limited to:

- (1) a written interpretation from Design Consultant;
- (2) an order by WEBB COUNTY to stop the Work where Contractor was not at fault;
- (3) a written order for a minor change in the Work issued by Design Consultant;
- (4) failure of payment by WEBB COUNTY;

- (5) termination of the Contract by WEBB COUNTY for convenience;
- (6) WEBB COUNTY's suspension; or
- (7) other reasonable grounds.

4.3.6 CLAIMS FOR ADDITIONAL TIME

4.3.6.1 If Contractor wishes to make Claim for an increase in the Contract Time, written notice, as required in this **Section 4.3**, shall be given. Contractor's Claim shall include an estimate of probable impact of delay on progress of the Work in accordance with **Section 3.10.11** herein. In the case of a continuing delay, only one Claim is necessary.

4.3.6.2 Contractor shall be entitled to an extension of the Contract Time for delays or disruptions due to unusually severe weather in excess of weather normally experienced at the job site, as determined from climatological data set forth by National Weather Service and which affects the Project's critical path. Contractor shall bear the entire economic risk of all-weather delays and disruptions. Contractor shall not be entitled to any increase in the Contract Sum by reason of such delays or disruptions. With regard to Vertical projects with WEBB COUNTY, requests for an extension of time, pursuant to this **Section 4.3.6**, shall be submitted to WEBB COUNTY and Design Consultant not later than the fifteenth (15th) calendar day of the month following the month during which the delays or disruptions occurred and shall include documentation and all details reasonably available, demonstrating the nature and duration of the delays or disruptions and their effect on the critical path of the Schedule. With regard to Horizontal projects with WEBB COUNTY, upon Contractor reaching Substantial Completion, WEBB COUNTY and Contractor shall look back at the entire duration of the calendar day Project and review the totality of what Contractor claims were unusually severe weather disruptions. If the Project was delayed or disrupted due to unusually severe weather in excess of weather normally experienced over the entire duration of the Project, Contractor may make a Claim for an extension of the Contract Time for delays or disruptions due to unusually severe weather in excess of weather normally experienced at the job site, as determined from climatological data set forth by National Weather Service and which affects the Project's critical path. Any time extension granted to Contractor for either Vertical or Horizontal projects under **Section 4.3.6** shall be non-compensatory.

4.3.7 INJURY OR DAMAGE TO PERSON OR PROPERTY. If either Party to the Contract suffers injury or damage to person or property because of an act or omission of the other Party or an act or omission of others for whose acts such other Party legally is responsible (including, with respect to WEBB COUNTY, the acts or omissions of WEBB COUNTY's separate contractors), written notice of such injury or damage, whether or not insured, shall be given to the other Party within a reasonable time not exceeding three (3) calendar days after the discovery of the injury or damage. The written notice shall provide sufficient detail to enable the other Party to investigate the injury or damage.

4.3.8 CHANGE IN UNIT PRICES. As applicable, if unit prices are stated in the Contract Documents or subsequently are agreed upon by WEBB COUNTY and Contractor and if quantities originally contemplated are materially changed in a proposed Change Order or Field Work

Directive, such that the application of such unit prices to quantities of Work proposed shall cause substantial inequity to WEBB COUNTY or Contractor, the applicable unit prices shall be equitably adjusted.

4.3.9 CLAIMS FOR CONSEQUENTIAL DAMAGES. Except as otherwise provided in this Contract, in calculating the amount of any Claim or any measure of damages for breach of contract (such provision to survive any termination following such breach), the following standards shall apply both to Claims by Contractor and to Claims by WEBB COUNTY:

4.3.9.1 No consequential, indirect, incidental, punitive or exemplary damages shall be allowed, whether or not foreseeable, regardless of whether based on breach of contract, tort (including negligence), indemnity, strict liability or other bases of liability.

4.3.9.2 No recovery shall be based on a comparison of planned expenditures to total actual expenditures, on estimated losses of labor efficiency, on a comparison of planned man loading to actual man loading or on any other similar analysis used to show total cost or other damages.

4.3.9.3 Damages are limited to extra costs specifically shown to directly have been caused by a proven wrong for which the other Party is claimed to be responsible.

4.3.9.4 The maximum amount of any recovery for delay, to the extent damages for delay are not otherwise disallowed by the terms of the Contract Documents, shall be as is provided in **Article VIII** herein.

4.3.9.5 No damages shall be allowed for home office overhead or other home office charges or any Eichleay formula calculation, except or unless as expressly authorized by the Contract Documents.

4.3.9.6 No profit shall be allowed on any damage Claim, except or unless as expressly authorized by the Contract Documents.

4.3.10 SUBCONTRACTOR PASS-THROUGH CLAIMS. In the event any Subcontractor of Contractor asserts a Claim to Contractor that Contractor seeks to pass through to WEBB COUNTY under the Contract Documents, any entitlement to submit and assert the Claim as to WEBB COUNTY shall be subject to:

4.3.10.1 the requirements of **Section 4.3** herein of these General Conditions; and

4.3.10.2 the following additional three (3) requirements listed below, all three of said additional requirements shall be conditions precedent to the entitlement of Contractor to seek and assert such Claim against WEBB COUNTY:

(a) Contractor shall:

(b) have direct legal liability as a matter of contract, common law or statutory law to Subcontractor for the claim Subcontractor is asserting; or

- (c) have entered into a written liquidating agreement with Subcontractor, prior to the Claim's occurrence, under which Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such Claim against WEBB COUNTY under said Contract and for paying to Subcontractor any amount that may be recovered, less Contractor's included markup (subject to the limits in the Contract Documents for any markup). The relationship, liability or responsibilities shall be identified in writing by Contractor to WEBB COUNTY at the time such Claim is submitted to WEBB COUNTY and a copy of any liquidating agreement shall be included by Contractor in the Claim submittal materials.
- (d) Contractor shall have reviewed the Claim of the Subcontractor prior to its submittal to WEBB COUNTY and independently shall have evaluated such Claim in good faith to determine the extent to which the Claim is believed in good faith to be valid. Contractor shall inform WEBB COUNTY it has made a review, evaluation and determination the Claim is being made in good faith and the claim is believed to be valid.
- (e) Subcontractor making the Claim to Contractor shall certify to both Contractor and WEBB COUNTY Subcontractor has compiled, reviewed and evaluated the merits of such Claim and the Claim is believed in good faith by Subcontractor to be valid. A copy of the certification by Subcontractor shall be included by Contractor in the Claim submittal materials.

43.103 Any failure of Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such Claim shall constitute a waiver of any entitlement to submit or pursue such Claim.

43.104 Receipt and review of a Claim by WEBB COUNTY under this **Section 4.3** shall not be construed as a waiver of any defenses to the Claim available to WEBB COUNTY under the Contract Documents or at law.

4.3.11 WEBB COUNTY'S RIGHT TO ORDER ACCELERATION AND TO DENY CLAIMED AND APPROPRIATE TIME EXTENSIONS, IN WHOLE OR IN PART.

Contractor acknowledges and agrees Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to WEBB COUNTY. The following provisions, therefore, shall apply:

43.11.1 If Contractor falls behind the approved construction schedule for whatever reason, WEBB COUNTY shall have the right, in WEBB COUNTY's sole discretion, to order Contractor to develop a schedule recovery plan to alter its work sequences or to otherwise accelerate its progress in such a manner as to achieve Substantial Completion not later than the Contract Time completion date or such other date as WEBB COUNTY reasonably may direct but not earlier than the Contract Time for Substantial Completion. Upon receipt, Contractor shall take any and all action necessary to comply with WEBB COUNTY's order. In such event, any possible right, if any, of Contractor to additional compensation for any acceleration shall be subject to the terms of this **Section 4.3.11**. If WEBB COUNTY desires

to shorten the time for Substantial Completion, it may negotiate those terms with Contractor and if agreed to the details of costs and impacts, same will be evidenced by a Change Order signed by the Parties.

43.11.2 If WEBB COUNTY orders Contractor to accelerate the Work under **Section 4.3.11** herein, and Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents for an amount of time that would have justified approval by WEBB COUNTY if not for the need and right to complete the Project within the stipulated period, Contractor may initiate a Claim for schedule recovery or acceleration costs, pursuant to **Section 4.3** herein. Any resulting Claim for these costs properly initiated by Contractor under **Section 4.3** herein shall be limited to those reasonable and documented direct costs of labor, materials, equipment and supervision solely and directly attributable to the actual recovery or acceleration activity necessary for Contractor to bring the Work back within the then existing approved construction schedule. These direct costs of Contractor include, but are not limited to, the premium portion of overtime pay for additional crew, shift, or equipment costs, if requested in advance by Contractor and approved in writing by WEBB COUNTY. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance, profit and field overhead, not to exceed the markups permitted by this Contract, shall be allowed on the claimed costs. **NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING, BUT NOT LIMITED TO, HOME OFFICE OVERHEAD) OR ANY OTHER COSTS SHALL BE ALLOWED ON ANY ACCELERATION CLAIM.** WEBB COUNTY shall not be liable for any costs related to an acceleration claim other than those described in this **Section 4.3.11**.

4.3.12 **NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing in this contract shall be construed to waive WEBB COUNTY's Governmental Immunity from a lawsuit, which Immunity is expressly retained to the extent it is not clearly and unambiguously waived by State law.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

44.1 Claims by Contractor against WEBB COUNTY and Claims by WEBB COUNTY against Contractor, including those alleging an error or omission by Design Consultant but excluding those arising under **Section 10.3** and **Section 10.5** herein, shall be referred initially to Design Consultant for consideration and recommendation to WEBB COUNTY.

44.2 An initial recommendation by Design Consultant shall be required as a condition precedent to mediation or litigation of all Claims by the Parties arising prior to the date final payment is due, unless thirty (30) calendar days have passed after the Claim has been referred to Design Consultant with no recommendation having been rendered by Design Consultant.

44.3 Design Consultant shall review Claims and, within ten (10) work days of receipt of a Claim, take one or more of the following actions:

- (1) request additional supporting data from the Party making the Claim;
- (2) issue an initial recommendation;

- (3) suggest a compromise; or
- (4) advise the Parties that Design Consultant is unable to issue an initial Recommendation, due to a lack of sufficient information or conflict of interest.

444 Following receipt of Design Consultant's initial recommendation regarding a Claim, WEBB COUNTY and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum and/or Contract Time. If no agreement is reached, either Party may request mediation of the dispute, pursuant to **Section 4.5** herein.

445 If Design Consultant requests either or any Party to provide a response to a Claim or to furnish additional supporting data, such requested Party shall provide a response or the requested supporting data to Design Consultant, advise Design Consultant when the response or supporting data shall be furnished or advise Design Consultant that no response of supporting data shall be furnished.

446 With receipt of all information requested by Design Consultant, Design Consultant shall review the Claim and all received information within ten (10) calendar days of receipt of the information and shall take one of the following actions:

- (1) issue a recommendation;
- (2) suggest a compromise; or
- (3) advise the Parties Design Consultant is unable to issue a recommendation due to lack information or conflict of interest.

447 Upon Design Consultant's action or inaction, the Parties may agree to accept recommendations made by either Party or may request mediation of the dispute pursuant to **Section 4.5** herein.

448 **WAIVER OF LIEN.** It is understood that, by virtue of this Contract, no mechanic, contractor, material man, artisan or laborer, whether skilled or unskilled, ever shall, in any manner, have a claim or acquire any lien upon the building or any of the improvements of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said building or any of the improvements are so erected, built or situated.

4.5 ALTERNATIVE DISPUTE RESOLUTION

451 **CONTINUATION OF WORK PENDING DISPUTE RESOLUTION.** Each Party is required to continue to perform its obligations under this Contract pending the final resolution of any dispute arising out of or relating to this Contract, unless it would be impossible or impracticable under the circumstances then present.

452 **REQUIREMENT FOR SENIOR LEVEL NEGOTIATIONS.** Before invoking mediation or any other alternative dispute process set forth herein, the Parties to this Contract

agree that they first shall try to resolve any dispute arising out of or related to this Contract through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects. Both WEBB COUNTY and Contractor agree that this step shall be a condition precedent to use of any other alternative dispute resolution process. If the Parties' senior management representatives cannot resolve the dispute within thirty (30) calendar days after a Party delivers a written notice of such dispute to the other, then the Parties shall proceed with the alternative dispute resolution process contained in **Section 4.5** herein, including mediation and/or litigation. All negotiations pursuant to this **Section 4.5** are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

4.53 MEDIATION. In the event that WEBB COUNTY and/or Contractor contend that the other has committed a material breach of this Contract, or the Parties cannot reach a resolution of a claim or dispute pursuant to **Section 4.4** herein, as a condition preceding to filing a lawsuit, either Party shall request mediation of the dispute with the following requirements:

- 4.5.3.1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) calendar days following the date of the request, except upon agreement of both Parties.
- 4.5.3.2 In the event WEBB COUNTY and Contractor are unable to agree to a date for the mediation or to the identity of the mediator(s) within thirty (30) calendar days following the date of the request for mediation, all conditions precedent in this **Section 4.5** shall be deemed to have occurred.
- 4.5.3.3 The Parties shall share the mediator's fee and any mediation filing fees equally. Venue for any mediation or lawsuit arising under this Contract shall be in Webb County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. No provision of this Contract shall waive any immunity or defense. No provision of this Contract is consent to a suit.

4.6 INTERNET-BASED PROJECT MANAGEMENT SYSTEMS.

At its option, WEBB COUNTY may administer its design and construction management through an Internet-based Project Management system. In such cases, Contractor shall conduct communication through this medium and perform all Project-related functions utilizing this management system, to include all correspondences, submittals, Requests for Information, vouchers, payment requests and processing, Amendments, Change Orders and other administrative activities. When such a management system is employed, WEBB COUNTY shall administer the software, provide training to Project Team Members and shall make the software accessible via the Internet to all Project Team Members.

ARTICLE V. SUBCONTRACTORS

5.1 DEFINITION

A Subcontractor is defined and used herein as a person or entity that has a direct contract with the

Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor, Sub-Consultant or an authorized representative of Subcontractor or Sub-Consultant. The term "Subcontractor" does not include a separate contractor or Subcontractor of a separate contractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Contractor shall, prior to entering into an agreement with such Subcontractor, notify WEBB COUNTY in writing of the names of all proposed first-tier Subcontractors for the Work.

5.2.2 Contractor shall not employ any Subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom WEBB COUNTY may have reasonable objection. A Subcontractor or other person or organization identified in writing to WEBB COUNTY, prior to the Notice of Award and not objected to in writing by WEBB COUNTY prior to the Notice of Award, shall be deemed acceptable to WEBB COUNTY. Acceptance of any Subcontractor, other person or organization by WEBB COUNTY shall not constitute a waiver of any right of WEBB COUNTY to reject defective Work. If WEBB COUNTY, after due investigation, has reasonable objection to any Subcontractor, other person or organization proposed by Contractor after the Notice of Award, Contractor shall be required to submit an acceptable substitute. Contractor shall not be required to employ any Subcontractor, other person or organization against whom Contractor has reasonable objection.

5.2.3 Contractor fully shall be responsible to WEBB COUNTY for all acts and omissions of its Subcontractors, persons and organizations directly or indirectly employed by them and persons and organizations for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract Documents shall create any contractual relationship between WEBB COUNTY and any Subcontractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of WEBB COUNTY to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. WEBB COUNTY may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to Contractor on account of specific Work done.

5.2.4 The divisions and sections of the Specifications, as well as the identifications of any Drawings, shall not control Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

5.2.5 All Work performed for Contractor by a Subcontractor shall be performed pursuant to an appropriate agreement between Contractor and Subcontractor which specifically binds Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of WEBB COUNTY.

5.3 SUB-CONTRACTUAL RELATIONS

5.3.1 By appropriate agreement, written where legally required for validity, Contractor shall require each Subcontractor, to the extent of the Work to be performed by Subcontractor, to be bound to Contractor by the same terms and conditions of the Contract Documents. Through that binding commitment, Subcontractor shall assume all the obligations and responsibilities, including the responsibility for safety of Subcontractor's Work and workers, which Contractor, by these Documents, assumes toward WEBB COUNTY and Design Consultant. Each Subcontractor agreement shall preserve and protect the rights of WEBB COUNTY and Design Consultant under the Contract Documents, with respect to the Work to be performed by Subcontractor, so that subcontracting thereof shall not prejudice such rights. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with Sub-Subcontractors. Contractor shall make available to each proposed Subcontractor, prior to the execution of all Subcontractor agreement(s), copies of the Contract Documents to which Subcontractor(s) shall be bound. Subcontractors similarly shall make copies of applicable portions of such documents available to their respective proposed Sub-Subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

Each Subcontractor agreement for a portion of the Work assigned by Contractor to WEBB COUNTY shall provide:

5.4.1 an assignment is effective only after termination of the Contract by WEBB COUNTY and only for those Subcontractor agreements which WEBB COUNTY accepts by notifying Subcontractor and Contractor in writing; and

5.4.2 an assignment is subject to the prior rights of the Surety, if any, obligated under bond relating to the Contract.

5.4.3 upon any such assignment, if the Work has been suspended for more than thirty (30) calendar days, Subcontractor's compensation equally shall be adjusted for increase in cost resulting from the suspension.

ARTICLE VI. CONSTRUCTION BY WEBB COUNTY OR BY SEPARATE CONTRACTS

6.1 WEBB COUNTY'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 WEBB COUNTY reserves the right to perform construction or operations related to the Project with WEBB COUNTY's own forces and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site under General Conditions of the Contract identical or substantially similar to these. If Contractor claims that a delay or additional cost is involved, due to such action by WEBB COUNTY, Contractor shall make a Claim as provided in **Section 4.3** herein.

6.1.2 When separate contracts are awarded for different portions of the Project or for other construction or operations on the Project Site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor that executes each separate WEBB COUNTY Contractor contract.

6.1.3 WEBB COUNTY shall provide for coordination of the activities of WEBB COUNTY's own forces and of each separate contractor with the Work of Contractor and Contractor fully shall cooperate with said coordination. Contractor shall participate with other separate contractors and WEBB COUNTY in reviewing all construction schedules when directed by WEBB COUNTY to do so. Contractor shall make any revisions to its construction schedule deemed necessary after said joint review and mutual agreement. The revised construction schedules then shall constitute the schedules to be used by Contractor, separate contractors and WEBB COUNTY until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when WEBB COUNTY and WEBB COUNTY's own forces perform construction or operation related to the Project, WEBB COUNTY shall be subject to the same obligations and to have the same rights that apply to Contractor under these General Conditions and the Contract Documents.

6.2 MUTUAL RESPONSIBILITY

6.2.1 Contractor shall afford WEBB COUNTY and WEBB COUNTY's separate contractor(s) reasonable opportunity for the introduction and storage of materials and equipment, the performance of their activities and the coordination of Contractor's construction and operations with theirs, as required by the Contract Documents.

6.2.2 If part of Contractor's Work depends upon the construction or operations by WEBB COUNTY or a separate contractor for the proper execution or results, Contractor shall, prior to proceeding with that portion of the Work, promptly report to WEBB COUNTY apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of Contractor to so report shall constitute an acknowledgment that WEBB COUNTY's separate contractor's completed or partially completed construction is fit and proper to receive Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 WEBB COUNTY shall be reimbursed by Contractor for costs incurred by WEBB COUNTY which are payable to a separate contractor because of delays, improperly timed activities or defective construction of Contractor. WEBB COUNTY shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities and damage to the Work or defective construction of WEBB COUNTY's separate contractor(s).

6.2.4 Contractor promptly shall remedy any damage wrongfully caused by Contractor or its Subcontractor(s) to any completed or partially completed construction or to property of WEBB COUNTY or WEBB COUNTY's separate contractor(s), as provided in **Section 10.2.5** herein.

6.2.5 WEBB COUNTY and each separate contractor shall have the same responsibilities for cutting and patching as are described for Contractor in **Section 3.14** herein.

6.3 WEBB COUNTY'S RIGHT TO CLEAN UP.

If a dispute arises among or between Contractor, WEBB COUNTY's separate contractor(s) and WEBB COUNTY, as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, WEBB COUNTY may clean up and those costs shall be allocated amongst those parties responsible. If Contractor does not agree to the allocation, the matter is to be settled as any other claim.

ARTICLE VII. CHANGES IN THE WORK

7.1 GENERAL

7.1.1 Changes in the Work may be accomplished, after the execution of the Contract and without invalidating the Contract, by Change Order, Field Work Directive/Force Account or order for a minor change in the Work that does not affect the Contract Time or the Contract Sum, subject to the limitations stated in this **Article VII** and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement between WEBB COUNTY and Contractor; a Field Work Directive requires a directive by WEBB COUNTY and, if necessary, Design Consultant and may or may not be agreed to by Contractor; and an order for a minor change in the Work that does not affect the Contract Time or the Contract Sum may be issued by WEBB COUNTY.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents and Contractor promptly shall proceed with the changed Work, unless otherwise provided in a Change Order, Field Work Directive or order for a minor change in the Work or in this **Article VII**.

7.1.4 Changes resulting from Change Orders, Field Work Directives or orders for minor changes shall be recorded by Contractor on the As-Built record documents.

7.2 CHANGE ORDERS

7.2.1 A Change Order is a written modification of the Contract signed by both WEBB COUNTY and Contractor (and approved by WEBB COUNTY COMMISSIONERS COURT, if required) that authorizes an addition, deletion or revision in the Work or an adjustment in the Contract Sum or the Contract Times and is issued on or after the Effective Date of the Contract.

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in **Section 7.3.4** herein.

7.2.3 Acceptance of a Change Order by Contractor shall constitute a full accord and satisfaction for any and all claims and costs of any kind, whether direct or indirect, including, but not limited to impact, delay or acceleration damages arising from the subject matter of the Change Order. Each Change Order shall be specific and final as to prices and any extensions of time, with no reservations or other provisions allowing for future additional money or time as a result of the

particular changes identified and fully compensated in the Change Order. The execution of a Change Order by Contractor shall constitute conclusive evidence of both Parties' agreement to the ordered changes in the Work, cost and additional time, if any. This Contract, as amended, forever releases any Claim against WEBB COUNTY for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release of any Claim applies to Claims related to the cumulative impact of all Change Orders and to any Claim related to the effect of a change on unchanged Work.

724 WEBB COUNTY or Design Consultant shall prepare Change Orders and Field Work Directives and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order, which Contractor promptly shall carry out and record on the As-Built record documents.

725 Contractor and Subcontractors shall be entitled to include overhead and profit in any Change Order only as provided by Project Specifications.

7.3 FIELD WORK DIRECTIVES

731 A Field Work Directive is a written directive signed by WEBB COUNTY and, if necessary, Design Consultant directing a change in the Work prior to agreement on an adjustment, if any, in the Contract Sum or Contract time, or both. WEBB COUNTY may, by Field Work Directive and without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with any changes to the Contract Sum and/or the Contract Time to be adjusted according to the terms of this **Section 7.3**.

732 A Field Work Directive shall be used in the absence of total agreement on the terms of a Change Order. WEBB COUNTY shall issue a Field Work Directive to Contractor with a defined Not-To-Exceed dollar amount for the scope of Work defined pursuant to 7.3.4.

733 Upon receipt of a Field Work Directive, Contractor promptly shall proceed with the change in the Work involved and, in writing, advise WEBB COUNTY of the Contractor's agreement or disagreement with the method, if any, provided in the Field Work Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

734 If the Field Work Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods, as applicable:

- 7.3.4.1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- 7.3.4.2 prices, including unit prices, stated in the Contract Documents or subsequently agreed upon;
- 7.3.4.3 cost to be determined in a manner agreed upon by WEBB COUNTY and Contractor and a mutually acceptable fixed or percentage fee; or
- 7.3.4.4 as provided in **Section 7.3.6** herein.
- 7.3.4.5 If Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall initially be determined by Design Consultant on the basis of reasonable costs and savings attributable to the change including, in case of an increase in the Contract Sum, as applicable, a reasonable allowance for overhead and profit. In such case, and also under **Section 7.3.4.3** herein, Contractor shall keep and present, in such form as WEBB COUNTY may prescribe, an itemized and detailed accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this **Section 7.3.5** shall be limited to the following:
- 7.3.4.6 costs of all labor, including social security, and unemployment insurance, fringe benefits required by Law, agreement or custom, and workers' compensation insurance;

- 7.3.4.7 costs of all materials, supplies and equipment, including cost of transportation, storage installation, maintenance, dismantling and removal, whether incorporated or consumed;
- 7.3.4.8 rental costs of all machinery and equipment, exclusive of hand tools, whether rented from Contractor or others, including costs of transportation, installation, minor repairs and replacements, dismantling and removal;
- 7.3.4.9 expenses incurred in accordance with Contractor's standard personnel policy for travel approved in writing by WEBB COUNTY in advance;
- 7.3.4.10 costs of premiums for all bonds and insurance, permit fees and allowable sales, use or similar taxes related to the Work;
- 7.3.4.11 all additional costs of supervision and field office personnel directly attributable to the change; and
- 7.3.4.12 all payments made by the Contractor to Subcontractors.

735 The amount of credit to be allowed by Contractor to WEBB COUNTY for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost of the deleted or change Work, plus Contractor's allocated percent for profit and overhead, as confirmed by Design Consultant, subject to any equitable adjustment recommended by Design Consultant and approved by WEBB COUNTY. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase or decrease, if any, with respect to that change.

736 If WEBB COUNTY and Contractor agree with the determination made by Design Consultant concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

737 If WEBB COUNTY and Contractor cannot reach an agreement on either an adjustment on the Contract Sum and Contract Time, pursuant to an issued Field Work Directive, WEBB COUNTY and Contractor shall execute a Change Order for the adjustment on the Contract Sum or Contract Time, if any, the Parties do agree upon for the Work performed and Contractor reserves the right to file a Claim for any disagreements in Contract Sum or Contract Time not addressed in the Change Order, pursuant to **Section 4.4** herein. If WEBB COUNTY and Contractor cannot agree on both the adjustment in the Contract Sum and the Contract Time associated with an issued Field Work Directive, WEBB COUNTY unilaterally shall file a Change Order listing WEBB COUNTY's adjustments in the Contract Sum and/or Contract Time and Contractor reserves the right to file a Claim for payment and/or time, pursuant to **Section 4.4** herein.

7.4 MINOR CHANGES TO THE WORK.

WEBB COUNTY or Design Consultant both shall have authority to order minor changes in the

Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on WEBB COUNTY and Contractor. Contractor promptly shall carry out such written orders and record such changes in the As-Built drawings.

7.5 TIME REQUIRED TO PROCESS CHANGE ORDERS

75.1 All responses by Contractor to proposal requests from WEBB COUNTY or Design Consultant shall be accompanied by a complete itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow WEBB COUNTY and Design Consultant a minimum of thirty (30) calendar days after receipt by WEBB COUNTY to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. Each of Contractor's responses to proposal requests shall include a statement that the cost and additional time described and requested in Contractor's response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution or other grounds for seeking extra compensation or additional time under the Contract Documents, without reservation or further recourse.

75.2 All Change Orders require written approval by either WEBB COUNTY or WEBB COUNTY COMMISSIONERS COURT. The approval process requires a minimum of twenty (20) calendar days after submission to WEBB COUNTY in final form with all supporting data. Receipt of a submission by WEBB COUNTY does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal shall be authorized by WEBB COUNTY or WEBB COUNTY COMMISSIONERS COURT Resolution or Administrative Action. **THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM SHALL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS.** Pending the approval of a Change Order as described above, Contractor shall proceed with the work under a pending Change Order only if directed in writing to do so by WEBB COUNTY.

ARTICLE VIII. TIME

8.1 PROGRESS AND COMPLETION

8.1.1 **TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE CONTRACT.** By executing the Contract, Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.1.2 Contractor shall proceed with the Work expeditiously using adequate forces and shall achieve Substantial Completion within the Contract Time.

8.1.3 For Projects not affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, and a Working Day, as defined in **Section 1.1.1** herein, is measured from sunrise to sundown Monday through Friday, nothing in this **Article VIII** shall be construed as prohibiting Contractor from working on Saturdays if it so desires and giving WEBB COUNTY at least the prerequisite forty-eight (48) hours written notice of intent to perform Work on Saturday, Sunday and holidays so that WEBB COUNTY's representative may be

scheduled to observe/inspect said Work and only if Contractor has performed work on the Project during the same week of the requested Saturday, Sunday or holiday.

8.1.4 On Projects affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, Contractor shall work sunrise to sundown Monday through Saturday.

8.2 DELAYS AND EXTENSIONS OF TIME

8.2.1 Neither WEBB COUNTY nor Contractor, except as provided for in this **Section 8.2**, shall be liable to the other for any delay to Contractor's Work by reason of fire, act of God, riot, strike, pandemic or any other cause beyond either Party's direct control. Should any of these listed factors delay the Work's critical path, as evidenced by a Time Impact Analysis developed by Contractor and verified by Design Consultant, Program Manager and WEBB COUNTY, Contractor shall receive an extension of the Contract Times equal to the delay if a written claim is made within five (5) calendar days of the delaying event and granted by WEBB COUNTY. Under no circumstances shall WEBB COUNTY be liable to pay Contractor any compensation for such delays. Note that any request for an extension of time due to delays or disruption caused by unusually severe weather are addressed in **Section 4.3.6.2** herein.

8.2.2 Should Contractor be delayed solely by the act, negligence or default of WEBB COUNTY or Design Consultant, and should any of these factors delay the Project's critical path, as evidenced by a Time Impact Analysis developed by Contractor and verified by Design Consultant, Program Manager and WEBB COUNTY, Contractor shall receive an extension of the Contract Time equal to the verified delay or portion thereof if a written claim is made within five (5) calendar days of the act, negligence or default of WEBB COUNTY or Design Consultant and granted by WEBB COUNTY. In addition, Contractor, upon timely notice to WEBB COUNTY, with substantiation by WEBB COUNTY and Design Consultant and upon approval of WEBB COUNTY, shall be compensated for its Project facilities and field management expenses on a per diem basis (said per diem includes the costs incurred by Contractor to administer its Work and does not include costs associated for any tier of Subcontractor or supplier to administer their Work. Compensation for Subcontractor's and supplier's compensable delay affecting the Project critical path shall be separate and apart from the per diem cost due and payable to the Contractor) for the particular Project delayed and for the period of the critical path delay attributable to a WEBB COUNTY caused event. In no event shall Contractor be entitled to home office or other off-site expenses or damages.

8.2.3 Claims relating to time shall be made in accordance with applicable provisions of **Section 4.3** herein.

8.2.4 This Contract does not permit the recovery of damages by Contractor for delay, disruption or acceleration, other than those described in **Section 8.2.2** herein, as provided under **Section 4.3.11(3)** herein and those justified by a Time Impact Analysis. Contractor agrees that it fully shall be compensated for all delays solely by an extension of non-compensatory time or as contemplated in **Section 8.2.2** herein.

ARTICLE IX. PAYMENTS AND COMPLETION

91 CONTRACT SUM.

The Contract Sum is stated in the Contract and, including authorized adjustments, is the total maximum not-to-exceed amount payable by WEBB COUNTY to Contractor for performance of the Work under the Contract Documents. Contractor accepts and agrees that all payments pursuant to this Contract are subject to the availability and appropriation of funds by the WEBB COUNTY COMMISSIONERS COURT. If funds are not available and/or appropriated, this Contract shall immediately be terminated with no liability to any Party to this Contract other than for the Work completed as of the date of termination.

92 SCHEDULE OF VALUES

92.1 A Schedule of Values for all of the Work shall be submitted by Contractor and shall include quantities and prices of items which, when added together, equal a contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Where applicable, overhead and profit shall be included as a separate line item.

92.2 Before the first Application for Payment, Contractor shall submit to WEBB COUNTY and Design Consultant a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as WEBB COUNTY and Design Consultant may require. This schedule, unless objected to by Design Consultant or WEBB COUNTY, shall be used as a basis for reviewing Contractor's Applications for Payment.

93 APPLICATIONS FOR PAYMENT

93.1 Contractor shall submit Applications for Payment to WEBB COUNTY electronically, at minimum, every thirty (30) days throughout the duration of the Project or in the alternative upon notice from Contractor that he is seeking only a complete payment upon Acceptance of the Project Contractor may submit a final Application for Payment. Contractor electronically shall attach to its Application for Payment all data substantiating Contractor's right to payment as WEBB COUNTY or Design Consultant may require, such as copies of requisitions from Subcontractors and material suppliers reflecting retainage, if provided for in the Contract Documents, and reflecting a deduction for Liquidated Damages, if applicable. Applications for Payment shall not include requests for payment for portions of the Work which Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom Contractor intends to pay.

93.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work and verified by WEBB COUNTY. If approved in advance in writing by WEBB COUNTY, payment similarly may be made for materials and equipment suitably stored off the Site at a location agreed upon in writing and verified by WEBB COUNTY. Payment for materials and equipment stored on or off the Site shall be conditioned upon compliance by Contractor with procedures reasonably satisfactory to WEBB COUNTY to establish WEBB COUNTY's title to

such materials and equipment or otherwise protect WEBB COUNTY's interest. Contractor solely shall be responsible for payment of all costs of applicable insurance, storage and transportation to the site for materials and equipment stored off the site.

933 Contractor warrants that, upon submittal of an Application for Payment, all Work for which payment previously has been received from WEBB COUNTY shall, to the best of Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of Contractor, Subcontractors, material suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. **CONTRACTOR SHALL INDEMNIFY AND HOLD WEBB COUNTY HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY CONTRACTOR, SUBCONTRACTORS OR ANYONE CLAIMING BY, THROUGH OR UNDER CONTRACTOR OR SUBCONTRACTOR(S) FOR ITEMS COVERED BY PAYMENTS MADE BY WEBB COUNTY TO CONTRACTOR.**

934 By submission of an Application for Payment, Contractor certifies that there are no known liens or bond claims outstanding as of the date of said Application for Payment, that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application and, except for such bills not paid but so included, there is no known basis for the filing of any liens or bond claims relating to the Work and that releases from all Subcontractors and Contractor's material men have been obtained in such form as to constitute an effective release of lien or claim under the laws of the State of Texas covering all Work theretofore performed and for which payment has been made by WEBB COUNTY to Contractor; provided if any of the foregoing is not true and cannot be certified, Contractor shall revise the certificate as appropriate and identify all exceptions to the requested certifications.

94 PAY APPLICATION APPROVAL

941 Design Consultant shall, within five (5) business days after the electronic receipt of Contractor's Application for Payment either approve the Application for Payment or reject the Application for Payment and state on the electronic notification to Contractor and WEBB COUNTY the Design Consultant's reasons for withholding approval, as provided in **Section 9.5.1** herein.

942 The certification of an Application for Payment shall constitute a representation by Design Consultant to WEBB COUNTY, based on Design Consultant's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of Design Consultant's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to any specific qualifications expressed by Design Consultant. The issuance of a Certificate for Payment further shall constitute a representation that Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation Design Consultant has:

- (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;
- (2) reviewed construction means, methods, techniques, sequences or procedures;
- (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by WEBB COUNTY to substantiate Contractor's right to payment; or
- (4) made an examination to ascertain how or for what purpose Contractor has used money previously paid on account of the Contract Sum.

95 DECISIONS TO REJECT APPLICATION FOR PAYMENT

95.1 The Application for Payment may be rejected to protect WEBB COUNTY for any of the following reasons:

- 9.5.1.1 Work not performed or defective as defined in 3.5.1;
- 9.5.1.2 damage to WEBB COUNTY;
- 9.5.1.3 reasonable evidence that the Work shall not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or Liquidated Damages for the anticipated delay;
- 9.5.1.4 persistent material failure by Contractor to substantially carry out the Work in accordance with the Contract Documents;
- 9.5.1.5 the applicable Liquidated Damages were not included in the Application for Payment;
- 9.5.1.6 billing for unapproved/unverified materials stored off Site; or
- 9.5.1.7 A current schedule update has not been submitted by Contractor.

95.2 WEBB COUNTY shall not be deemed in default by reason of rejecting Application for Payment as provided for in **Section 9.5.1** herein.

9.6 PROGRESS PAYMENTS

96.1 After the final approval of the Application for Payment, WEBB COUNTY shall make payment in the manner and within the time provided in the Contract Documents.

96.2 During the latter part of each month, as the Work progresses on all WEBB COUNTY Contracts regardless of Contract Sum, WEBB COUNTY and Contractor shall determine the cost of the labor and materials incorporated into the Work during that month and actual invoiced cost of Contractor-acquired materials stored on the Project Site, and/or within off-site storage facilities either

owned or leased by Contractor. Upon receipt of a complete and mathematically accurate Application for Payment from Contractor, WEBB COUNTY shall make payments, in accordance with **Article IX** herein, to Contractor within thirty (30) calendar days. Installments shall be paid to Contractor at the rate of ninety-five percent (95%) of each monthly invoice within thirty (30) calendar days of WEBB COUNTY receipt of a complete and mathematically accurate Application for Payment from the Contractor, and the retainage held until Final Completion shall be five percent (5%).

963 WEBB COUNTY's payment of installments shall not, in any way, be deemed to be a final acceptance by WEBB COUNTY of any part of the Work, shall not prejudice WEBB COUNTY in the final settlement of the Contract account or shall not relieve Contractor from completion of the Work herein provided.

964 Contractor shall, within ten (10) calendar days following receipt of payment from WEBB COUNTY, pay all bills for labor and materials performed and furnished by others in connection with the construction, furnishing and equipping of the improvements and the performance of the work, and shall, if requested, provide WEBB COUNTY with written evidence of such payment. Contractor's failure to make payments or provide written evidence of such payments within such time shall constitute a material breach of this contract, unless Contractor is able to demonstrate to WEBB COUNTY bona fide disputes associated with the unpaid Subcontractor(s) or supplier(s) and its/their work. Contractor shall include a provision in each of its subcontracts imposing the same written documentation of payment obligations on its Subcontractors as are applicable to Contractor hereunder, and if WEBB COUNTY so requests, shall provide copies of such Subcontractor payments to WEBB COUNTY. .

965 WEBB COUNTY and/or Design Consultant shall, if practicable and upon request, furnish to Subcontractor information regarding percentages of completion or amounts applied for by Contractor and action taken thereon by WEBB COUNTY and Design Consultant on account of portions of the Work done by such Subcontractor.

966 Neither WEBB COUNTY nor Design Consultant shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law, if any.

967 Payments to material suppliers shall be treated in a manner similar to that provided in **Section 9.6.2, Section 9.6.3 and Section 9.6.4** herein regarding Subcontractors.

968 A Certificate for Payment, a progress payment or a partial or entire use or occupancy of the Project by WEBB COUNTY shall not constitute acceptance of Work that was not performed or furnished in accordance with the Contract Documents.

969 Contractor shall, as a condition precedent to any obligation of WEBB COUNTY under this Contract, provide to WEBB COUNTY payment and performance bonds in the full penal amount of the Contract, in accordance with Texas Government Code Chapter 2253.

9.7 SUBSTANTIAL COMPLETION

9.7.1 Substantial Completion is defined as the stage in the progress of the Work when the Work or a designated portion thereof, which WEBB COUNTY agrees to accept separately – sufficiently is complete, in accordance with the Contract Documents, so WEBB COUNTY may occupy or utilize the Work or a designated portion thereof for its intended use. In the event Substantial Completion is not achieved by the designated date, or the date extended by issued and accepted Change Order(s), WEBB COUNTY may withhold payment of sums necessary to pay the estimated Liquidated Damages due WEBB COUNTY. WEBB COUNTY shall be entitled, at any time, to deduct out of any sums due to Contractor any or all Liquidated Damages due WEBB COUNTY in accordance with the Contract between WEBB COUNTY and Contractor.

9.7.2 When Contractor considers that the Work, or a portion thereof which WEBB COUNTY agrees to accept separately, is Substantially Complete, Contractor shall prepare and submit to WEBB COUNTY and Design Consultant a preliminary comprehensive list of items to be completed or corrected prior to Final Completion and final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

9.7.3 Upon receipt of Contractor's list of items to be completed or corrected, WEBB COUNTY and Design Consultant shall make a Site inspection to determine whether the Work or designated portion thereof is Substantially Complete. If WEBB COUNTY's or Design Consultant's inspection discloses any item, whether or not it was included on Contractor's list of items to be completed or corrected, which is not sufficiently complete or correct in accordance with the Contract Documents so that WEBB COUNTY may occupy or utilize the Work or designated portion thereof for its intended use, Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon written notification by WEBB COUNTY or Design Consultant. In such case, Contractor then shall submit a request for another inspection by WEBB COUNTY and Design Consultant to determine Substantial Completion and Contractor shall be responsible for all reasonable and necessary costs incurred and associated with re-inspection.

9.7.4 When the Work – or the designated portion thereof which WEBB COUNTY agrees to accept separately – is Substantially Complete, Design Consultant or WEBB COUNTY shall prepare a Certificate of Substantial Completion (Vertical Projects) or a Letter of Conditional Approval (Horizontal Projects) which shall:

- (1) establish the date of Substantial Completion (which shall be the date on which the Work met the requirements under the Contract Documents for Substantial Completion);
- (2) establish responsibilities of WEBB COUNTY and Contractor, as agreed to by WEBB COUNTY and Contractor, for security, maintenance, heat, utilities, damage to the Work and insurance; and
- (3) confirm the time limit by which Contractor shall complete all items on the list

accompanying the Certificate.

Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, or the designated portion thereof, unless otherwise provided in the Certificate of Substantial Completion.

9.8 PARTIAL OCCUPANCY OR USE

981 WEBB COUNTY may occupy or use any completed or partially completed portion of the Work at any stage of the Work when such partially completed portion is designated by separate agreement with Contractor, provided such occupancy or use is consented to by the insurer, as required under **Section 11.2.5** herein and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided WEBB COUNTY and Contractor have accepted in writing the responsibilities assigned to each of them for security, maintenance, heat, utilities, damage to the Work and insurance and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When Contractor considers a portion of the Work to be Substantially Complete, Contractor shall prepare and submit a list of items to be completed or corrected prior to Final Completion and final payment and submit such list to WEBB COUNTY and Design Consultant, as provided under **Section 9.8.2** herein. Consent of Contractor to partial occupancy or use shall not be unreasonably withheld. The state of the progress of the Work shall be determined by written agreement between WEBB COUNTY and Contractor or, if no agreement is reached, by the decision of Design Consultant.

982 Immediately prior to such partial occupancy or use, WEBB COUNTY, Contractor and Design Consultant collectively shall inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

983 Unless expressly agreed upon in writing, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

984 Upon such partial occupancy or use, and upon Substantial Completion, WEBB COUNTY shall assume responsibility for maintenance, security and insuring that portion of the Work that it has put into use.

985 Partial occupancy or use by WEBB COUNTY does not constitute substantial completion and does not start any warranty period(s).

9.9 FINAL COMPLETION AND FINAL PAYMENT

991 When all of the Work finally is completed and ready for final inspection, Contractor shall notify WEBB COUNTY and Design Consultant thereof in writing. Thereupon, WEBB COUNTY and Design Consultant shall make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the final Application for Payment may be submitted. If WEBB COUNTY and Design Consultant are unable to approve the final Application for Payment for reasons for which Contractor is responsible and WEBB COUNTY and Design Consultant are required to repeat a final inspection of the Work, Contractor

shall be responsible for all reasonable and necessary costs incurred and associated with such repeat final inspection(s) and said costs may be deducted by WEBB COUNTY from the Contractor's retainage.

992 Contractor shall not be entitled to payment of retainage unless and until it submits to WEBB COUNTY its affidavit that the payrolls, invoices for materials and equipment, and other liabilities, to include Liquidated Damages, connected with the Work for which WEBB COUNTY or WEBB COUNTY's property might be responsible fully have been paid or otherwise satisfied or shall be paid from final payment; releases and waivers of liens from all Subcontractors of Contractor and of any and all other parties required by Design Consultant or WEBB COUNTY that either are unconditional or conditional on receipt of final payment; Certificates of insurance showing continuation of required insurance coverage; such other documents as WEBB COUNTY may request; and consent of Surety to final payment. A Retainage Checklist shall be provided by WEBB COUNTY to Contractor upon request. If Contractor has a dispute with a Subcontractor, Contractor will notify WEBB COUNTY of same and WEBB COUNTY may withhold the amount in dispute until the dispute is resolved but disburse the amounts that are not in dispute to Contractor. After Contractor provides satisfactory evidence to WEBB COUNTY that the dispute has been resolved, then WEBB COUNTY will distribute the withheld amount to Contractor.

993 If, after Substantial Completion of the Work, Final Completion of the Work materially is delayed through no fault of Contractor nor by Issuance of Change Orders affecting Final Completion of the Work, and Design Consultant so confirms, WEBB COUNTY shall, upon application by Contractor and certification by Design Consultant and without terminating the Contract, make payment of the balance due Contractor for that portion of the work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of Surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Design Consultant, prior to certification of 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.

994 Request for final payment by Contractor shall constitute a waiver of all claims against WEBB COUNTY, except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

9.10 ADDITIONAL INSPECTIONS.

In addition to any Liquidated Damages accrued by and payable to WEBB COUNTY by Contractor, WEBB COUNTY shall be entitled to deduct from the Contract Sum amounts due to Contractor by WEBB COUNTY to compensate Design Consultant for any additional inspections or services provided by Design Consultant, provided Design Consultant undertook these additional inspections or services due to the fault or negligence of Contractor if:

- (1) Design Consultant is required to make more than one inspection to determine if Substantial Completion has been achieved by Contractor;

- (2) Design Consultant is required to make more than one inspection to determine if Final Completion has been achieved by Contractor; or
- (3) the Work is not substantially complete within thirty (30) calendar days after the date established for the Work's Substantial Completion, as stated in the Contract Documents.

ARTICLE X. PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. Contractor shall develop a safety program applicable to each job site and to the Work to be done and enforce such program at all times. Further, Contractor shall comply with all applicable laws and regulations including, but not limited to, the standards and regulations promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970 (OSHA) and any other legislation enacted for the safety and health of Contractor employees. WEBB COUNTY shall have the right, but not the obligation, to inspect and verify Contractor's compliance with Contractor's responsibility for protecting the safety and health of its employees and Subcontractor.

10.1.2 Contractor shall notify WEBB COUNTY immediately, by telephone with prompt confirmation in writing, of all injuries and fatalities including, but not limited to, copies of all reports and other documents filed or provided to Contractor's insurers and the State of Texas in connection with such injuries or fatalities.

10.1.3 Contractor has adopted or shall adopt its own policy to assure a drug and alcohol-free work place while performing the Work. Contractor's employees, agents, and Subcontractors shall not perform any service for WEBB COUNTY while under the influence of alcohol or any controlled substance. Contractor, its employees, agents and Subcontractors shall not use, possess, distribute or sell illegal, illicit and/or prescribed controlled drugs or drug paraphernalia or misuse legitimate prescription drugs while on Site or performing the Work. Contractor, its employees, agents and Subcontractors shall not use, possess, distribute or sell alcoholic beverages while performing the Work or while on Site or performing the Work. Contractor shall remove any of its employees or Subcontractor employees from performing the Work or from the Site any time there is reasonable suspicion of alcohol and/or drug use, possession or impairment involving such employee and at any time an incident occurs where drug or alcohol use could have been a contributing factor. WEBB COUNTY has the right to require Contractor to remove employees or Subcontractor employees from performing the Work or from the Site any time reasonable cause exists to suspect alcohol or drug use. In such cases, Contractor's or Subcontractor's employees only may be considered for return to work after Contractor certifies, as a result of a for-cause test conducted immediately following a removal, said employee was in compliance with this Contract. Contractor shall not employ any individual, or shall not accept any Subcontractor employees, to perform the Work who either refuses to take or tests positive in any alcohol or drug test.

10.1.4 Contractor shall comply with all applicable federal, state and local drug and alcohol related laws and regulations (e.g., Department of Transportation regulations, Department of Defense

Drug-free Work-free Workforce Policy, Drug-Free Workplace Act of 1988). The presence of any firearms or other lethal weapons by any person is prohibited on the Project site, regardless of whether there exists a valid permit for carrying a weapon.

10.15 Both WEBB COUNTY and Contractor agree that these safety and health terms are of the highest importance and that a breach or violation of any of the terms of this **Section X** by Contractor or a Subcontractor shall be a material and substantial breach of this Contract. In the event that WEBB COUNTY shall reasonably determine that Contractor has breached or violated the terms of this Section that have a substantial, present probability of a significant accident (technical violations which do not pose an immediate danger are to be corrected but do not meet the definition of "substantial, present probability"), then WEBB COUNTY shall determine, immediately upon written notice to Contractor, whether the Work shall be suspended as a result thereof. If the Work is suspended, the Work shall not recommence until WEBB COUNTY is satisfied that the safety provisions hereof shall not be breached or violated thereafter. If WEBB COUNTY terminates the Contract as a result of such breach or violation, WEBB COUNTY and Contractor shall complete their obligations hereunder to one another in accordance with **Article XIII** herein. For minor, technical violations, WEBB COUNTY will provide Contractor notice to remedy promptly.

10.16 Nothing contained in this **Article X** shall be interpreted as creating or altering the legal duty of WEBB COUNTY to Contractor or to Contractor's agents, employees, Subcontractors or third parties, or altering the status of Contractor as an independent contractor.

10.17 Notwithstanding either of the above provisions, or whether WEBB COUNTY exercises its rights set forth herein, WEBB COUNTY neither warrants nor represents to Contractor, Contractor's employees or agents, any Subcontractors or any other third party that Contractor's safety policy meets the requirements of any applicable law, code, rule or regulation, nor does WEBB COUNTY warrant that the proper enforcement of Contractor's policy shall insure that no accidents or injuries shall occur. In addition, any action by WEBB COUNTY under these provisions in no way diminishes any of Contractor's obligations under applicable law or the contract documents.

10.2 SAFETY OF PERSONS AND PROPERTY

10.21 Contractor shall take reasonable precautions for the safety of and shall provide reasonable protection to prevent damage, injury or loss to:

- 10.2.1.1 employees performing the Work and other persons who may be affected thereby;
- 10.2.1.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of Contractor or Contractor's Subcontractors or Sub-Subcontractors;
- 10.2.1.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of Construction; and

10.2.1.4 the contents of a building or structure, when Contractor is working in, on or around an existing/operating WEBB COUNTY facility.

1022 Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

1023 Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying WEBB COUNTY and users of adjacent sites and utilities.

1024 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for the execution of the Work, Contractor shall exercise extraordinary care and shall carry on such activities under the direct supervision of properly qualified personnel. Prior to the use of any explosives, Contractor shall submit a written blasting plan, shall obtain WEBB COUNTY's approval and shall comply with WEBB COUNTY's requirements for such use.

1025 Contractor shall designate a responsible member of Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated by Contractor in writing to WEBB COUNTY and Design Consultant.

1026 Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

1027 Notwithstanding the delivery of a survey or other documents by WEBB COUNTY, Contractor shall use reasonable efforts to perform all Work in such a manner so as to avoid damaging any utility lines, cables, pipes or pipelines on the property. Contractor acknowledges and accepts that the location of underground utilities (both public and private) reflected on any WEBB COUNTY provided Plans are not guaranteed and may not be completely accurate. Contractor shall locate and verify any and all utilities and associated service lines prior to beginning any Work. Contractor shall be responsible for and shall repair, at Contractor's own expense, any damage done to lines, cables, pipes and pipelines identified or not identified to Contractor.

10.3 EMERGENCIES

1031 In an emergency affecting safety of persons or property, Contractor shall exercise its best efforts to act to prevent or minimize threatened damage, injury or loss. Additional compensation or extension of time claimed by Contractor on account of an emergency shall be determined, as provided in **Section 4.3** and **Article VII** herein.

1032 If Contractor causes damage resulting in an issue of safety and/or security to a property WEBB COUNTY, Contractor immediately shall repair any damage caused. If Contractor does not or shall not act immediately to repair the damage caused by Contractor to eliminate the resulting safety and/or security issue(s), WEBB COUNTY shall act to repair the damage caused and deduct all costs associated with the repair from any money due Contractor.

10.4 PUBLIC CONVENIENCE AND SAFETY

1041 Contractor shall place materials stored at the Project site and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by WEBB COUNTY. Sidewalks or streets shall not be obstructed, except by special permission of WEBB COUNTY. Materials excavated and construction materials or plants used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances and fire alarm or police call boxes in the vicinity.

1042 WEBB COUNTY reserves the right to remedy any neglect on the part of Contractor, in regard to public convenience and safety, which may come to WEBB COUNTY's attention after twenty-four (24) hours notice in writing to Contractor. In case of an emergency, WEBB COUNTY shall have the right immediately to remedy any neglect without notice. In either case, the reasonable and necessary cost of any work done by or for WEBB COUNTY to remedy Contractor's neglect shall be deducted by WEBB COUNTY from Contractor's Contract Sum. Contractor shall notify WEBB COUNTY, Design Consultant when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be given at least forty- eight (48) hours in advance. WEBB COUNTY reserves the right to postpone and/or prohibit any closure or obstruction of any streets or thoroughfares, to the extent necessary for the safety and benefit of the traveling public. Contractor shall, when directed by WEBB COUNTY or Design Consultant, keep any street or streets in condition for unobstructed use. When Contractor is required to construct temporary bridges or make other arrangements for crossing over ditches or around structures, Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

1043 Contractor shall limit airborne dust and debris throughout the Project site and its duration. Contractor shall apply the necessary amounts of water or other appropriate substance required to maintain sufficient moisture content for dust control. For WEBB COUNTY horizontal projects, Contractor shall apply appropriate amounts of water or other appropriate substance to the base on streets under construction and on detours required to maintain sufficient moisture control in the surface layer for dust control.

10.5 BARRICADES, LIGHTS AND WATCHMEN.

If the Work is carried on, in or adjacent to any street, alley or public place, Contractor shall, at Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, provide sufficient watchmen and take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that shall be visible at night, and shall be illuminated by lights as required under WEBB COUNTY's or TxDOT's Barricades Specifications. The term "lights," as used in this **Section 10.5**, shall mean flares, flashers or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices also shall be erected to keep vehicles from being driven on or into any Work under construction. Contractor shall be held responsible for all damage to the Work due to Contractor's failing to maintain barricades, signs, lights and/or watchmen necessary to protect the Work. Whenever evidence is

found of such damage, WEBB COUNTY or Design Consultant may order the damaged portion immediately removed and replaced by Contractor at Contractor's sole cost and expense, unless caused by WEBB COUNTY's employees or agents. Contractor reserves it causes of action against anyone causing the damage. Contractor's responsibility for maintenance of barricades, signs, lights, and for providing watchmen, as required under this **Section 10.5**, shall not cease until the Project has been finally accepted by WEBB COUNTY.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED.

In case it is necessary for Contractor to change or move the property of WEBB COUNTY or of any telecommunications or public utility, such property shall not be touched, removed or interfered with until ordered to do so by WEBB COUNTY. WEBB COUNTY reserves the right to grant any public or private utility personnel the authority to enter upon the Project site for the purpose of making such changes or repairs to their property that may become necessary during the performance of the Work. WEBB COUNTY reserves the right of entry upon the Project site at any time and for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures and for making other repairs, changes, or extensions to any of WEBB COUNTY's property. WEBB COUNTY's actions shall conform to Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to WEBB COUNTY by Contractor. Any damage to Contractor's Work must be repaired forthwith by those causing same. If caused by WEBB COUNTY (and/or those acting at its directions) and it does not remedy same timely to allow Contractor to fulfill its schedule, then Contractor will be granted additional time under Contractor deadlines to completions. If Contractor must remedy the damage in an attempt to maintain its schedule, then Contractor will be reimbursed the reasonable and necessary costs therefor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS.

When existing storm sewers or drains have to be taken up or removed, Contractor shall, at its expense, provide and maintain temporary outlets and connections for all public and private storm sewers and drains. Contractor also shall provide for all storm sewage and drainage which shall be received from these storm drains and sewers. For this purpose, Contractor shall provide and maintain, at Contractor's own expense, adequate pumping facilities and temporary outlets or diversions. Contractor shall, at Contractor's own expense, construct such troughs, pipes or other structures that may be necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent connections are built and are in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by Design Consultant. All storm water and sewage shall be disposed of in a satisfactory and lawful manner so that no nuisance is created and that the Work under construction shall be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER, ELECTRICAL OR WIRELESS ACCESS FOR THE PROJECT

1081 When Contractor desires to use water in connection with the Work, Contractor shall make complete and satisfactory arrangements with the appropriate water utility and shall be responsible

for the cost of the water Contractor uses.

1082 Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the appropriate retail electric provider, in the event that separately metered electrical connections are required for the Project. Contractor shall pay for all electricity Contractor used in the performance of the Work through separate metered electrical connections obtained by Contractor through a retail electric provider.

1083 If Contractor elects or is required by WEBB COUNTY to place and operate out of a construction trailer or office on the Project site, for which all related costs shall be borne by Contractor, Contractor shall provide for an electronic device to exchange data wirelessly via a local area computer network, to include high-speed internet connections (commonly known as "Wi Fi access"), for WEBB COUNTY personnel's use while on the Project site for the duration of the Project.

10.9 USE OF FIRE HYDRANTS.

Contractor, Subcontractors and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to or connect anything with any fire hydrant, stop valve or stop cock, or tap any water main unless duly authorized in writing to do so by the utility's owner.

10.10 ENVIRONMENTAL COMPLIANCE

10.101 Contractor and its Subcontractors shall use their best efforts to comply with any and all applicable federal, state or local laws, rules, regulations, ordinances and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations, ordinances or rules of common law including, but not limited to, any judicial or administrative order, consent decree or judgment affecting the Project.

10.102 In the event Contractor encounters on the Project Site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and the removal of such materials is not a part of the scope of Work required under the Contract Documents, Contractor immediately shall stop Work in the affected area and report in writing the facts of such encounter to WEBB COUNTY and Design Consultant. Work in the affected area shall not thereafter be resumed except by written order of WEBB COUNTY and written consent of Contractor, unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. Unless removal of such materials is a part of the scope of Work required under the Contract Documents, WEBB COUNTY shall remediate the Hazardous Substance with a separate contractor or through a Change Order with Contractor. If the Hazardous Substance exists in the affected area due to the fault

or negligence of Contractor or any of its Subcontractors, Contractor shall be responsible for remediating the condition at the sole expense of Contractor. If applicable, such remediation shall be in accordance with Contractor's Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by WEBB COUNTY only if the Project critical path is affected and Contractor is not the source of the Hazardous Substance. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of **Section 4.3** and **Article VIII** herein.

10.103 Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation and disposal of any Hazardous Substance brought into or onto the site by Contractor or any Subcontractor or Contractor's Supplier. Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation and/or disposal, notify WEBB COUNTY and Design Consultant so that they may observe the activities; provided, however, that it shall be Contractor's sole responsibility to comply with all applicable laws, rules, regulations or ordinances governing said activities.

ARTICLE XI. INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 Prior to the commencement of any work under this Contract, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to WEBB COUNTY, which shall be clearly labeled "**Webb County Rio Bravo Drainage Outfall & Maintenance Improvement Project**" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. WEBB COUNTY shall not accept a Memorandum of Insurance or Binder as proof of insurance. The Certificate(s) shall be signed by the Authorized Representative of the insurance carrier and shall include the agent's original signature and telephone number. The Certificate(s) shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to WEBB COUNTY. WEBB COUNTY shall have no duty to pay or perform its obligations under this Contract until such Certificate(s) and endorsements have been received and approved by WEBB COUNTY. No officer or employee of WEBB COUNTY, other than the WEBB COUNTY Commissioners Court, shall have authority to waive this requirement.

11.1.2 WEBB COUNTY reserves the right to review the insurance requirements of this **Article XI** during the effective period of this Contract and to modify insurance coverages and limits when deemed necessary and prudent by the WEBB COUNTY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. If WEBB COUNTY increases the insurance after providing Contractor the Order to Proceed, then WEBB COUNTY must provide Contractor a reasonable time to obtain same and reimburse Contractor the increase in cost of premiums related thereto. In no instance will WEBB COUNTY allow modification whereby WEBB COUNTY may incur increased risk.

11.1.3 Contractor's financial integrity is of interest to WEBB COUNTY; therefore, subject to

Contractor's right to maintain reasonable deductibles in such amounts as are approved by WEBB COUNTY, Contractor shall obtain and maintain in full force and effect, for the duration of this Contract and at Contractor's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation 2. Employers' Liability	Statutory \$500,000.00
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations (to be maintained and in effect for no less than two years subsequent to the completion of the project) c. Personal/Advertising Injury *d. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability. *e. Explosion, Collapse, Underground	For <u>Bodily Injury</u> and <u>Property Damage</u> of: \$1,000,000.00 per occurrence; \$2,000,000.00 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage \$2,000,000.00 Products/Completed Operations Aggregate
4. Business Automobile Liability: a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.00 per occurrence
5. *Umbrella Liability – To have as its underlying: a. General liability, including products/completed operations b. Automobile liability c. Employers' liability	Combined Single Limit for bodily injury and property damage of not less than \$5,000,000 per occurrence, \$5,000,000 general aggregate and \$5,000,000 products/completed operations aggregate
6. *Professional Liability (Claims-made	\$1,000,000.00 per claim, to pay on behalf

basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any wrongful act, malpractice, error, or omission in professional services.
7. *Builder's Risk	All Risk Policy written on an occurrence basis for 100% replacement cost during construction phase of any new or existing structure.
*Not Required	

11.14 Contractor agrees to require, by written contract, all Subcontractors providing goods or services pursuant to performance on the Project obtain the same categories of insurance coverage required of Contractor herein and provide a Certificate of Insurance and endorsement that names Contractor and WEBB COUNTY as additional insureds. Policy limits of the coverages carried by Subcontractors shall be determined as a business decision of Contractor. Contractor shall provide WEBB COUNTY with said Certificate and endorsement prior to the commencement of any work by the Subcontractor. This Subcontractor insurance provision may be modified by the WEBB COUNTY's Risk Manager, without subsequent WEBB COUNTY COMMISSIONERS COURT approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. Such insurance coverage modification may be enacted by letter signed by the WEBB COUNTY's Risk Manager, which shall become a part of this Contract for all purposes.

11.15 As they apply to the limits required by WEBB COUNTY, WEBB COUNTY shall be entitled, upon request and without expense, to receive certified copies of all insurance policies, declaration pages and all required endorsements associated with this Work. Contractor shall be required to comply with any such requests and shall submit requested documents to WEBB COUNTY at the address provided below within ten (10) calendar days. Contractor shall pay any and all costs incurred resulting from provision of said documents to WEBB COUNTY.

WEBB COUNTY
Attn: Risk Manager
1110 Washington St. Suite 204
Laredo, Texas 78040

11.16 Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

11.1.6.1 Name WEBB COUNTY, its officers, officials, employees, volunteers, and elected representatives as additional insureds on a primary and non-contributory basis by

endorsement, with respect to operations and activities of, or on behalf of, the named insured performing under this Contract with WEBB COUNTY, with the exception of the workers' compensation and professional liability policies;

- 11.1.6.2 Provide for an endorsement reflecting the "other insurance" clause shall not apply to the WEBB COUNTY where WEBB COUNTY is an additional insured shown on the policy;
- 11.1.6.3 All required policies, including but not limited to Workers' compensation, employers' liability, general liability and automobile liability policies, shall provide a waiver of subrogation in favor of WEBB COUNTY.
- 11.1.6.4 Provide thirty (30) calendar days advance written notice directly to WEBB COUNTY, at the address cited above, of any suspension, cancellation, material change or non-renewal in coverage of Contractor's insurance policy/policies associated with this Work and not less than thirty (30) calendar days in advance notice for Contractor's nonpayment of premium(s).

11.1.7 Within five (5) calendar days of a suspension, cancellation, material change or non-renewal of insurance coverage associated with this Work, Contractor shall provide a replacement Certificate(s) of Insurance and applicable endorsement(s) to WEBB COUNTY. WEBB COUNTY shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.

11.1.8 In addition to any other remedies WEBB COUNTY may have upon Contractor's failure to provide and maintain any insurance and/or policy endorsements to the extent and within the time herein required, WEBB COUNTY shall have the right to order Contractor to stop work hereunder and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the insurance requirements hereof.

11.1.9 Nothing contained herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its Subcontractors' performance of the Work covered under this Contract.

11.1.10 Contractor accepts and agrees Contractor's insurance shall be deemed primary and non-contributory, with respect to any insurance or self-insurance carried by WEBB COUNTY, for liability arising out of Contractor's operations under this Contract.

11.1.11 Contractor understands, accepts and agrees the insurance required of Contractor by this Contract is in addition to and separate from any other obligation contained in this Contract and no claim or action by or on behalf of WEBB COUNTY shall be limited to insurance coverage provided.

11.1.12 Contractor and any of Contractor's Subcontractors are responsible for any and all damage to their own equipment and/or property unless caused by others, including WEBB COUNTY. If caused by others, then Contractor may recover said damages from those causing same.

11.1.13 Without limiting any of the other obligations or liabilities of Contractor under the Contract Documents, Contractor shall purchase and maintain, during the term of the Contract and at Contractor's own expense, the minimum liability insurance coverage described below with insurance companies duly authorized or approved to do business in the State of Texas and otherwise satisfactory to WEBB COUNTY. Contractor also shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain levels of insurance necessary and appropriate for the Work performed during the term of the Contract, said levels of insurance comply with all applicable laws. Subcontractor's liability insurance shall name Contractor, WEBB COUNTY and Design Consultant as additional insureds by using endorsement CG 20 26 or broader. Certificates of insurance complying with the requirements prescribed in **Section 11.1.3** herein shall show the existence of each policy, together with copies of all policy endorsements showing WEBB COUNTY and Design Consultant as an additional insured, and shall be delivered to WEBB COUNTY before any Work is started. Contractor promptly shall furnish, upon the request of and without expense to WEBB COUNTY, a certified copy of each policy required, including all endorsements, which shall indicate:

11.1.14 Workers' Compensation, with statutory limits, with the policy endorsed to provide a waiver of subrogation as to WEBB COUNTY; Employer's Liability Insurance of not less than \$500,000.00 for each accident, \$500,000.00 disease for each employee and \$500,000.00 disease policy limit;

11.1.15 Commercial General Liability Insurance, Personal Injury Liability, Independent Contractor's Liability and Products and Completed Operations and Contractual Liability covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's (and/or Subcontractor's) liability for injury to or death of WEBB COUNTY's employees and all third parties, and for damage to property of third parties, with a combined bodily injury (including death) and property damage minimum limit of \$1,000,000.00 per occurrence, \$2,000,000.00 annual general aggregate and \$2,000,000 Products and Completed Operations aggregate. WEBB COUNTY shall be named as additional insured by using endorsement CG 20 26 or broader. The general liability policy shall include coverage extended to apply to completed operations and XCU hazards. The Completed Operations coverage must be maintained for a minimum of two (2) years after final completion and acceptance of the Work, with evidence of same filed with WEBB COUNTY. The policy shall include an endorsement CG2503 amendment of limits (designated project or premises) in order to extend the policy's limits specifically to the Project in question.

11.1.16 Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of \$1,000,000 per occurrence. Such insurance shall include coverage for loading and unloading hazards.

11.1.17 Five (5) calendar days prior to a suspension, cancellation material or non-renewal of any required line of insurance coverage, Contractor shall provide WEBB COUNTY a replacement certificate of insurance with all applicable endorsements included. WEBB COUNTY shall have the option to suspend Contractor.

11.1.18 If any insurance company providing insurance coverage(s) required under the Contract Documents for Contractor becomes insolvent or becomes the subject of any rehabilitation, conservatorship, liquidation or similar proceeding, Contractor immediately shall procure, upon first notice to Contractor or WEBB COUNTY of such occurrence and without cost to WEBB COUNTY, replacement insurance coverage before continuing the performance of the Work at the Project. Any failure to provide such replacement insurance coverage shall constitute a material breach of the Contract.

11.2 PROPERTY INSURANCE

11.2.1 As stated in Section 11.1 Contractor shall obtain at its expense and maintain throughout the duration of the Project, All-Risk Builder's Risk Insurance, if the Project involves complete construction of a new building, or an All-Risk Installation Floater policy, if the Project involves materials and supplies needed for additions to, renovations or remodeling of an existing building. Coverage on either policy shall be All-Risk, including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft, in an amount equal to one hundred percent (100%) of the insurable value of the Project for the Installation Floater policy, and one hundred percent (100%) of the replacement cost of the Project for the Builder's Risk policy. If an Installation Floater policy is provided, WEBB COUNTY shall be shown as a Joint Named Insured with respect to the Project. If a Builder's Risk policy is provided, the policy shall be written on a Completed Value Form, including materials delivered and labor performed for the Project. This policy shall be in the name of Contractor and naming WEBB COUNTY, Design Consultant and Subcontractors, as well as any Sub-Subcontractors, as additional insureds as their interests may appear. The policy shall have endorsements as follows:

11.2.2 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.

11.2.3 WEBB COUNTY is to be named as Loss Payee as respects any loss under applicable property insurance.

11.2.4 BOILER AND MACHINERY INSURANCE. If applicable, WEBB COUNTY shall purchase and maintain Boiler and Machinery Insurance required by the Contract Documents or by law, which specifically shall cover such insured objects during installation and until final acceptance by WEBB COUNTY. This insurance shall include the interests of WEBB COUNTY, Contractor, Subcontractors and Sub-Subcontractors in the Work, and WEBB COUNTY and Contractor shall be named insureds.

11.2.5 LOSS OF USE INSURANCE. WEBB COUNTY, at WEBB COUNTY's option, may purchase and maintain such insurance as shall insure WEBB COUNTY against loss of use of WEBB COUNTY's property due to fire or other hazards, however caused.

11.2.6 Contractor shall provide to Design Consultant for delivery to WEBB COUNTY a Certificate of Insurance evidencing all property insurance policies procured under this

Section 11.2 and all endorsements thereto, before any exposure to loss may occur.

- 11.27 Partial occupancy or use in accordance with Section 9.8.1 herein shall not commence until the insurance company/companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. WEBB COUNTY and Contractor shall take reasonable steps to obtain consent of the insurance company/companies and shall take no action without mutual written consent with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
- 11.28 Contractor shall take all necessary precautions to ensure no damage shall result from operations to private or public property. All damages shall be repaired or replaced by Contractor at no additional cost to WEBB COUNTY.

11.3 PERFORMANCE BONDS AND PAYMENT BONDS

- 11.3.1 Subject to the provisions of Section 11.3.2 herein, Contractor shall, with the execution and delivery of the Contract, furnish and file with WEBB COUNTY, in the amounts required in this Article XI, the Surety Bonds described in Section 11.3.1.1 and Section 11.3.1.2 herein, with said Surety Bonds in accordance with the provisions of Chapter 2253, Texas Government Code, as amended. Each Surety Bond shall be signed by Contractor, as the Principal, as well as by an established corporate surety bonding company as surety, meeting the requirements of Section 11.3.3 herein and approved by WEBB COUNTY. The Surety Bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign and shall include:

11.3.1.1 **PERFORMANCE BOND.** A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any extensions thereof, for the protection of WEBB COUNTY. This Performance Bond also shall provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final Completion or acceptance of the Work by WEBB COUNTY, or lesser or longer periods as otherwise may be designated in the Contract Documents.

11.3.1.2 **PAYMENT BOND.** A good and sufficient Payment Bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract, and for the use and protection of each claimant.

- 11.3.2 If the Contract Sum, including WEBB COUNTY -accepted Alternates and allowances, if any, is greater than \$100,000.00, a Payment Bond and a Performance Bond equaling one hundred percent (100%) of the Contract Sum are mandatory and shall be provided by

Contractor. If the Contract Sum is greater than \$50,000 but less than or equal to \$100,000, only a Payment Bond equaling one hundred percent (100%) of the Contract amount is mandatory; provided, however, Contractor also may elect to furnish a Performance Bond in the same amount if Contractor so chooses. If the Contract Sum is less than or equal to \$25,000, Contractor may elect not to provide Performance and Payment Bonds; provided, in such event, no money shall be paid by WEBB COUNTY to Contractor until Final Completion of all Work. If Contractor elects to provide the required Performance Bond and Payment Bond, the Contract Sum shall be payable to Contractor through progress payments in accordance with these General Conditions.

11.3.3 No surety shall be accepted by WEBB COUNTY that is in default, delinquent on any bonds or that is a party to any litigation against WEBB COUNTY. All bonds shall be made and executed on WEBB COUNTY's standard forms, shall be approved by WEBB COUNTY and shall be executed by not less than one (1) corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties and is otherwise acceptable to WEBB COUNTY. Each bond shall be executed by Contractor and the surety and shall specify that legal venue for enforcement of each bond exclusively shall lie in Webb County, Texas. Each surety shall designate an agent resident in Webb County, Texas to which any requisite statutory notices may be delivered and on which service of process may be had in matters arising out of the suretyship.

11.3.4 The person or persons, partnership, company, firm, limited liability company, association, corporation or other business entity to whom the Contract is awarded shall, within ten (10) days after such award, sign the required Contract with WEBB COUNTY and provide the necessary surety bonds and evidence of insurance as required under the Contract Documents. No Contract shall be binding on WEBB COUNTY until:

11.3.4.1 it has been approved as to form by WEBB COUNTY's Attorney;

11.3.4.2 it has been executed by WEBB COUNTY's County Judge;
the Payment Bond and Performance Bond and evidence of the required insurance have been furnished to WEBB COUNTY by Contractor, as required by the Contract Documents; and

11.3.4.3 a fully executed Contract has been delivered to Contractor (if required).

11.3.5 The failure of Contractor to execute the Contract (if required) and deliver the required Bonds and evidence of insurance within ten (10) days after the Contract is awarded, or as soon thereafter as WEBB COUNTY can assemble and deliver the Contract and by the time the WEBB COUNTY scheduled Pre-Construction meeting is held, shall, at WEBB COUNTY's option, constitute a material breach of Contractor's bid proposal and WEBB COUNTY may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices for materials and labor and it being impracticable and difficult to determine accurately the amount of damages

occurring to WEBB COUNTY by reason of Contractor's failure to execute the Contract within ten (10) days and deliver bonds and insurance by the WEBB COUNTY scheduled Pre-Construction meeting, the filing of a bid proposal shall constitute an acceptance of this Section 11.3.5. In the event WEBB COUNTY should re-advertise for bids, the defaulting Contractor shall not be eligible to bid and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Section 11.3.

11.4 'UMBRELLA' LIABILITY INSURANCE.

Contractor shall obtain, pay for and maintain Umbrella Liability Insurance during the Contract term, insuring Contractor for an amount of not less than \$5,000,000 per occurrence combined limit Bodily Injury (including death) and Property Damage, that follows form and applies in excess of the primary coverage required hereinabove. WEBB COUNTY and Design Consultant shall be named as additional insureds using endorsement CG 20 26 or broader. In addition to the general aggregate the Umbrella Policy shall have a separate products/completed operations aggregate in the same amount as the occurrence limit. The Umbrella Liability Insurance policy shall provide "drop down" coverage, where the underlying primary insurance coverage limits are insufficient or exhausted.

11.5 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

11.5.1 Each insurance policy to be furnished by Contractor shall address the following required provisions within the certificate of insurance, which shall be reflected in the body of the insurance contract and/or by endorsement to the policy:

11.5.1.1 WEBB COUNTY and Design Consultant shall be named as additional insureds on all liability coverages, using endorsement CG 20 26 or broader. When WEBB COUNTY employs a Construction Manager on the Project, Contractor and Subcontractor(s) shall include the Construction Manager on all liability insurance policies to the same extent as WEBB COUNTY and Design Consultant are required to be named as additional insureds. The additional insured shall be on a primary and non-contributory basis.

11.5.1.2 Within five (5) calendar days of a suspension, cancellation, material change or non-renewal of any required line of insurance coverage, Contractor shall provide WEBB COUNTY a replacement certificate of insurance with all applicable endorsements included. WEBB COUNTY shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during the Contract.

11.5.1.3 The terms "Owner," or "WEBB COUNTY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of WEBB COUNTY and the individual members, employees and agents thereof in their official capacities, while acting on behalf of WEBB COUNTY.

11.5.1.4 The policy phrase or clause "Other Insurance" shall not apply to WEBB COUNTY where WEBB COUNTY is an additional insured on the policy. The

required insurance coverage furnished by Contractor shall be the primary insurance for all purposes for the Project, as well as the primary and non-contributory insurance for the additional insureds named in the required policies.

- 11.5.1.5 All provisions of the Contract Documents concerning liability, duty and standard of care, together with the indemnification provision, shall, to the maximum extent allowable in the insurance market, be underwritten with contractual liability coverage(s) sufficient to include such obligations with the applicable liability policies.
- 11.5.2 Concerning the insurance to be furnished by the Contractor, it is a condition precedent to acceptability which:
 - 11.5.2.1 All policies must comply with the applicable requirements and special provisions of this Article XI.
 - 11.5.2.2 Any policy evidenced by a Certificate of Insurance shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements set forth herein, and WEBB COUNTY's decision regarding whether any policy contains such provisions and contrary to this requirement shall be final.
 - 11.5.2.3 All policies required are to be written through companies duly authorized and approved to transact that class of insurance in the State of Texas and that otherwise are acceptable to WEBB COUNTY.
- 11.5.3 Contractor agrees to the following special provisions:
 - 11.5.3.1 Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against WEBB COUNTY, it being the intention that the insurance policies shall protect the Parties to the Contract and be primary coverage for all losses covered by the policies. This waiver of subrogation shall be included, by endorsement or otherwise, as a provision of all policies required under this Article XI.
 - 11.5.3.2 Insurance companies issuing the insurance policies and Contractor shall have no recourse whatsoever against WEBB COUNTY for payment of any premiums or assessments for any deductibles, as all such premiums and assessments solely are the responsibility and risk of Contractor.
 - 11.5.3.3 Approval, disapproval or failure to act by WEBB COUNTY, regarding any insurance supplied by Contractor or any Subcontractor(s), shall not relieve Contractor of any responsibility or liability for damage or accidents as set forth in the Contract Documents. The bankruptcy, insolvency or denial of

liability of or by Contractor's insurance company shall likewise not exonerate or relieve Contractor from liability.

- 11.5.3.4 WEBB COUNTY reserves the right to review the insurance requirements of this Article XI during the effective period of this Contract and to adjust insurance coverage and insurance limits when deemed necessary and prudent by WEBB COUNTY's Risk Management Division, based upon changes in statutory law, court decisions or the claims history of Contractor and Subcontractors. Contractor agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either Party to this Contract or upon the underwriter of any such policy provisions. Upon request by WEBB COUNTY, Contractor shall exercise reasonable efforts to accomplish such changes in policy coverage.
- 11.5.3.5 No special payments shall be made for any insurance policies that Contractor and Subcontractors are required to carry. Except as provided in Section 11.5.3.4 herein, all amounts payable regarding the insurance policies required under the Contract Documents are included in the Contract Sum.
- 11.5.3.6 Any insurance policies required under this Article XI may be written in combination with any of the other policies, where legally permitted, but none of the specified limits neither may be lowered or otherwise negatively impacted by doing so, nor may any of the requirements or special provisions of this Article XI be limited or circumvented by doing so.

ARTICLE XII. INSPECTING, UNCOVERING AND CORRECTING OF WORK

121 INSPECTING WORK

WEBB COUNTY and Design Consultant shall have authority to reject Work that does not conform to the Contract Documents. Whenever WEBB COUNTY or Design Consultant considers it necessary or advisable, WEBB COUNTY and/or Design Consultant shall have authority to require inspection or testing of the Work in accordance with this **Article XII**, whether or not such Work is fabricated, installed or completed.

122 UNCOVERING WORK

12.2.1 If a portion of the Work is covered, concealed and/or obstructed, contrary to WEBB COUNTY's or Design Consultant's requirements specifically expressed in the Contract Documents, it must be uncovered for WEBB COUNTY's or Design Consultant's inspection and properly be replaced at Contractor's expense without any change in the Contract Time or Sum.

12.2.2 If a portion of the Work has been covered, concealed and/or obstructed and Design Consultant or WEBB COUNTY has not inspected the Work prior to its being covered, concealed and/or obstructed, WEBB COUNTY and Design Consultant retain the right to inspect such Work and, when directed by WEBB COUNTY, Contractor shall uncover it. If said Work is found to be

in accordance with the Contract Documents, the costs for uncovering and replacement shall, by appropriate Change Order, be paid by WEBB COUNTY. If such Work uncovered is found to not be in accordance with the Contract Documents, Contractor shall pay all costs associated with the uncovering, correction and replacement of the Work, unless the condition found was caused by WEBB COUNTY or WEBB COUNTY's separate contractor, in which event WEBB COUNTY shall be responsible for payment of actual costs incurred by Contractor.

123 CORRECTING WORK

12.3.1 Contractor promptly shall correct any Work rejected by WEBB COUNTY or Design Consultant as failing to conform to the requirements of the Contract Documents, whether inspected before or after Substantial Completion and whether or not fabricated, installed or completed. Contractor shall bear costs of correcting such rejected Work, along with all costs for additional testing, inspections and compensation for Design Consultant's services and expenses made necessary thereby.

12.3.2 In addition to Contractor's warranty obligations, if any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, including, but not limited to these General Conditions, Contractor shall correct it promptly after receipt of written notice from WEBB COUNTY or Design Consultant to correct unless WEBB COUNTY previously has given Contractor a written acceptance or waiver of the defect or nonconformity. Contractor's obligation to correct defective or nonconforming Work remains in effect for:

- 12.3.2.1 one (1) year after the date of Substantial Completion of the Work or designated portion of the Work;
- 12.3.2.2 one (1) year after the date for commencement of warranties established by agreement in connection with partial occupancy under **Section 9.8.1** hereto; or
- 12.3.2.3 the stipulated duration of any applicable special warranty required by the Contract Documents.

12.3.3 The one (1) year period, described in **Section 12.3.2.1**, **Section 12.3.2.2** and **Section 12.3.2.3** herein, shall be extended, with respect to portions of the Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual completion of the Work.

12.3.4 Contractor shall remove from the Project Site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by Contractor nor accepted by WEBB COUNTY.

12.3.5 If Contractor fails to correct any defective or nonconforming Work within what WEBB COUNTY deems a reasonable time after WEBB COUNTY or Design Consultant gives written notice of rejection to Contractor, WEBB COUNTY may correct the defective or nonconforming Work in accordance with this **Section 12.3**. If Contractor promptly does not proceed with correction of any defective or nonconforming Work within a reasonable time fixed by written notice from WEBB COUNTY or Design Consultant, WEBB COUNTY may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at

Contractor's expense. If Contractor does not pay the costs of removal and storage within ten (10) calendar days after written notice by WEBB COUNTY or Design Consultant, WEBB COUNTY may, upon ten (10) additional calendar days written notice, sell the materials and equipment at auction or at private sale and shall account to Contractor for the proceeds, after deducting all costs and damages that should have been borne by Contractor to correct the defective work, including all compensation for Design Consultant's services and expenses made necessary as a result of the sale, removal and storage. If the proceeds of sale do not cover the costs that Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to Contractor then or thereafter are not sufficient to cover the deficiency, Contractor shall pay the difference to WEBB COUNTY.

12.3.6 Contractor shall bear the cost of correcting destroyed or damaged construction of WEBB COUNTY or WEBB COUNTY's separate contractors, whether the construction is completed or partially completed, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.3.7 After Substantial Completion, WEBB COUNTY'S only remedy against Contractor is for defective Work under Contractor's one (1) year Warranty and for breach thereof or within two (2) from Substantial Completion for latent defects.

12.3.8 Any Work repaired or replaced, pursuant to this **Article XII**, shall be subject to the provisions of **Article XII** to the same extent as Work originally performed or installed.

12.4 ACCEPTANCE OF NONCONFORMING WORK

WEBB COUNTY may, in WEBB COUNTY's sole discretion, accept Work that is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction. Upon that occurrence, the Contract Sum shall be reduced as appropriate and equitable, as solely determined by WEBB COUNTY. Any adjustment shall be accomplished whether or not final payment has been made.

ARTICLE XIII. COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract shall be considered completed, except as provided in any warranty or maintenance stipulations, bond or by law, when all the Work has been finally completed, a final inspection is made by WEBB COUNTY and Design Consultant and final acceptance and final payment is made by WEBB COUNTY.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, WEBB COUNTY or Design Consultant shall make a detailed inspection of the Work and shall advise Contractor and Contractor's Surety of the items that require correction. WEBB COUNTY or Design Consultant shall make a subsequent inspection and, if the corrections have been properly

performed, WEBB COUNTY shall issue a letter of release on the maintenance obligations to Contractor. If, for any reason, Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have properly been performed and a letter of release from WEBB COUNTY to Contractor is issued.

13.3 TERMINATION BY WEBB COUNTY FOR CAUSE

1331 Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by WEBB COUNTY for any good material cause after giving seven (7) calendar days advance written notice and a reasonable opportunity to cure to Contractor, including but not limited to the following causes:

- 13.3.1.1 Failure or refusal of Contractor to start the Work within ten (10) calendar days after the date of the written Notice to Proceed is issued by WEBB COUNTY to Contractor commence Work.
- 13.3.1.2 A reasonable belief of WEBB COUNTY or Design Consultant that the progress of the Work being made by Contractor is insufficient to complete the Work within the specified Contract time or the Contract time as may have been extended by Change Order, Field Directive or other approved manner of extension of the contract time.
- 13.3.1.3 Failure or refusal of Contractor to provide sufficient and proper equipment or construction forces properly to execute the Work in a timely manner.
- 13.3.1.4 A reasonable belief Contractor has abandoned the Work.
- 13.3.1.5 A reasonable belief Contractor has become insolvent, bankrupt, or otherwise is financially unable to carry on the Work.
- 13.3.1.6 Failure or refusal on the part of Contractor to observe any material requirements of the Contract Documents or to comply with any written orders given by WEBB COUNTY or Design Consultant, as provided for in the Contract Documents.
- 13.3.1.7 Failure or refusal of Contractor promptly to correct any defects in materials or workmanship, or defects of any nature of Contractor's Work, the correction of which has been directed to Contractor in writing by WEBB COUNTY or Design Consultant.
- 13.3.1.8 A reasonable belief by WEBB COUNTY collusion exists or has occurred for the purpose of illegally procuring the contract or a Subcontractor, or that a fraud is being perpetrated on WEBB COUNTY in connection with the construction of Work under the Contract.
- 13.3.1.9 Repeated and flagrant violation of safe working procedures.

1332 When the Work or any portion of the Work is terminated for any of the causes itemized in

Section 13.3.1 herein, or for any other cause except termination for convenience pursuant to **Section 13.3.6** herein, Contractor shall, as of the date specified by WEBB COUNTY, immediately discontinue the Work or portion of the Work as WEBB COUNTY shall designate, whereupon the Surety shall, within fifteen (15) calendar days after the written Notice of Termination by WEBB COUNTY For Cause has been served upon Contractor and the Surety or its authorized agents, assume the obligations of Contractor for the Work or that portion of the Work which WEBB COUNTY has ordered Contractor to discontinue and Surety may:

13.3.2.1 perform the Work with forces employed by the surety;

13.3.2.2 with the written consent of WEBB COUNTY, tender a replacement Contractor to take over and perform the Work, in which event the Surety shall be responsible for and pay the amount of any costs required to be incurred or the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

13.3.2.3 with the written consent of WEBB COUNTY, tender and pay to WEBB COUNTY in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming work and compensate WEBB COUNTY for any other recoverable (pursuant to the Contract Documents) loss sustained as a result of Contractor's default.

In the event of Termination by WEBB COUNTY For Cause involving **Article 13.3.2.1** and/or **Article 13.3.2.2**, the Surety shall assume Contractor's place in all respects and the amount of funds remaining and unpaid under the Contract shall be paid by WEBB COUNTY for all Work performed by the Surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of WEBB COUNTY to deduct any and all costs, damages (liquidated or actual) WEBB COUNTY incurred including, but not limited to, any and all additional fees and expenses of Design Consultant and any attorneys' fees WEBB COUNTY incurs as a result of Contractor's default and subsequent termination.

1333 The balance of the Contract Sum remaining at the time of Contractor's default and subsequent termination shall become due and payable to the Surety as the Work progresses, subject to all of the terms, covenants and conditions of the Contract Documents. If the Surety does not, within the time specified in **Section 13.3.2** herein, exercise its obligation to assume the obligations of the Contract, or that portion of the Work which WEBB COUNTY has ordered Contractor to discontinue, then WEBB COUNTY shall have the power to complete the Work by contract or otherwise, as WEBB COUNTY may deem necessary and elect.

1334 All expenses incurred by WEBB COUNTY to complete the Work shall be deducted by WEBB COUNTY out of the balance of the Contract Sum remaining unpaid to or unearned by Contractor. Contractor and the Surety shall be liable to WEBB COUNTY for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other reasonable and necessary: costs, damages, expenses (including, but not limited to, additional fees of Design Consultant and attorney's fees) and liquidated or actual damages incurred

as a result of the termination.

1335 WEBB COUNTY shall not be required to obtain the lowest bid for the Work of completing the Contract, as described in **Section 13.3.3** herein, but the expenses to be deducted from the Contract Sum shall be the actual, reasonable, and necessary cost of such Work and the other damages, as provided in **Section 13.3.3** herein. In case WEBB COUNTY's costs and damages are less than the sum which would have been payable under the Contract if the Work had been completed by Contractor pursuant to the Contract, then WEBB COUNTY is to pay Contractor (or the Surety, in the event of a complete Termination by WEBB COUNTY For Cause) the difference, provided that Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such costs for completion and damages shall exceed the amount which would have been payable under the Contract if the Work had been completed by Contractor pursuant to the Contract, then Contractor and its Surety shall pay the amount of the excess to WEBB COUNTY immediately upon written notice from WEBB COUNTY to Contractor and/or the Surety for the excess amount owed. When only a particular part of the Work is being carried on by WEBB COUNTY, by contract or otherwise under the provisions of this Section, Contractor shall continue the remainder of the Work in conformity with the terms of the Contract and in such manner as not to hinder or interfere with the performance of workers employed and provided by WEBB COUNTY.

1336 The right to terminate this Contract for the convenience of WEBB COUNTY (including, but not limited to, non-appropriation of funding) expressly is retained by WEBB COUNTY. In the event of a termination for convenience by WEBB COUNTY, WEBB COUNTY shall, at least ten (10) calendar days in advance, deliver written notice of the termination for convenience to Contractor. Upon Contractor's receipt of such written notice, Contractor immediately shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work then in place. Contractor shall then be paid by WEBB COUNTY, in accordance with the terms and provisions of the Contract Documents, an amount not to exceed the actual labor costs incurred, the actual cost of all materials installed and the actual cost of all materials stored at the Project site or away from the Project site, as approved in writing by WEBB COUNTY but not yet paid for and which cannot be returned, plus applicable overhead, profit, and actual, reasonable and documented termination costs, if any, paid by Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents up to the date of termination for convenience, less all amounts previously paid for the Work. No amount ever shall be paid to Contractor for lost or anticipated profits on any part of the Work not performed.

13.4 TEMPORARY SUSPENSION OF THE WORK

1341 The Work or any portion of the Work may temporarily be suspended by WEBB COUNTY, for a time period not to exceed ninety (90) calendar days, immediately upon written notice to Contractor for any reason, including, but not limited to:

13.4.1.1 the causes described in **Section 13.3.1.1** through **Section 13.3.1.9** herein;

13.4.1.2 under other provisions in the Contract Documents that require or permit temporary suspension of the Work;

13.4.1.3 situations where the Work is threatened by, contributes to or causes an immediate threat to public health, safety, or security; or

13.4.1.4 other unforeseen conditions or circumstances.

13.4.2 Contractor immediately shall resume the temporarily suspended Work when ordered in writing to do so by WEBB COUNTY. WEBB COUNTY shall not, under any circumstances, be liable for any claim of Contractor arising from a temporary suspension due to a cause described in **Section 13.4.1** herein; provided, however, that in the case of a temporary suspension for any of the reasons described under **Section 13.4.1.2** through **Section 13.4.1.4** herein, where Contractor is not a contributing cause of the suspension or where the provision of the Contract Documents in question does not specifically provide that the suspension is at no cost to WEBB COUNTY, WEBB COUNTY shall make an equitable adjustment for the following items, provided that a claim properly is made by Contractor under **Section 4.3** herein:

13.4.2.1 an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension, as determined by WEBB COUNTY and Design Consultant;

13.4.2.2 an equitable adjustment to the Contract Sum for the actual, necessary and reasonable costs of properly protecting any Work finished or partially finished during the period of the temporary suspension; provided, however, that no payment of profit and/or overhead shall be allowed on top of these costs; and

13.4.2.3 if it becomes necessary to move equipment from the Project Site and then return it to the Project Site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary and reasonable cost of these moves; provided, however, that no adjustment to the Contract Sum shall be due if said equipment is moved to another Project site of WEBB COUNTY.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

14.1.1 This Contract shall be governed by the laws and case decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

14.1.2 This Contract is entered into subject to and controlled by all applicable laws, rules and regulations of the State of Texas and the Government of the United States of America. Contractor shall, during the performance of the Work, comply with all applicable orders, codes and ordinances, as amended, and all applicable State of Texas and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS.

WEBB COUNTY and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the promises, covenants, terms, conditions and obligations contained in the Contract Documents. Contractor shall not assign, transfer or convey its interest

or rights in the Contract, in part or as a whole, without the written consent of WEBB COUNTY. If Contractor attempts to make an assignment, transfer or conveyance without WEBB COUNTY's written consent, Contractor nevertheless shall remain legally responsible for all obligations under the Contract Documents. WEBB COUNTY shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of Contractor, except where assignment is compelled by court order, other operation of law or the terms of these General Conditions.

143 WRITTEN NOTICE.

Any notice, payment, statement or demand required or permitted to be given under this Contract by either Party to the other may be effected by personal delivery in writing or by facsimile transmission, email or by mail, postage prepaid, or by overnight delivery to an officer, management level employee or other designated representative of either Party. Mailed or email notices shall be addressed to the Parties at an address designated by each Party, but each Party may change its address by written notice in accordance with this section. Certified mail notices shall be deemed received as of three (3) calendar days after mailing.

144 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY WEBB COUNTY

1441 The duties and obligations imposed on Contractor by the Contract Documents and the rights and remedies available to WEBB COUNTY under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or made available by law, but as limited by the Contract Documents.

1442 No action or failure to act by either Party shall constitute a waiver of a right afforded to a Party under the Contract Documents, nor shall any action or failure to act by either Party constitute approval of or acquiescence in a breach of the Contract by the other Party except as may be specifically agreed in writing by Change Order, Amendment or Supplemental Agreement.

145 INTEREST

WEBB COUNTY shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to **Article IX** of these General Conditions.

146 INDEPENDENT MATERIALS TESTING AND INSPECTION

In some circumstances, WEBB COUNTY shall retain, independent of Contractor, the inspection services, the testing of construction materials engineering and the verification testing services necessary for acceptance of the Project by WEBB COUNTY. Such Consultants shall be selected in accordance with Section 2254.004 of the Government Code. The professional services, duties and responsibilities of any independent Consultants shall be described in the agreements between WEBB COUNTY and those Consultants. The provision of inspection services by WEBB COUNTY shall be for Quality Assurance and shall not reduce or lessen Contractor's responsibility for the Work or its duty to establish and implement a thorough Quality Control Program to monitor the quality of construction and guard WEBB COUNTY against defects and deficiencies in the

Work, as required herein. Contractor fully and solely is responsible for constructing the Project in strict accordance with the Construction Documents.

14.7 OFFICERS OR EMPLOYEES OF WEBB COUNTY NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF WEBB COUNTY.

Contractor acknowledges the Purchasing Code of Ethics Policy of WEBB COUNTY and its Ethics Code prohibits a WEBB COUNTY elected official, officer or employee, from having a financial interest in any contract with WEBB COUNTY or any WEBB COUNTY agency, such as WEBB COUNTY owned utilities. An elected official, officer or employee has a "prohibited financial interest" in a contract with WEBB COUNTY or in the sale to WEBB COUNTY of land, materials, supplies or service, if any of the following individual(s) or entities is a Party to the contract or sale:

- (1) a WEBB COUNTY elected official, officer or employee; his parent, child or spouse;
- (2) a business entity in which the elected official, officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity;
- (3) a business entity in which any individual or entity above listed is a Subcontractor on a WEBB COUNTY contract, or
- (4) a partner or a parent or subsidiary business entity.

Pursuant to this **Article XIV**, Contractor warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and/or agents are neither officers nor employees of WEBB COUNTY. Except with WEBB COUNTY's low-bid contract awards, Contractor warrants and certifies that it has tendered to WEBB COUNTY a Conflict of Interest Disclosure in compliance with WEBB COUNTY's Ethics Policy. Any violation of this **Section 14.7**, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with WEBB COUNTY may render a Contract voidable by WEBB COUNTY Commissioners Court.

14.8 Venue.

This Contract is performed in Webb County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in the State Courts of Webb County, Texas.

14.9 INDEPENDENT CONTRACTOR.

In performing the Work under this Contract, the relationship between WEBB COUNTY and Contractor is Contractor is and shall remain an independent contractor. Contractor shall exercise independent judgment in performing the Work and solely is responsible for setting working hours, scheduling and/or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or

provision of this Contract shall be construed as making Contractor an agent, servant or employee of WEBB COUNTY or making Contractor or any of Contractor's employees, agents or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation which WEBB COUNTY provides to its employees.

14.10 NON-DISCRIMINATION.

As a Party to this Contract Contractor shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless Contractor is exempted by state or federal law, or as otherwise established herein. Contractor covenants that it shall take all necessary actions to ensure that, in connection with any Work under this Contract, Contractor and its Subcontractor(s) shall not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, either directly, indirectly or through contractual or other arrangements. Contractor also shall comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended.

14.11 GIFTS TO PUBLIC SERVANTS

14.11.1 WEBB COUNTY may terminate this Contract immediately if Contractor has offered, conferred or agreed to confer any benefit on a WEBB COUNTY employee or official that the employee or official is prohibited by law from accepting.

14.11.2 For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

14.11.3 Notwithstanding any other legal remedies, WEBB COUNTY may require Contractor to remove any employee of Contractor, a Subcontractor or any employee of a Subcontractor from the Project who has violated the restrictions of this **Article XIV** or any similar State or Federal law and WEBB COUNTY may obtain reimbursement for any expenditures made to Contractor as a result of an improper offer, an agreement to confer or the conferring of a benefit to a WEBB COUNTY employee or official.

ARTICLE XV. AUDIT

15.1 RIGHT TO AUDIT CONTRACTOR'S RECORDS.

By execution of the Contract, Contractor grants WEBB COUNTY the right to audit, examine, inspect and/or copy, at WEBB COUNTY's election at all reasonable times during the term of this Contract and for a period of four (4) years following the completion or termination of the Work, all of Contractor's written and electronically stored records and billings relating to the performance of the Work under the Contract Documents. The audit, examination or inspection may be performed by a WEBB COUNTY designee, which may include its internal auditors or an outside representative engaged by WEBB COUNTY. Contractor agrees to retain its records for a minimum of ten (10) years following termination of the Contract, unless there is an ongoing dispute under the Contract, then, such retention period shall extend until final resolution of the

dispute, with full access allowed to authorized representatives of WEBB COUNTY upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

15.1.1 As used in these General Conditions, "Contractor written and electronically stored records" shall include any and all information, materials and data of every kind and character generated as a result of the work under this Contract. Example of Contractor written and electronically stored records include, but are not limited to: accounting data and reports, billings, books, general ledgers, cost ledgers, invoices, production sheets, documents, correspondences, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, Subcontractor agreements, Supplier agreements, rental equipment proposals, federal and state tax filings for any issue in question, along with any and all other agreements, sources of information and matters that may, in WEBB COUNTY's sole judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Documents.

15.1.2 WEBB COUNTY agrees that it shall exercise the right to audit, examine or inspect Contractor's records only during regular business hours. Contractor agrees to allow WEBB COUNTY and/or WEBB COUNTY's designee access to all of the Contractor's Records, Contractor's facilities and current or former employees of Contractor, deemed necessary by WEBB COUNTY or its designee(s), to perform such audit, inspection or examination. Contractor also agrees to provide adequate and appropriate work space necessary for WEBB COUNTY or its designees to conduct such audits, inspections or examinations.

15.1.3 Contractor shall include this **Article XV** in any Subcontractor, supplier or vendor contract.

ARTICLE XVI. ATTORNEY FEES

The Parties hereto expressly agree, in the event of litigation, all Parties waive rights to payment of attorneys' fees that otherwise might be recoverable, pursuant to the Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code §271.153, the Prompt Payment Act, common law or any other provision for payment of attorney's fees.

Special Conditions for Horizontal Projects

3.2.5 Differing Site Conditions (Adds this Section 3.2.5 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor promptly shall, before such discovered conditions and/or structures are disturbed, notify WEBB COUNTY in writing of differing site conditions. Differing site conditions are defined as subsurface or latent physical and/or structural conditions at the Site differing materially from those indicated in the Plans, Specifications and other Contract Documents or newly discovered and previously unknown physical conditions at the Site of an unusual nature differing materially from those geophysical conditions typically encountered in the type Work being performed and generally being recognized as not indigenous to the Webb County, Texas environs.

WEBB COUNTY and/or Design Consultant promptly shall investigate the reported physical and/or structural conditions and shall determine whether or not the physical and/or structural conditions do materially so differ and thereby cause an increase or decrease in Contractor's cost of and/or time required for performance of any part of the Work under this Contract. In the event WEBB COUNTY reasonably determines the physical and/or structural conditions materially so differ, a negotiated and equitable adjustment shall be made to the Contract Time and/or Contract Sum and a Change Order promptly shall be issued by WEBB COUNTY.

- (1) No claim of Contractor under this **Section 3.2.5** shall be allowed unless Contractor has given the written notice called for above, prior to disturbing the discovered conditions and/or structures.
- (2) No Contract adjustment shall be allowed under this **Section 3.2.5** for any effects caused on unmodified Work.

3.4.7 Material Testing (Added to Section 3.4.7 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Materials not meeting Contract requirements or do not produce satisfactory results shall be rejected by WEBB COUNTY, unless WEBB COUNTY or Design Consultant approves corrective actions. Upon rejection, Contractor immediately shall remove and replace rejected materials. If Contractor does not comply with these requirements, WEBB COUNTY may remove and replace defective material and all costs incurred by WEBB COUNTY for testing, removal and replacement of rejected materials shall be deducted from any money due or owed to Contractor.

The source of supply of each of the materials shall be approved by WEBB COUNTY or Design Consultant before delivery is started and, at the option of WEBB COUNTY, may be sampled and tested by WEBB COUNTY for determining compliance with the governing Specifications before delivery is started. If it is found after trial sources of supply previously approved do not produce uniform and satisfactory products, or if the product from any source proves unacceptable at any time, Contractor shall furnish materials from other approved sources. Only materials conforming to the requirements of the Contract documents and approved by WEBB COUNTY shall be used by Contractor in the work. All materials being used by Contractor are subject to inspection or test at any time during preparation or use. Any material which has been tested and accepted at the source of supply may be subjected to a check test after delivery and all materials which, when retested, do not meet the requirements of the Specifications shall be rejected. No material which, after approval, has in any way become unfit for use shall be used in the Work. However, once a material is tested and approved and the material was part of the Specifications and does not function as anticipated, then the removal and substitution will only be by Change Order with adjustments as to price and extended time.

If, for any reason, Contractor selects a material which is approved for use by WEBB COUNTY or Design Consultant by sampling, testing or other means, and Contractor decides to change to a different material requiring additional sampling and testing by WEBB COUNTY for approval, Contractor shall pay for any expense incurred by WEBB COUNTY for such additional sampling and testing and the costs incurred by WEBB COUNTY shall be deducted from any money due or

owed to Contractor.

7.2.5 Allowable Markups (Added to Section 7.2.5 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Maximum allowable markups for Change Order pricing, when said pricing is not determined through unit prices, are established as follows:

7.2.5.1 Labor

Contractor shall be allowed the documented payroll rates for each hour laborers and foremen actually shall be engaged in the Work. Contractor shall be allowed to receive an additional twenty five percent (25%) as compensation, based on the total wages paid said laborers and foremen. No charge shall be made by Contractor for organization or overhead expenses. For costs of premiums on public liability and workers compensation insurance(s), Social Security and unemployment insurance taxes, an amount equal to fifty five percent (55%) of the sum of the labor cost, excluding the twenty five percent (25%) documented payroll rate compensation allowed herein, shall be the established maximum allowable labor burden cost. No charge for superintendence shall be made unless considered necessary and approved by WEBB COUNTY or a Change Order includes an extension of the Contract Time.

7.2.5.2 Materials

Contractor shall be allowed to receive the actual cost, including freight charges, for materials used on such Work, including an additional twenty five percent (25%) of the actual cost as compensation. When material invoices indicate an available discount, the actual cost shall be determined as the invoiced price less the available discount.

7.2.5.3 Equipment

For Contractor-owned machinery, trucks, power tools or other equipment, necessary for use on Change Order work, the Rental Rate Blue Book for Construction Equipment (hereafter referred to as "Blue Book") rate, as modified by the following, shall be used to establish Contractor's allowable hourly rental rates. Equipment used shall be at the rates in effect for each section of the Blue Book at the time of use. The following formula shall be used to compute the hourly rates:

$$H = \frac{M \times R1 \times R2}{176} + OP$$

Where H = Hourly Rate M = Monthly Rate

R1 = Rate Adjustment Factor

R2 = Regional Adjustment Factor OP = Operating Costs

If Contractor-owned machinery and/or equipment is not available and equipment is rented from an outside source, the hourly rate shall be established by dividing the actual invoice cost by the actual number of hours the equipment is involved in the Work. WEBB COUNTY reserves the right to limit the hourly rate to comparable Blue Book rates. When the invoice specifies the rental

rate does not include fuel, lubricants, repairs and servicing, the Blue Book hourly operating cost shall be allowed to be added for each hour the equipment operates. The allowable equipment hourly rates shall be paid for each hour the equipment is involved in the Work and an additional maximum of fifteen percent (15%) may be added as compensation.

7.2.5.4 Subcontractor Markups

Contractor shall be allowed administrative cost only when extra Work, ordered by WEBB COUNTY, is performed by a Subcontractor or Subcontractors. The maximum allowable payment for administrative cost shall not exceed five percent (5%) of the total Subcontractor work. Off-duty peace officers and patrol cruisers shall be considered as Subcontractors, with regard to consideration of allowable contractor markups.

7.3.9 Field Work Directive Allowable Markups (Adds this Section 7.3.9 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Maximum allowable markups for Field Work Directives shall follow the allowable markups established in Section 7.2.5 herein.

8.2.2 Standby Equipment Costs (Added to Section 8.2.2 of GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor shall be entitled to standby costs only when directed to standby in writing by WEBB COUNTY. Standby costs may include actual documented Project overhead costs of Contractor, consisting of administrative and supervisory expenses incurred at the Project Site. Standby equipment costs shall not be allowed during periods when the equipment would otherwise have been idle.

For Projects not affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, Contractor is working a five (5) day work week, with a Working Day measured from sunrise to sundown Monday through Friday, no more than eight (8) hours of standby time shall be paid during a 24-hour day, no more than forty (40) hours shall be paid per week for standby time and no more than one hundred and seventy six (176) hours per month shall be paid of standby time. Standby time shall be computed at fifty percent (50%) of the rates found in the Rental Rate Blue Book for Construction Equipment and shall be calculated by dividing the monthly rate found in the Blue Book by 176, then multiplying that total by the regional adjustment factor and the rate adjustment factor. Operating costs shall not be charged by Contractor.

For Projects affecting WEBB COUNTY traffic, a determination made solely by WEBB COUNTY on a project-by-project basis, and Contractor is working a six (6) day work week, with a Working Day measured from sunrise to sundown Monday through Saturday, no more than eight (8) hours of standby time shall be paid during a 24-hour day, no more than forty-eight (48) hours shall be paid per week for standby time and no more than two hundred and eight (208) hours per month shall be paid of standby time. Standby time shall be computed at fifty percent (50%) of the rates found in the Rental Rate Blue Book for Construction Equipment and shall be calculated by

dividing the monthly rate found in the Blue Book by 208, then multiplying that total by the regional adjustment factor and the rate adjustment factor. Operating costs shall not be charged by Contractor.

10.11 Road Closures and Detour Routes (Adds this Section 10.11 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor shall not begin construction of the Project or close any streets until adequate barricades and detour signs have been provided, erected and maintained in accordance with the detour route and details shown on the Project Plans. Contractor shall notify WEBB COUNTY forty-eight (48) hours in advance of closing any street to through traffic. Local traffic shall be permitted the use of streets under construction whenever feasible.

10.12 Use of WEBB COUNTY Streets (Adds this Section 10.12 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor shall confine the movements of all steel-tracked equipment to the limits of the Project Site and any such equipment shall not be allowed use of WEBB COUNTY's streets unless being transported on pneumatic-tired vehicles. Any damage to WEBB COUNTY's streets caused by Contractor and/or Contractor's equipment, either outside the limits of the Project site or within the limits of the Project site but not within the limits of the current phase then being constructed, shall be repaired by Contractor at its own expense and as prescribed by WEBB COUNTY's Specifications and direction. If Contractor cannot or refuses to repair street damage caused by Contractor and/or Contractor's equipment, WEBB COUNTY may perform the repairs and all expenses incurred by WEBB COUNTY in performing the repairs shall be deducted for any money due or owed to Contractor.

10.13 Maintenance of Traffic (Adds this Section 10.13 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

In accordance with the approved traffic control plan and as specified in the Contract, Contractor shall:

- (1) keep existing roadways open to traffic or construct and maintain detours and temporary structures for safe public travel;
- (2) maintain the Work in passable condition, including proper drainage, to accommodate traffic;
- (3) provide and maintain temporary approaches and crossings of intersecting roadways in a safe and passable condition;
- (4) construct and maintain necessary access to adjoining property as shown in the Plans or as directed by WEBB COUNTY; and
- (5) furnish, install and maintain traffic control devices in accordance with the Contract.

The cost of maintaining traffic shall be subsidiary to the Project and shall not directly be paid for by WEBB COUNTY, unless otherwise stated in the Plans and Specifications. WEBB COUNTY shall notify Contractor if Contractor fails to meet the above traffic requirements. WEBB COUNTY may perform the work necessary for compliance, but any action n by WEBB COUNTY shall not change the legal responsibilities of Contractor, as set forth in the Contract Documents. Any costs incurred by WEBB COUNTY for traffic maintenance shall be deducted from money due or owed to Contractor.

10.14 Abatement and Mitigation of Excessive or Unnecessary Construction Noise (Adds this Section 10.14 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor shall ensure abatement and mitigation of excessive or unnecessary construction noise to the satisfaction of WEBB COUNTY and as prescribed by all applicable state and local laws.

10.15 Incidental Work, Connections, and Passageways (Adds Section 10.15 to GENERAL CONDITIONS FOR WEBB COUNTY CONSTRUCTION CONTRACTS)

Contractor shall perform all incidental Work necessary to complete and comply with this Contract including, but not limited to the following:

- (1) Contractor shall make and provide all suitable reconnections with existing improvements (generally excluding new connections with or relocation of utility services, unless specifically provided for otherwise in the Contract Documents) as are necessarily incidental to the proper completion of the Project;
- (2) Contractor shall provide passageways or leave open such thoroughfares in the Work Site as may be reasonably required by WEBB COUNTY; and

Contractor shall protect and guard same at its own risk and continuously shall maintain the Work Site in a clean, safe and workmanlike manner.

Bond No. _____

STATUTORY PAYMENT BOND
Pursuant to Vernon's Texas Government Code
Title 10, Chapter 2253, as amended

(Penalty of this Bond must be 100% of Contract Amount)

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF WEBB

§

That we, Gilmar Construction, Ltd., as Principal, and _____, as Surety, are hereby held and firmly bound unto the Webb County, Texas, hereinafter called Obligee, for the sole use, benefit, and protection of all claimants supplying public work labor and material (as hereinafter defined) in the prosecution of the work provided for in the written Contract hereinafter referred to, in the penal sum of **Nine Hundred Sixty-Three Thousand Three Hundred Dollars (\$963,300.00)**, which is the full amount of Principal's contract with the named Obligee, for the payment of which sum the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and severally firmly by these presents.

WHEREAS, the Principal has entered into a written contract dated _____, with the Obligee named, to do and perform certain construction work as provided in said contract, to wit: Repairs to the drainage outfall north of city limits of Rio Bravo, Texas and the Rio Grande River and the effluent line and manhole at the end on Centeno Lane in Rio Bravo, Texas. The scope of work will consist of asphalt pavement construction, excavation, embankment, demolition, site grading, flexible base, subgrade preparation, storm drainage improvements, concrete pavement, and erosion control improvements (and as further identified in the Construction/Plans/Drawings prepared by Top Site Civil Group and dated June 20, 2024). The work includes all appurtenances and all incidentals, including all labor and materials as shown and required by the construction documents and the related plans, specifications, general conditions, and other contract documents, all of which are by reference made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall promptly make payment to all claimants supplying labor and material (as hereinafter defined) in the prosecution of the work provided for in said contract, the related plans, specifications, general conditions, and other contract documents, then this obligation shall be void, otherwise it shall remain in full force and effect.

PROVIDED HOWEVER, this Payment Bond is given and furnished by the Principal herein in compliance with Chapter 2253 of the Texas Government Code, as amended, and this

Bond shall be solely for the protection and use of all claimants supplying public labor work or material (as hereinafter defined), and shall be solely for the protection and use of said claimants who have a direct contractual relationship with the Principal herein, or a subcontractor (as hereinafter defined) to supply public work labor or material.

Surety, for value received, stipulates and agrees that not change, extension of time, or other waiver or amendment of the terms of the Contract or the work thereunder, or any change in the method or amount of payment stipulated to be made by Obligee under the Contract, shall relieve Surety of its obligations hereunder, and Surety hereby waives notice of any such change, extension of time, waiver or amendment of the terms of the Contract, shall relieve Surety of its obligations hereunder, and Surety hereby waives notice of any such change, extension of time, wavier or amendment of the terms of the Contract or to the work thereunder. The bond shall be automatically extended in time, without formal and separate amendment, to cover full and faithful performance of the Contract in the event of modification of the Contract, regardless of the length of time involved.

The undersigned corporate surety does by the execution of this Bond solemnly warrant and represent that it is duly authorized to do business in Texas.

IN WITNESS THEROF, Principal and Surety have signed and sealed this instrument on the _____ day of _____, 2021.

Principal

By: _____

Printed Name: _____

Title: _____

Approved as to form:

Attorney for Obligee

Surety

By: _____

Printed Name: _____

Title: _____

Mailing Address: _____

Physical Address: _____

Telephone No.: (____) _____

NOTE:

- (1) "Prime Contractor" as used herein means a person, firm, or corporation that makes a public work contract with a governmental entity. Tex. Govt. Code §2253.001(3).
- (2) "Subcontractor" as used herein means a person, firm, or corporation that provides public work labor or material to fulfill an obligation to a prime contractor or to a contractor of the prime contractor for the performance and installation of any of the work required by a public work contract. Tex. Govt. Code §2253.001(9).
- (2) "Public work labor" as used herein means labor used directly to carry out a public work. Tex. Govt. Code §2253.001(5).
- (3) "Public work material" as used herein means: (A) material used, or ordered and delivered for use, directly to carry out a public work; (B) specially fabricated material; (C) reasonable rental and actual running repair costs for construction equipment used, or reasonably required and delivered for use, directly to carry out work at the project site; or (D) power, water, fuel, and lubricants used, or ordered and delivered for use, directly to carry out a public work. Tex. Govt. Code §2253.001(6).
- (4) "Specially fabricated material" as used herein means material ordered by a prime contractor or subcontractor that is: (A) specially fabricated for use in a public work; and (B) reasonably unsuitable for another use. Tex. Govt. Code §2253.001(8).
- (5) This Bond must be furnished before any work is commenced.
- (6) This Payment Bond is required for all public works contracts in excess of \$25,000 involving a contract for construction, alteration, or repair of any public building or the completion or prosecution of any public work.
- (7) The Surety must be a corporate surety duly authorized to do business in Texas.
- (8) This Payment Bond must be in the amount of the contract.
- (9) The Power of Attorney from the corporate surety should be attached to this Payment Bond.

Bond No. _____

STAUTORY PERFORMANCE BOND
Pursuant to Vernon's Texas Government Code
Title 10, Chapter 2253, as amended

(Penalty of this Bond must be 100% of Contract Amount)

THE STATE OF TEXAS

COUNTY OF WEBB

§
§ **KNOW ALL MEN BY THESE PRESENTS:**
§

That we, Gilmar Construction LTD, as Principal, and _____, as Surety, are hereby held and firmly bound unto the Webb County, Texas, hereinafter called Oblige, in the penal sum of **Nine Hundred Sixty-Three Thousand Three Hundred Dollars (\$963,300.00)**, which is the full amount of Principal's contract with the named Oblige, for the payment of which sum the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and severally firmly by these presents.

WHEREAS, the principal has entered into a written contract dated July 26, 2021, with Oblige named, to do and perform certain construction work as provided in said contract, to wit: **Repairs to the drainage outfall north of city limits of Rio Bravo, Texas and the Rio Grande River and the effluent liner and manhole at the end on Centeno Lane in Rio Bravo, Texas.** **The scope of work will consist of asphalt pavement construction, excavation, embankment, demolition, site grading, flexible base, subgrade preparation, storm drainage improvements, concrete pavement, and erosion control improvements (and as further identified in the Construction/Plans/Drawings prepared by Top Site Civil Group and dated June 20, 2024).** **The work includes all appurtenances and all incidentals, including all labor and materials as shown and required by the construction documents and the related plans, specifications, general conditions, and other contract documents, all of which are by reference made a part hereof.**

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that if the Principal shall faithfully perform all of the work in accordance with the plans, specifications, general conditions, and contract documents, and shall faithfully perform each, every, and all other obligations incumbent upon him under the terms of said written contract referred to, and shall fully indemnify and save harmless the Oblige from all costs, expense, and damage which it may suffer or incur because of the Principal's default, or failure to do so, then this Obligation shall be void, otherwise it shall remain in full force and effect.

In the event Principal shall default in the faithful performance of the work called for by said written contract, plans, specifications, and contract documents, the Surety shall, within 15 days of the determination of default (determined as provided in said contract, general conditions and contract documents), take over and assume completion of said contract, or within such 15-day period make other arrangements satisfactory with the Obligor for completion of the contract, and said Surety shall become entitled thereupon to the payment or benefit of the balance of the contract price as the same matures according to its terms.

The Surety, for the protection of the Obligor herein, waives notice of, and hereby consents to any subsequent modification or alteration both in the work to be performed by the Principal, and the consequent price or sums to be paid by the Obligor, as well as any other change or amendment, addition, or deletion in the contract documents during the progress of the work, including, but not limited to, all extensions of time or other indulgences permitted the Principal.

Notwithstanding any other provision, the liability of the surety on this Bond shall never exceed the penal sum stated in the first paragraph.

This Performance Bond is given and furnished by the Principal herein in compliance with Chapter 2253 of the Texas Government Code, as amended, and all liabilities on this bond shall be determined in accordance with the provisions of this Chapter, to the same extent as if it were copied at length herein and is solely for the protection of the Obligor herein.

The undersigned corporate surety does, by the execution of this Bond, solemnly warrant and represent that it is duly authorized to do business in Texas.

IN WITNESS THEREOF, Principal and Surety have signed and sealed this instrument on the ____ day of _____, 2021.

Principal

By: _____

Printed Name: _____

Title: _____

Surety

By: _____

Printed Name: _____

Title: _____

Mailing address: _____

Physical Address: _____

Approved as to form:

Attorney for Oblige

Telephone No.: (____) _____

NOTE:

- (1) This Performance Bond is required for all contracts in excess of \$100,000 involving a contract for construction, alteration, or repair of any public building or the completion or prosecution of any public work.
- (2) This bond must be payable to the awarding authority, United Independent School District, as the named Oblige, and it must be approved as to form by such awarding authority.
- (3) This Bond must be furnished before any work is commenced.
- (4) Surety must be a corporate surety duly authorized to do business in Texas.
- (5) This Performance Bond must be in the full amount of the contract which it secures.
- (6) Power of Attorney from corporate surety should be attached to this Performance Bond.

Webb County

ARPA Supplement

This document is included in the General Conditions for the Construction Contract between Webb County and Gilmar Construction Ltd., Rio Bravo Drainage Outfall & Maintenance Improvement Project as approved by the Webb County Commissioners Court on September 9, 2024, and the project which is the subject of this Agreement is funded with ARPA funds and Contractor shall comply with these federal law requirements to wit:

Webb County Project: Rio Bravo Drainage Outfall Rehabilitation & Maintenance Improvement Project

1. **American Rescue Plan of 2021**

- 1.1 For projects funded with American Rescue Plan Act of 2021 ("ARPA") funds, the parties to this Agreement shall abide by and fulfill all applicable ARPA requirements, including, but not limited to, ARPA-specific reporting requirements. For more information: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>.

2. **Equal Opportunity**

- 2.1 The Contractor shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented by in Department of Labor Regulations (41 CFR Part 60).

3. **Copeland "Anti-Kickback" Act**

- 3.1 The Contractor shall comply with the provisions of the Copeland "Anti-kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).

4. **Prevailing Wage Rates**

- 4.1 The Contractor shall incorporate the appropriate Texas Department of Labor, Bureau of Labor Standards Wage Determination in the Project Manual.

5. **Contract Work Hours**

- 5.1 The Contractor shall comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5).

6. Environmental Protection

- 6.1 Clean Air Act. When assembling the bidding documents for implementation of the project, the Contractor shall require compliance with all applicable standards, orders, or requirements issued under Sections 114 and 306 of the Clean Air Act (42 U.S.C 18579(h)).
- 6.2 Clean Water Act. When assembling the bidding documents for implementation of the project, the Contractor shall require compliance with all applicable standards, orders, or requirements issued under section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1318), that relate generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder.
- 6.3 Related Environmental Laws. When assembling the bidding documents for implementation of the project, the Contractor shall require compliance with all applicable standards, orders, or requirements issued under the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA); the National Environmental Policy Act (NEPA); and any applicable Federal, Codes or Local environmental regulation.

7. Energy Policy and Conservation Act

- 7.1 When assembling the bidding documents for implementation of the project, the Contractor shall require compliance with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub Law 94-163).

8. Buy American Act

- 8.1 When assembling the bidding documents for implementation of the project, the Contractor shall require compliance with the Buy American Act (41 U.S.C. 10). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (ECC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that ECC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

9. Nondiscrimination

- 9.1 The Contractor shall ensure that no person is denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this agreement, on the grounds of race, religion, color, national origin, sex, and handicap. Accordingly, and to the extent applicable, the Contractor covenants and agrees to comply with the following:
- .1 Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), and DOD

regulations 32 CFR Part 300) issued thereunder;

- .2 Executive Order 11246 and Department of Labor regulations issued thereunder (41 CFR Part 60);
- .3 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and DOD regulations issued thereunder (32 CFR Part 56); and,
- .4 The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) and regulations issued thereunder (45 CFR Part 90).

10. **Lobbying**

- 10.1 The Contractor will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered federal actions; the awarding of any Federal contract; the making of any federal grant; the making of any federal loan; the entering into any cooperative agreement; and, the extension, continuation, renewal , amendment, or modification of any Federal contract, grant loan , or cooperative agreement.
- 10.2 The Interim Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget to implement the provisions of section 319 of Public Law 101-121 (31 U.S.C., Art 1352) is incorporated by reference.

11. **Drug Free Workplace**

- 11.1 The Contractor will comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free workplace.
- 11.2 The Final Rule, Government-wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget to implement the provisions of the Drug-Free Workplace Act of 1988 is incorporated by reference and the Contractor covenants and agrees to comply with all the provisions thereof.

12 **Debarment and Suspension**

- 12.1 The Contractor shall not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". For more information: <https://www.govinfo.gov/content/pkg/CFR-2018-title2-vol1/xml/CFR-2018-title2-vol1-part180.xml>
- 12.2 The Final Rule, Government wide Debarment and Suspension (Non-procurement), issued by the Office of Management and Budget to implement the provisions of Executive Order 12549, "Debarment and Suspension" is incorporated by reference and the Contractor covenants and agrees to comply with all the provisions thereof.