



WILLIAMSON COUNTY
PURCHASING DEPARTMENT
301 SE INNER LOOP - SUITE 106
GEORGETOWN, TEXAS 78626

<http://wilco-online.org/eBids/Bids.aspx>

INVITATION FOR BIDS (IFB)

FOG SEAL FOR WILLIAMSON COUNTY ROAD AND BRIDGE BID # 13IFB00110

BIDS MUST BE RECEIVED ON OR BEFORE: OCTOBER 15, 2012 – 3:00 PM

BIDS WILL BE PUBLICLY OPENED: OCTOBER 15, 2012 – 3:00 PM

**MANDATORY PRE BID CONFERENCE
OCTOBER 2, 2012 - 3:00 PM**

Williamson County is seeking qualified companies to provide materials, experienced fog seal crews and equipment to resurface cul-de-sacs in the North Lake, Twin Springs, Four T Ranch, Woods of Fountainwood, Chaparro Estates, Historic Acres, Reserve at Berry Creek, Brangus Ranch, Serenada East, Serenada West, Serenada Country Estates, Country West, Oakcrest Estates, Greenridge, and Wood Ranch Subdivisions. This project has an estimated cost of \$100,000, with a duration of 11 Working Days.

BID SUBMISSION

Notice is hereby given that sealed Bids will be accepted by the Williamson County Purchasing Department for Bid # 13IFB00110, Fog Seal. Specifications for this Bid may be obtained from <http://wilco-online.org/eBids/Bids.aspx>.

Bids are to be addressed to the Williamson County Purchasing Agent, Bob Space, 301 SE Inner Loop, Ste 106, Georgetown, TX 78626, with the Bid number and Bid name marked on the outside of the envelope. Bidders should forward one (1) original, two (2) paper copies and one (1) CD copy of their Bid to the address shown below. Late Bids will be rejected as non-responsive. Bids will be publicly opened in the Williamson County Purchasing Department at the time and date indicated above. Bidders are invited to attend the sealed Bid opening.

BID NAME:	Fog Seal Williamson County Road and Bridge
BID NO:	13IFB00110
DUE DATE/TIME:	October 15, 2012, ON OR BEFORE 3:00 PM
MAIL OR DELIVER TO:	Williamson County Purchasing Department Attn: #13IFB00110 Fog Seal 301 SE Inner Loop, Suite 106 Georgetown, TX 78626

All Bidders interested in submitting a Bid must attend the MANDATORY Pre-Bid conference on October 2, 2012 at 3:00 PM at South East Inner Loop, Suite B, Georgetown, Tx. There will be a sign-in form at the meeting to verify attendance. Anyone who does not attend this meeting and sign in will not be considered.

Any questions, clarifications or requests for general information should be directed to the contact listed below.

Assistant Purchasing Agent

Jonathan Harris

301 SE Inner Loop, Suite 106

Georgetown, TX 78626

joharris@wilco.org

Question submittals must be made via email, and are due by 5PM CST on October 5, 2012. Every effort will be made to answer questions within 24 hours of receiving them, with an email response.

All submitted questions with their answers will be posted and updated on a daily basis to the Williamson County portal, <http://wilco-online.org/eBids/Bids.aspx>

It is the Bidder's responsibility to check with Williamson County's Purchasing Department prior to submitting your Bid to ensure that you have a complete, up-to-date package. The Williamson County Purchasing Department takes no responsibility to ensure any interested Bidder has obtained any outstanding addenda or additional information. Any addenda and/or other information relevant to the IFB will be posted on the Williamson County vendor portal at the following link:

<http://wilco-online.org/eBids/Bids.aspx>

All interested Bidders are invited to submit a Bid in accordance with the Instructions and General Requirements, Bid Format, Bid Specifications, and Definitions, Terms and Conditions stated in this IFB. No negotiations or modifications to the Bids received will be allowed.

**BIDDERS ARE STRONGLY ENCOURAGED TO CAREFULLY
READ THE ENTIRE IFB**

**FOG SEAL FOR WILLIAMSON COUNTY ROAD AND BRIDGE
BID # 13IFB00110**

**WILLIAMSON COUNTY WILL NOT BE RESPONSIBLE FOR UNMARKED OR
IMPROPERLY MARKED ENVELOPES**

There is no expressed or implied obligation for Williamson County (sometimes referred to herein as the "County") to reimburse Bidders for any expense incurred in preparing a Bid in response to this IFB and Williamson County will not reimburse Bidders for these expenses.

All Bids must be received in the Williamson County Purchasing Department before the opening, which will be on the date and at the time set forth on page 1. Bids received after the submittal deadline will be considered void and unacceptable and returned to the Bidder unopened. Williamson County is not responsible for lateness or non-delivery of mail, carrier, etc. The date and time stamp of the Williamson County Purchasing Department shall be the official date and time of receipt.

FACSIMILE AND ELECTRONIC TRANSMITTALS WILL NOT BE ACCEPTED.

The **Bidder's Bid, all IFB requirements and Submittal Checklist** should be completed prior to submission. Failure to fully complete forms/affidavits and return the documentation required by this IFB may, at Williamson County's sole discretion, render your Bid null and void. Bids will be publicly opened and read aloud in the Williamson County Purchasing Department, 301 SE Inner Loop, Suite 106, Georgetown, Texas 78626.

**HOURS FOR THE WILLIAMSON COUNTY PURCHASING DEPARTMENT ARE 8:00 AM – 12:00 PM
AND 1:00 PM – 5:00 PM CENTRAL TIME (PURCHASING DEPARTMENT IS CLOSED DURING
LUNCH FROM 12:00PM – 1:00PM), MONDAY – FRIDAY, EXCLUDING COUNTY HOLIDAYS**

Tentative Schedule of Events

Issuance of IFB	September 18, 2012
Mandatory Pre-Bid Conference	October 2, 2012
Deadline to Submit Questions	October 12 2012
Bid Submission Deadline (Late Bids will not be considered)	October 15, 2012
Evaluation of Bids	October 16, 2012
Recommendation for Contract Award	October 23, 2012

PRE-BID INSPECTION

To the extent necessary and prior to the submittal, Bidders are strongly encourage to visually inspect and be familiar with all goods and/or services for which they intend to submit a Bid. If in the Pre-Bid inspection the Bidder determines any discrepancies, he/she/it should inform the Williamson County Purchasing Department.

1. INTRODUCTION TO BIDDERS

This IFB is to receive Bids from qualified Bidders regarding the goods and/or services which Williamson County seeks to procure under this IFB.

2. DEFINITIONS, TERMS AND CONDITIONS

2.1 DEFINITIONS

- a. "Addenda" – Means any written or graphic instruments issued by Williamson County prior to the consideration of Bids which modify or interpret the Bid Documents by additions, deletions, clarifications, or corrections.
- b. "Agreement" – The Successful Bidder may be required by Williamson County to sign an additional Agreement containing terms necessary to ensure compliance with the IFB and Bidder's Bid. Such ensuing Agreement(s) shall contain the Bid Specifications, Terms and Conditions that are derived from the IFB.
- c. "Contract" – This IFB and the Bid of the Successful Bidder shall become a contract between the Successful Bidder and Williamson County once the Successful Bidder's Bid is properly accepted by the Williamson County Commissioners Court.
- d. "Bid Documents" – The Legal Notice, IFB including attachments, and any Addenda issued by Williamson County prior to the consideration of any Bids.
- e. "Bid" – Is a complete, properly signed Bid submitted in accordance with this IFB which is irrevocable during the specified period for evaluation and acceptance of Bids.
- f. "Bidder" – A person or entity who submits a Bid in response to this IFB.
- g. "IFB" – Refers to this document, together with the attachments thereto and any future addenda issued by Williamson County.
- h. "Successful Bidder" – The responsible Bidder to whom Williamson County intends to award the Contract.

2.2 TERMS AND CONDITIONS

2.2.1 Venue and Governing Law

Bidder hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this IFB, the Contract and any ensuing Agreement shall lie exclusively in either Williamson County, Texas or in the Austin Division of the Western Federal District of Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this IFB, the Contract and any ensuing Agreement is governed by the laws of the United States, this IFB, the Contract and any ensuing Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

2.2.2 Incorporation by Reference and Precedence

The Contract shall be derived from (1) the IFB and its Addenda; and (2) the Bidder's Bid. In the event of a dispute under the Contract, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) the IFB and its Addenda; and (2) the Bidder's Bid.

In the event Williamson County requires that an ensuing Agreement be executed following award and a dispute arises between (1) terms and conditions of the ensuing Agreement, (2) the IFB, and its Addenda; and (3) the Bidder's Bid, applicable documents will be referred to for the

purpose of clarification or for additional detail in the following order of precedence: (1) terms and conditions of the ensuing Agreement, (2) the IFB; and (3) the Bidder's Bid.

2.2.3 Ownership of Bid

Each Bid shall become the property of Williamson County upon submittal and will not be returned to Bidders unless received after the submittal deadline.

2.2.4 Disqualification of Bidder

Upon signing and submittal of the Bid, a Bidder offering to sell supplies, materials, services, or equipment to Williamson 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 Bids may be rejected if Williamson County believes that collusion exists among the Bidders.

2.2.5 Funding

County intends to budget and make sufficient funds available and authorize funds for expenditure to finance the costs of the Contract. Bidders understand and agree that the County's payment of amounts under the Contract shall be contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to make payments under this Contract.

2.2.6 Assignment, Successors and Assigns

The Successful Bidder may not assign, sell, or otherwise transfer the Contract or any other rights or interests obtained under the Contract without written permission of the Williamson County Commissioners Court. The Contract and any ensuing Agreement shall be binding upon and inure to the benefit of the contracting parties hereto and their respective successors and permitted assigns.

2.2.7 Implied Requirements

Products and services not specifically described or required in the IFB, but which are necessary to provide the functional capabilities described by the Bidder, shall be implied and deemed to be included in the Bid.

2.2.8 Termination

- a. Termination for Cause:** Williamson County reserves the right to terminate the Contract and/or any ensuing Agreement for default if the Successful Bidder breaches any of the IFB Specifications, Terms and Conditions, including warranties of Bidder, if any, or if the Successful Bidder becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies Williamson County may have at law or in equity or as may otherwise be provided hereunder. 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 Williamson County's satisfaction, and/or to meet all other obligations and requirements.
- b. Termination for Convenience:** Williamson County may terminate the Contract and/or any ensuing Agreement for convenience and without cause or further liability, upon thirty (30) calendar day's written notice to Successful Bidder. In the event Williamson County exercises its right to terminate without cause, it is understood and agreed that only the amounts due to the Successful Bidder for

goods, commodities and/or services provided and expenses incurred to and including the date of termination, will be due and payable. No penalty will be assessed for Williamson County's termination for convenience.

2.2.9 Non-Performance

It is the objective of Williamson County to obtain complete and satisfactory performance of the requirements set forth herein. In addition to any other remedies available at law, in equity or that may be set out herein, failure to perform may result in a deduction of payment equal to the amount of the goods and/or services that were not provided and/or performed to the County's satisfaction. In the event of such non-performance, the County shall have the right, but shall not be obligated, to complete the services itself or by others and/or purchase the goods from other sources. If the County elects to acquire the goods or perform the services itself or by others, pursuant to the foregoing, the Successful Bidder shall reimburse the County, within ten (10) calendar days of demand, for all costs incurred by the County (including, without limitation, applicable, general, and administrative expenses, and field overhead, and the cost of necessary equipment, materials, and field labor) in correcting the nonperformance which the Successful Bidder fails to meet pursuant to the requirements set out herein. In the event the Successful Bidder refuses to reimburse the County as set out in this provision, County shall have the right to deduct such reimbursement amounts from any amounts that may be then owing or that may become owing in the future to the Successful Bidder.

2.2.10 Proprietary Information and Texas Public Information Act

All material submitted to the County shall become public property and subject to the Texas Public Information Act upon receipt. If a Bidder does not desire proprietary information in the Bid to be disclosed, each page must be clearly identified and marked proprietary at time of submittal or, more preferably, all proprietary information may be placed in a folder or appendix and be clearly identified and marked as being proprietary. The County will, to the extent allowed by law, endeavor to protect from public disclosure the information that has been identified and marked as proprietary. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. Failure to clearly identify and mark information as being proprietary as set forth under this provision will result in all unmarked information being deemed non-proprietary and available to the public. For all information that has not been clearly identified and marked as proprietary by the Bidder, the County may choose to place such information on the County's website and/or a similar public database without obtaining any type of prior consent from the Bidder.

To the extent, if any, that any provision in this IFB or in the Bidder's Bid is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that Williamson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to Williamson County as to whether or not the same are available to the public. It is further understood that Williamson County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Williamson County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to Williamson County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

2.2.11 Right to Audit

Successful Bidder agrees that Williamson County or its duly authorized representatives shall, until the expiration of three (3) years after termination or expiration the services to be performed, have access to and the right to examine and photocopy any and all books, documents, papers and records of Successful Bidder, which are directly pertinent to the services to be performed or

goods to be delivered for the purposes of making audits, examinations, excerpts and transcriptions. Successful Bidder agrees that Williamson County shall have access during normal working hours to all necessary facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Williamson County shall give Successful Bidder reasonable advance notice of intended audits.

2.2.12 Testing and Inspections

Williamson County reserves the right to inspect and test equipment, supplies, materials and goods for quality and compliance with this IFB, 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, Williamson County can deem the Bidder to be in breach and terminate the Contract and/or any ensuing Agreement(s).

2.2.13 Bid Preparation Cost

Cost of developing Bids is entirely the responsibility of Bidders and shall not be charged to Williamson County. There is no expressed or implied obligation for Williamson County to reimburse Bidders for any expense incurred in preparing a Bid in response to this IFB and Williamson County will not reimburse Bidders for such expenses.

2.2.14 INDEMNIFICATION

SUCCESSFUL BIDDER SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS WILLIAMSON COUNTY, ITS OFFICIALS, EMPLOYEES, AGENTS AND AGENTS' EMPLOYEES FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING FROM ACTIVITIES OF BIDDER, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED HEREUNDER THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF BIDDER OR ANY OF BIDDER'S AGENTS, SERVANTS OR EMPLOYEES, AS WELL AS ALL CLAIMS OF LOSS OR DAMAGE TO THE BIDDER'S AND WILLIAMSON COUNTY'S PROPERTY, EQUIPMENT, AND/OR SUPPLIES.

FURTHERMORE, WILLIAMSON COUNTY, ITS OFFICIALS, EMPLOYEES, AGENTS AND AGENTS' EMPLOYEES SHALL NOT BE LIABLE FOR DAMAGES TO THE SUCCESSFUL BIDDER ARISING FROM ANY ACT OF ANY THIRD PARTY, INCLUDING, BUT NOT BEING LIMITED TO THEFT. SUCCESSFUL BIDDER FURTHER AGREES TO INDEMNIFY, DEFEND AND SAVE HARMLESS WILLIAMSON COUNTY FROM, ITS OFFICIALS, EMPLOYEES, AGENTS AND AGENTS' EMPLOYEES AGAINST ALL CLAIMS OF WHATEVER NATURE ARISING FROM ANY ACCIDENT, INJURY, OR DAMAGE WHATSOEVER CAUSED TO ANY PERSON OR TO THE PROPERTY OF ANY PERSON OCCURRING IN RELATION TO SUCCESSFUL BIDDER'S PERFORMANCE OF ANY SERVICES REQUESTED HEREUNDER DURING THE TERM OF THE CONTRACT AND/OR ANY ENSUING AGREEMENT(S).

SUCCESSFUL BIDDER SHALL TIMELY REPORT ALL CLAIMS, DEMANDS, SUITS, ACTIONS, PROCEEDINGS, LIENS OR JUDGMENTS TO WILLIAMSON COUNTY AND SHALL, UPON THE RECEIPT OF ANY CLAIM, DEMAND, SUIT, ACTION, PROCEEDING, LIEN OR JUDGMENT, NOT LATER THAN THE FIFTEENTH (15TH) DAY OF EACH MONTH; PROVIDE WILLIAMSON COUNTY WITH A WRITTEN REPORT ON EACH SUCH MATTER, SETTING FORTH THE STATUS OF EACH MATTER, THE SCHEDULE OR PLANNED PROCEEDINGS WITH RESPECT TO EACH MATTER AND THE COOPERATION OR ASSISTANCE, IF ANY, OF WILLIAMSON COUNTY REQUIRED BY SUCCESSFUL BIDDER IN THE DEFENSE OF EACH MATTER. SUCCESSFUL BIDDER'S DUTY TO DEFEND, INDEMNIFY AND HOLD WILLIAMSON COUNTY HARMLESS SHALL BE ABSOLUTE. IT SHALL NOT ABATE OR END BY REASON OF THE EXPIRATION OR TERMINATION OF THE CONTRACT AND/OR ANY ENSUING AGREEMENT(S) UNLESS OTHERWISE AGREED BY WILLIAMSON COUNTY IN WRITING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT AND SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ALL SUCH MATTERS NO MATTER WHEN THEY ARISE.

IN THE EVENT OF ANY DISPUTE BETWEEN THE PARTIES AS TO WHETHER A CLAIM, DEMAND, SUIT, ACTION, PROCEEDING, LIEN OR JUDGMENT APPEARS TO HAVE BEEN CAUSED BY OR APPEARS TO HAVE ARISEN OUT OF OR IN CONNECTION WITH ACTS OR OMISSIONS OF WILLIAMSON COUNTY, BIDDER SHALL NEVER-THE-LESS FULLY DEFEND SUCH CLAIM, DEMAND, SUIT, ACTION, PROCEEDING, LIEN OR JUDGMENT UNTIL AND UNLESS THERE IS A DETERMINATION BY A COURT OF COMPETENT JURISDICTION THAT THE ACTS AND OMISSIONS OF BIDDER ARE NOT AT ISSUE IN THE MATTER.

Successful Bidder's indemnification shall cover, and Successful Bidder agrees to indemnify Williamson County, in the event Williamson County is found to have been negligent for having selected Successful Bidder to perform the work described in this request. The provision by Successful Bidder of insurance shall not limit the liability of Successful Bidder under the Contract and/or any ensuing Agreement.

2.2.15 Waiver of Subrogation

Successful Bidder and Successful Bidder's insurance carrier waive any and all rights whatsoever with regard to subrogation against Williamson County as an indirect party to any suit arising out of personal or property damages resulting from the Bidder's performance under this Contract and any ensuing Agreement.

2.2.16 Relationship of the Parties

The Successful Bidder shall be an independent contractor and shall assume all of the rights, obligations, liabilities, applicable to it as such independent contractor hereunder and any provisions herein which may appear to give County the right to direct the Successful Bidder as to details of doing work herein covered or to exercise a measure of control over the work shall be deemed to mean that the Successful Bidder shall follow the desires of County in the results of the work only. County shall not retain or have the right to control the Successful Bidder's means, methods or details pertaining to the Successful Bidder's performance of the work. County and the Successful Bidder hereby agree and declare that the Successful Bidder is an independent contractor and as such meets the qualifications of an "Independent Contractor" under Texas Workers Compensation Act, Texas Labor Code, Section 406.141, that the Successful Bidder is not an employee of County, and that the Successful Bidder and its employees, agents and sub-contractors shall not be entitled to workers compensation coverage or any other type of insurance coverage held by County.

2.2.17 Sole Provider

The Successful Bidder agrees and acknowledges that it shall not be considered a sole provider of the goods and/or services described herein and that Williamson County may contract with other providers of such goods and/or services if Williamson County deems, at its sole discretion, that multiple providers of the same goods and/or services will serve the best interest of Williamson County.

2.2.18 Force Majeure

If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

2.2.19 Severability

If any provision of this IFB, the Contract or any ensuing Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render

unenforceable any other provision thereof, but rather the entire IFB, Contract or any ensuing Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this IFB, the Contract or any ensuing Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this IFB, the Contract or any ensuing Agreement and be deemed to be validated and enforceable.

2.2.20 Equal Opportunity

Neither party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

2.2.21 Notice

Any notice to be given shall be in writing and may be affected by personal delivery, or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

Williamson County Purchasing Department
Bob Space, Purchasing Agent (or successor)
301 SE Inner Loop, Suite 106
Georgetown, Texas 78626

Bidder:

Address set out in Bidder's Transmittal Letter

Notices given in accordance with this provision shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the third (3rd) calendar day following mailing, whichever occurs first.

2.2.22 Sales and Use Tax Exemption

Williamson County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. § 151.309, as amended, and the services and/or goods subject hereof are being secured for use by Williamson County.

2.2.23 Compliance with Laws

Williamson County and Successful Bidder shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of the Contract and any ensuing Agreement, including, without limitation, Workers' Compensation laws, salary and wage statutes and regulations, licensing laws and regulations. When required, the Successful Bidder shall furnish the County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

2.2.24 Incorporation of Exhibits, Appendices and Attachments

All of the Exhibits, Appendices and Attachments referred to herein are incorporated by reference as if set forth verbatim herein.

2.2.25 No Waiver of Immunities

Nothing herein shall be deemed to waive, modify or amend any legal defense available at law or in equity to Williamson County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. Williamson County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

2.2.26 No Waiver

The failure or delay of any party to enforce at any time or any period of time any of the provisions of this IFB, the Contract or any ensuing Agreement shall not constitute a present or future waiver of such provisions nor the right of either party to enforce each and every provision. Furthermore, no term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

2.2.27 Current Revenues

The obligations of the parties under the Contract and any ensuing Agreement do not constitute a general obligation or indebtedness of County for which County is obligated to levy, pledge, or collect any form of taxation. It is understood and agreed that Williamson County shall have the right to terminate the Contract and any ensuing Agreement at the end of any Williamson County fiscal year if the governing body of Williamson County does not appropriate sufficient funds as determined by Williamson County's budget for the fiscal year in question. Williamson County may effect such termination by giving written notice of termination to the Successful Bidder at the end of its then-current fiscal year.

2.2.28 FOB – Destination

To the extent applicable to this IFB, all of the items listed are to be Free On Board to final destination (FOB Destination) with all transportation charges if applicable to be included in the Bid, unless otherwise specified in the Invitation for Bids. The title and risk of loss of the goods shall not pass to the County until receipt and acceptance takes place at the FOB Destination point.

2.2.29 Binding Effect

This Contract and any ensuing Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors.

2.2.30 Assignment

The Successful Bidder's interest and duties hereunder may not be assigned or delegated to a third party without the express written consent of Williamson County.

2.2.31 Safety

Successful Bidder is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with any services to be provided hereunder. The safety program

shall comply with all applicable requirements of the current federal Occupational Safety and Health Act and all other applicable federal, state and local laws and regulations.

2.2.32 General Obligations and Reliance

Successful Bidder shall perform all services and/or provide all goods, as well as those reasonably inferable and necessary for completion and provision of services and/or goods required hereunder. The Successful Bidder shall keep the County informed of the progress and quality of the services. Successful Bidder agrees and acknowledges that County is relying on Successful Bidder's represented expertise and ability to provide the goods and/or services described herein. Successful Bidder agrees to use its best efforts, skill, judgment, and abilities to perform its obligations in accordance with the highest standards used in the profession and to further the interests of County in accordance with County's requirements and procedures. Successful Bidder's duties as set forth herein shall at no time be in any way diminished by reason of any approval by the County nor shall the Successful Bidder be released from any liability by reason of such approval by the County, it being understood that the County at all times is ultimately relying upon the Successful Bidder's skill and knowledge in performing the services and providing any goods required hereunder.

2.2.33 Estimated Quantities

To the extent applicable to this IFB, the estimated quantity of each item listed in this IFB is only an estimate -- the actual quantity to be purchased may be more or less. The County is not obligated to purchase any minimum amount, and the County may purchase any reasonable amount greater than the estimate for the same unit price. Any limit on quantities available must be stated expressly in the Bid.

2.2.34 Contractual Development

The contents of the IFB and the selected Bid will become an integral part of the Contract, but may be modified, at Williamson County's sole discretion, by provisions of an ensuing Agreement. Therefore, the Bidder must agree to inclusion in an ensuing Agreement of the Bid Specifications, Terms and Conditions of this IFB.

2.2.35 Survivability

All applicable agreements that were entered into between Successful Bidder and Williamson County under the terms and conditions of the Contract and/or any ensuing Agreement shall survive the expiration or termination thereof for ninety (90) days unless a new contract has been awarded.

2.2.36 Air Quality

In determining the overall best Bid, the County may, to the extent applicable, exercise the following option granted to local governments under the Texas Local Government Code.

Option – TLGC § 271.907. This option allows the County to evaluate Bids and give preference to goods and/or services of a Bidder that demonstrates that the Bidder meets or exceeds any and all state or federal environmental standards, including voluntary standards, relating to air quality. If the Bid being submitted will have an effect on air quality for Williamson County (as it relates to any state, federal, or voluntary air quality standard), then the Bidder is encouraged to provide information in narrative form indicating the anticipated air quality impact. Bidders are expected to meet all mandated state and federal air quality standards.

2.2.37 Entire Agreement

The Contract and any ensuing Agreement shall supersede all prior Agreements, written or oral between the Successful Bidder and County and shall constitute the entire Agreement and understanding between the parties with respect to the services and/or goods to be provided. Each of the provisions herein shall be binding upon the parties and may not be waived, modified amended or altered except by writing signed by the Successful Bidder and County.

2.2.38 Payment

Unless specified otherwise in this IFB or an ensuing Agreement, the following provision shall control the County's method of payment:

County's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date County receives the goods under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

In the event that an error appears in an invoice submitted by Successful Bidder, County shall notify Successful Bidder of the error not later than the twenty first (21st) day after the date County receives the invoice. If the error is resolved in favor of Successful Bidder, Successful Bidder shall be entitled to receive interest on the unpaid balance of the invoice submitted by Successful Bidder beginning on the date that the payment for the invoice became overdue. If the error is resolved in favor of the County, Successful Bidder shall submit a corrected invoice that must be paid in accordance within the time set forth above. The unpaid balance accrues interest as provided by Chapter 2251 of the Texas Government Code if the corrected invoice is not paid by the appropriate date.

As a minimum, invoices shall include:

- (1) Name, address, and telephone number of Successful Bidder and similar information in the event the payment is to be made to a different address
- (2) County contract, Purchase Order, and/or delivery order number
- (3) Identification of items or service as outlined in the Contract
- (4) Quantity or quantities, applicable unit prices, total prices, and total amount
- (5) Any additional payment information which may be called for by the Contract

Payment inquiries should be directed to the Williamson County Auditor's Office, Accounts Payable Department: Donna Baker, 943-1558.

2.2.39 Economic Adjustment

To the extent applicable to this IFB, the Successful Bidder may submit a request for a contract pricing adjustment for approval by the County if the Bidder can show just cause substantiating an adjustment. The requested adjustment must be for goods and/or services and in no way

represent an increase in the Bidder's profits, labor or other overhead. The Bidder's request must include evidence in the form of a certified statement or affidavit from the supplier or manufacturer detailing the price adjustment, the effective date for the adjustment, and any other information requested by the Purchasing Department to verify the adjustment.

An adjustment request will not become effective until after approval of the Williamson County Commissioners Court. Until then, the original contract pricing will remain unchanged. If an issue regarding an adjustment request is not resolved, the Purchasing Department reserves the right to seek competition from other sources.

Any goods or services delivered by the Successful Bidder at a not agreed upon price are done so at the Successful Bidder's risk.

Pricing must remain firm for the first three (3) months of the initial contract period. A minimum period of three (3) months must elapse between adjustment requests.

2.2.40 Contractual Formation and Ensuing Agreement

The IFB and the Bidder's Bid, when properly accepted by the Williamson County Commissioners Court, shall constitute a contract equally binding between the Successful Bidder and Williamson County.

The Successful Bidder shall be required to execute an ensuing Agreement at the Williamson County Purchasing Department within ten (10) calendar days after the Successful Bidder is notified of award. The ensuing Agreement shall be in the same form as the Agreement which is attached to the end of this IFB. The only anticipated changes in the ensuing Agreement will be to include additional exhibits, to fill in blanks to identify the Successful Bidder, and terms relating to the compensation, or to revise the Agreement to accommodate corrections, changes in the scope of services, or changes pursuant to Addenda issued. **Bidders should raise any questions regarding the terms of the Agreement in the form of written questions or submittals.** Because the signed ensuing Agreement will be substantively and substantially derived from the attached Agreement, each Bidder is urged to seek independent legal counsel as to any questions about the terms, conditions or provisions contained in the Agreement *before* submitting a Bid. Again, the attached Agreement contains important legal provisions and is considered part and parcel of this IFB. Failure or refusal to sign aforesaid Agreement shall be grounds for Williamson County to revoke any award which has been issued, forfeit Bid security, if applicable, and select another Bidder.

2.2.41 Initial Contract Term

The Contract Period is the date of award through final completion of project. This project is to be substantially completed sixteen (11) working after notification to commence work and finally completed within twenty-one (21) Working Days after such notification.

2.2.42 Performance and Payment Bonds

To the extent this IFB is for the procurement of a public work contract, the following shall apply:

Chapter 262.032 of the Texas Local Government Code governs the requirements for performance bonds for government entities making public work contracts. A performance bond is required if the contract is in excess of \$50,000 and is to be made for the full amount of the contract.

Chapter 2253.021 of the Texas Government Code governs the requirements for payment bonds for government entities making public work contracts. A payment bond is required if the contract is in excess of \$25,000 and is to be made for the full amount of the contract.

The bonds are to be executed and delivered to the County **prior to being awarded the Contract**. The bonds must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code. For unit price contracts, the total contract price shall be estimated and calculated by multiplying the estimated quantities to the Bidder's unit bid price.

If the public works contract is less than \$50,000, the performance bond will not be required as long as the contract provides that payment is not due until the work is completed and accepted by the County.

2.2.43 Bidders Bond

All Bids shall be accompanied by a certified cashier's check upon a National or State bank in an amount not less than five percent (5%) of the total maximum bid price, payable without recourse to Williamson County, or a bid bond in the same amount from a reliable surety company, as a guarantee that the Bidder will enter into a contract and **execute and deliver to the County performance and payment bonds prior to being awarded the Contract**. Bid guarantees must be submitted in the same sealed envelope with the Bid. Bids submitted without check or bid bonds will not be considered. For unit price contracts, the total maximum bid price shall be estimated and calculated by multiplying the estimated quantities to the unit bid price.

2.2.44 Warranty Bond

Prior to being awarded the Contract, Successful Bidder shall provide a Warranty Bond in the amount of 20% of the total project construction cost, as security for the true and faithful performance of all warranties for 1 year from the date of final payment. For unit price contracts, the total project construction cost shall be estimated and calculated by multiplying the estimated quantities to the bidder's unit bid price.

2.2.45 Cooperative Purchasing Program

During the term of the Contract resulting from this IFB, Williamson County would like to afford the same prices, terms and conditions to other political subdivisions or public entities. Another entity's participation in the Contract resulting from this Invitation to Bid is subject to a properly authorized Purchasing Cooperative Interlocal Agreement with Williamson County. Any liability created by Purchase Orders issued against the Contract shall be the sole responsibility of the governmental agency placing the order.

2.2.46 Insurance Requirements

By signing its Bid, the Successful Bidder agrees to maintain at all times during any term of the Contract and any ensuing Agreement, at Successful Bidder's cost, insurance in accordance with this provision.

Successful Bidder will be required to submit Certificates of Insurance **prior to being awarded the Contract**.

All certificates of insurance coverage as specified below must be provided to the following individual :

- o Jonathan Harris
- o Fog Seal #13IFB00110
- o 301 SE Inner Loop – Suite 106
- o Georgetown, Texas 78626

Failure to comply with these Insurance Requirements may result in the termination of the Contract and any ensuing Agreement between the Successful Bidder and County.

The following coverage limits shall be required at a minimum:

- A. Worker's Compensation Statutory – Texas Law
- B. Employer's Liability:

Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit

- C. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability	\$1,000,000	\$1,000,000
Aggregate policy limits:	\$1,000,000	

- D. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE
Bodily injury (including death)	\$1,000,000	\$1,000,000
Property damage	\$1,000,000	\$1,000,000
Aggregate policy limits:	No aggregate limit	

- E. Umbrella Coverage: \$1,000,000

Successful Bidder's property will not be covered by any insurance that may be carried by Williamson County. Successful Bidder assumes the risk of loss on its contents and property that are situated on/in/around Williamson County property. The Successful Bidder is strongly encouraged to obtain insurance on its property to the extent deemed necessary by the Successful Bidder.

The deductible for an insurance policy required hereunder shall not exceed \$100,000. **Williamson County shall be named as an additional insured under any policy of insurance required hereunder.**

Successful Bidder shall not commence any work until it has obtained all required insurance and such insurance has been approved by County. Successful Bidder shall not allow any subcontractor(s) to commence work to be performed in until all required insurance has been obtained by such subcontractor(s) and approved by County. Approval of the insurance by County shall not relieve or decrease the liability of Successful Bidder or its subcontractor(s) hereunder.

The required insurance must be written by a company approved to do business in the State of Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. Successful Bidder shall furnish County with a certification of coverage issued by the insurer. Successful Bidder shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) CALENDAR DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the County, and agreed to and hereby acknowledged by the Successful Bidder, that no provision of this Contract or any ensuing Agreement shall be construed to require the County to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Contract or any ensuing Agreement.

2.2.47 Workers' Compensation Coverage Requirements

The Texas Labor Code, §406.096, requires workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity such as Williamson County. The rule requires Williamson County to timely obtain certificates of coverage and retain them for the duration of the project. The rule also sets out the language to be included in the Bid specifications and in contracts awarded by a governmental entity and the information required to be in the posted notice to employees. The rule is adopted under the Texas Labor Code, §402.061.

The information provided below is a result of this rule. By submitting your Bid to the County, you are acknowledging that this rule is a part of these Bid specifications, and that you will observe and abide by all of the requirements outlined in the rule. You are further agreeing that should your Bid be accepted by the Williamson County Commissioners Court, the necessary certificates of coverage showing workers' compensation coverage, will be provided to the following name and address prior to beginning work:

Jonathan Harris
Assistant Purchasing Agent (or successor)
Williamson County Purchasing Department
301 SE Inner Loop - Suite 106
Georgetown, TX 78626

Failure to comply with this request may result in termination of the Contract and any ensuing Agreement. If you have any questions related to this ruling and/or requirement, you are encouraged to contact either the Williamson County Purchasing Department at (512) 943-1546, or you may call the Texas Workers' Compensation Commission at (800) 372-7713.

A. The following words and terms, when used in this provision, shall have the following meanings. Terms not defined in this rule shall have the meaning defined in the Texas Labor Code, if so defined.

- (1) Certificate of coverage (certificate)--A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a workers' compensation coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees (including those subject to a coverage agreement) providing services on a project, for the duration of the project.
- (2) Building or construction--Has the meaning defined in the Texas Labor Code, §406.096(e)(1).
- (3) Contractor--A person bidding for or awarded a building or construction project by Williamson County.
- (4) Coverage--Workers' compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).
- (5) Coverage agreement--A written agreement on form TWCC-81, form TWCC-82, form TWCC-83, or form TWCC-84, filed with the Texas Workers' Compensation Commission which establishes a relationship between the parties for purposes of the Texas Workers' Compensation Act, pursuant to the Texas Labor Code, Chapter 406, Subchapters F and G, as one of employer/employee and establishes who will be responsible for providing workers' compensation coverage for persons providing services on the project.
- (6) Duration of the project--Includes the time from the beginning of work on the project until the work on the project has been completed and accepted by Williamson County.
- (7) Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- (8) Project--Includes the provision of all services related to a building or construction contract for Williamson County.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of workers compensation coverage to Williamson County prior to being awarded the Contract.

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

E. The contractor shall obtain from each person providing services on a project, and provide to Williamson County:

- (1) a certificate of coverage, prior to that person beginning work on the project, so Williamson County will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify Williamson County in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify Williamson County in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this Contract or providing or causing to be provided a certificate of coverage, the contractor is representing to Williamson County that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles Williamson County to declare the Contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from Williamson County.

3. INSTRUCTIONS AND GENERAL REQUIREMENTS

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

General requirements apply to all advertised IFBs; however, these may be superseded, in whole or in part, by the **Bid Specifications, Addenda issued as a part of this IFB and Modifications issued as a part of this IFB.** Be sure your Bid package is complete.

3.1 Ambiguity, Conflict, or other Errors in the IFB

If Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in this IFB, Bidder shall immediately notify Williamson County Purchasing Department of such error in writing and request modification or clarification of the document. Modifications will be made by issuing Addenda. If the Bidder fails to notify Williamson County prior to the date and time fixed for submission of Bids of an error or ambiguity in the IFB known to Bidder, or an error or ambiguity that reasonably should have been known to Bidder, then Bidder shall be deemed to have waived the error or ambiguity or its later resolution.

Williamson County may also modify the IFB, no later than 48 hours prior to the date and time fixed for submission of Bids, by issuance of an Addendum. All addenda will be numbered consecutively, beginning with 1.

3.2 Notification of Most Current Address

Bidders in receipt of this IFB shall notify the Williamson County Purchasing Department 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 Bids.

3.3 Bid Preparation Cost

Cost of developing Bids is entirely the responsibility of Bidders and shall not be charged to Williamson County.

3.4 Signature of Bidder

A Transmittal Letter, which shall be considered an integral part of the Bid, shall be signed by an individual who is authorized to bind the Bidder contractually.

If the Bidder is a Corporation or Limited Liability Company, the legal name of the Corporation or Limited Liability Company shall be provided together with the signature of the officer or officers authorized to sign on behalf of such entity.

If the Bidder is a General Partnership, the true name of the firm shall be provided with the signature of each partner authorized to sign.

If the Bidder is a Limited Partnership, the name of the Limited Partner's General Partner shall be provided with the signature of the officer authorized to sign on behalf of the General Partner.

If the Bidder is a Sole Proprietor(s) (individual), each Sole Proprietor(s) shall sign.

If signature is by an agent, other than the Sole Proprietor(s) or an officer of a Corporation, Limited Liability Company, General Partner or a member of a General Partnership, a power of attorney or equivalent document must be submitted to the Williamson County Purchasing Department with the Bid.

3.5 Assumed Business Name

If the Bidder operates business under an Assumed Business Name, the Bidder must have on file with the Williamson County Clerk a current Assumed Name Certificate and provide a file marked copy of same with its Bid.

3.6 Bid Obligation

The contents of the IFB, Bid and any clarification thereof submitted by the Successful Bidder shall become part of the contractual obligation and incorporated by reference into the Contract and any ensuing Agreement.

3.7 Compliance with IFB Specifications

It is intended that this IFB describe the requirements and the Bid format in sufficient detail to secure comparable Bids. Failure to comply with all provisions of the IFB may, at the sole discretion of Williamson County, result in disqualification.

3.8 Withdrawal of Bid

The Bidder may withdraw its Bid by submitting a written request over the signature of an authorized individual, as described herein above, to the Williamson County Purchasing Department any time prior to the submission deadline. The Bidder may thereafter submit a new Bid prior to the deadline. Modification or withdrawal of the Bid in any manner will not be considered if submitted after the deadline.

3.9 Evaluation/Award

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

To ensure the proper and fair evaluation of a solicitation, Williamson County prohibits unsolicited communication initiated by the Bidder to the County Official or Employee evaluating or considering the Bids prior to the time an award has been made. Unsolicited communication may be ground for disqualifying the offending Bidder from consideration or award of the solicitation then in evaluation, or any future solicitation.

Communication between Bidder and the County will be initiated by the appropriate County Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the solicitation.

Williamson County reserves the right to award a Contract in whole to one Bidder or to award a contract on each separate item or combination of items as may be most advantageous to the County. A primary, secondary, third and/or subsequent award **may** be made for this IFB. Bids may be rejected for some items, departments or areas, even though awards are made for others. The convenience of having a single source for similar items will be taken into consideration together with price in determining the lowest and best Bid.

To award the lowest responsible bidder in accordance with Texas Government Code Subchapters B and C, the County may consider:

- Price
- Bidder's experience and reputation

- Quality of the Bidder's goods and/or services
- Bidder's safety record
- Bidder's proposed personnel
- Bidder's financial capabilities
- Any other relevant factors specifically listed in the IFB

Consideration of Location of Principal Office

Pursuant to Texas Local Government Code Section 271.905, in purchasing under this title any real property or personal property that is not affixed to real property, if Williamson County receives one or more Bids from a Bidder whose principal place of business is in Williamson County and whose Bid is within three percent (3%) of the lowest bid price received by Williamson County from a Bidder who is not a resident of Williamson County, Williamson County may enter into a contract with:

- (1) the lowest Bidder; or
- (2) the Bidder whose principal place of business is in Williamson County if the Williamson County Commissioners Court determines, in writing, that the local Bidder offers Williamson County the best combination of contract price and additional economic development opportunities for Williamson County created by the contract award, including the employment of residents of Williamson County and increased tax revenues to Williamson County.

This consideration does not prohibit Williamson County from rejecting all Bids.

It is understood that the Commissioners Court of Williamson County, Texas, reserves the right to accept or reject any and/or all Bids for any or all goods and/or services covered in this IFB, and to waive informalities or defects in the Bid or to accept such Bid it shall deem to be in the best interest of Williamson County.

Awards should be made approximately thirty (30) business days after the Bid opening date. Results may be obtained by viewing the Williamson County vendor portal at the following link:
<http://wilco-online.org/eBids/Bids.aspx>

3.10 Responsibility

It is expected that a prospective Bidder will be able to affirmatively demonstrate Bidder's responsibility. A prospective Bidder should be able to meet the following requirements:

- a) have adequate financial resources, or the ability to obtain such resources as required;
- b) be able to comply with the required or proposed delivery schedule;
- c) have a satisfactory record of performance; and
- d) be otherwise qualified and eligible to receive an award.

Williamson County may request representation and other information sufficient to determine Bidder's ability to meet these minimum standards listed above.

3.11 Firm Pricing

For unit price items, all of the items listed are to be on a "per unit" basis, stating a firm price per unit or unit quantity of each item. Bidder must submit a firm price that must be good from the date of Bid opening for the fixed period of time set out in this IFB. Unless the IFB expressly states otherwise, this period shall be until the end of the Initial Contract Period. Bids which do not state a

fixed price, or which are subject to change without notice, will not be considered. The Court may award a contract for the period implied or expressly stated in the lowest and best Bid.

3.12 Purchase Orders

If required by the Williamson County Purchasing Department, a purchase order(s) may be generated to the Successful Bidder for goods and/or services. If a purchase order is issued, the purchase order number must appear on all itemized invoices and/or requests for payment.

3.13 Silence of Specifications

The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

3.14 References

Williamson County may require Bidder to supply a list of at least three (3) references where like services and/or goods have been supplied by their firm if Bidder has not done business with the County within the past five (5) years. The name of firm, address, phone number and name of a representative to contact must be provided.

4. BID FORMAT AND SUBMISSION

4.1 Organization of Bid Contents for Submittal

Each Bid should be organized and be submitted in the order described below:

- a. Transmittal Letter;
- b. Bid Submittal Checklist;
- c. Price Sheet forms (Appendix A)
- e. References: Identification of three (3) references for which the Bidder is providing or has provided the services and/or goods of the type requested, including the name, position, and telephone number of a contact person at each entity (Appendix B of IFB)
- f. Conflict of Interest Questionnaire (Appendix C of IFB)
- g. Bid Affidavit (Appendix D of IFB)
- h. Signature Page (Appendix E of IFB)

4.2 Transmittal Letter

The Bidder must submit a Transmittal Letter that provides the following:

- a. Name and address of individual or business entity submitting the Bid;
- b. Bidder's type of business entity (i.e., Corporation, General Partnership, Limited Partnership, LLC, etc.);
- c. Place of incorporation or organization, if applicable;
- d. Name and location of major offices and other facilities that relate to the Bidder's performance under the terms of this IFB;
- e. Name, address, business and fax number of the Bidder's principal contact person regarding all contractual matters relating to this IFB;
- f. The Bidder's Federal Employer Identification Number;
- g. A commitment by the Bidder to provide the services required by Williamson County;
- h. A statement that the **Bid is valid for one hundred and eighty (180) calendar days** from the deadline for submittal of Bids to Williamson County (Any Bid containing a term of less than one hundred and **eighty (180) calendar days** for acceptance, may at Williamson County's sole discretion, be rejected as non-responsive.); If the Bid being submitted will have an effect on air quality for Williamson County (as it relates to any state, federal, or voluntary air quality standard), then the Bidder is encouraged to provide information in narrative form indicating the anticipated air quality impact.

The Transmittal Letter must be signed by a person legally authorized to bind the Bidder to the representations in the Transmittal Letter and Bid. In the case of a joint Bid, each party must sign the Transmittal Letter.

4.3 Conflict of Interest

No public official shall have interest in a contract, in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171, as amended.

As of January 1, 2006, Bidders are responsible for complying with Local Government Code Title 5, Subtitle C, Chapter 176. Additional information may be obtained from the Williamson County website at the following link:

<http://www.wilco.org/CountyDepartments/Purchasing/ConflictofInterestDisclosure/taBid/689/language/en-US/Default.aspx>

Each Bidder must disclose any existing or potential conflict of interest relative to the performance of the requirements of this IFB. Examples of potential conflicts may include an existing business or personal relationship between the Bidder, its principal, or any affiliate or subcontractor, with Williamson County or any other entity or person involved in any way in the project that is the subject of this IFB. Similarly, any personal or business relationship between the Bidder, the principals, or any affiliate or subcontractor, with any employee or official of Williamson 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 Williamson County employees or officials may be cause for termination. Williamson County will decide if an actual or perceived conflict should result in Bid disqualification.

By submitting a Bid in response to this IFB, 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 Williamson County public servant or any employee, official or representative of same, in connection with this procurement.

Each Bidder must provide a Conflict of Interest Statement. The Conflict of Interest Statement is attached as an Appendix to this IFB and must be completed, signed, and submitted with your Bid.

4.4 Ethics

The Bidder shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official or agent of Williamson County.

4.5 Bid Submittal Deadline

The Bid is due no later than the submittal date and time set forth on Page 1 of this IFB, and must include each item identified on the Bid Submittal Checklist page of this IFB.

4.6 Delivery of Bids

All Bids are to be delivered on or before the submittal deadline, as noted on Page 1 of this IFB, to:

Williamson County Purchasing Department
Attn: Fog Seal Bid #13IFB00110
301 SE Inner Loop, Suite 106
Georgetown, Texas 78626

Williamson County will not accept any Bids received after the submittal deadline, and shall return such Bids unopened to the Bidder.

Williamson County will not accept any responsibility for Bids being delivered by third party carriers.

Bidder should submit one (1) original, two (2) paper copies and one (1) CD copy of the Bid. Bids will be opened publicly in a manner to avoid public disclosure of contents; however, names of Bidders will be read aloud.

Bidders should list the Bid Number on the outside of the box or envelope and note "Sealed Bid Enclosed."

FAILURE BY BIDDER TO INCLUDE ALL LISTED ITEMS MAY, AT THE SOLE DISCRETION OF WILLIAMSON COUNTY, RESULT IN THE REJECTION OF ITS BID.

5. BID SPECIFICATIONS

5.1

General Information

Williamson County is seeking qualified companies to provide materials, experienced fog seal crews and equipment to resurface cul-de-sacs in the North Lake, Twin Springs, Four T Ranch, Woods of Fountainwood, Chaparro Estates, Historic Acres, Reserve at Berry Creek, Brangus Ranch, Serenada East, Serenada West, Serenada Country Estates, Country West, Oakcrest Estates, Greenridge, and Wood Ranch Subdivisions.

Definition of Terms

Asphalt Season: April 1 through September 30.

County: Williamson County acting through the Williamson County Road and Bridge Division.

Contractor: Successful bidder of the attached invitation to bid.

Engineer: Williamson County Director of Road and Bridge, or designee.

Inspector: Employee of Williamson County supplied full time to the contractor's crew for the oversight of the work.

Specifications: Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004.

TxDOT: Texas Department of Transportation

Working Day: Monday through Friday (excluding County approved holidays), if weather permits the performance of the contract (as determined by the inspector) for a continuous period of at least 6 hrs. (excluding lunch) between 9:00 A.M. and 3:00 P.M.

Award and Execution of Contract

All work performed and all products furnished under the provision of the Contract shall comply with requirements which pertain to the various items of work included as *Standard Specification for Construction of Highways, Streets and Bridges* of the Texas Department of Transportation, adopted June 1, 2004, and as amended and/or updated, which is incorporated herein by reference for all purposes. In the event that any specification set out herein conflicts with the said TxDOT specifications, the specification set out herein shall control and govern.

The Contractor will be given written notice to begin work on this project. The fog seal project shall begin within five (5) calendar days after such notification and shall be substantially completed on or before the sixteenth (16th) Working Day from such notification and finally completed on or before the twenty first (21st) Working Day from said notification. This project may be delayed until start of asphalt season.

Contractor shall not begin work prior to the beginning of asphalt season (April 1), except with the approval of the Engineer.

Scope of Work

Work locations are anticipated to be those depicted in **Exhibits #1 and #2**.

Performance and Progress

Contractor shall provide a cul-de-sac by cul-de-sac schedule before any work shall begin.

Contractor shall not apply fog seal to more than 8 cul-de-sacs in one Working Day per crew. The County shall notify abutting property owners two times of upcoming fog seal operations by means of door hangers. The first door hanger will be distributed ten (10) to fourteen (14) calendar days prior to fog seal application, while the second door hanger will be distributed two (2) calendar days prior to fog seal application. Contractor will coordinate daily with the County for a listing of cul-de-sacs that have received advanced notice of fog seal operations (door hangers). Contractor shall not begin fog seal operations on streets in which no advanced notice has been provided to the residents.

Measurement and Payment

County will pay to the Contractor, for the satisfactory performance of the work, a specified unit price for gallons of surface treated. While application rates will be determined in the field, an assumed rate of .16 gal/sy has been used for estimating purposes. This price shall be full compensation for furnishing all labor, equipment, time, materials and incidentals necessary to complete the Work. Surface preparation and cleaning shall be considered a part of the work and will not be measured or paid in addition to the above stated unit price.

Contractor specifically acknowledges that Williamson County will sustain damages for each Working Day beyond the required dates of completion of the fog seal work. Because of the impracticality and extreme difficulty of fixing and ascertaining Williamson County's actual damages, Contractor agrees that two-hundred and No/100 Dollars (\$200.00) per Working Day shall be retained by Williamson County from any amounts due Contractor for every day that Contractor does not complete fog seal work.

Periods of time (i) during which Williamson County suspends the work by written notice to Contractor, or (ii) during which contractor has performed work and is waiting for Williamson County's acceptance, or (iii) during which a delay directly related to delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond Contractor's or Williamson County's reasonable control, shall not be taken into account in computing the amount retained. In the event that work received by Williamson County is found to be incomplete, the period of time from the end of the performance of the work to the receipt of subsequent performance necessary to produce completed work will be taken into account in computing the number of days and the amount retained.

When required by County and as a prerequisite to payment, Contractor shall provide, in a form satisfactory to County, partial lien or claim waivers and affidavits from Contractor and its subcontractors and suppliers for completed work.

General Notes

Prior to commencing fog seal applications, all residences on cul-de-sac shall be informed by the contractor that the application is about to occur and to relocate their vehicles if they anticipate needing to leave their home in the next 3 to 4 hours.

The Contractor shall arrange the fog seal operation in such a manner as to avoid excessive inconvenience to the public.

The Contractor shall not apply a fog seal the day before or the actual day that a street is to receive garbage, recycling or waste collection. Contractor shall research the applicable garbage, recycling or waste collection schedule for each street prior to bidding.

All construction equipment involved in roadway work shall be equipped with a permanently mounted 360 degree revolving or strobe warning light with amber lens. This light shall have a minimum lens height of 5 inches and a diameter of 5 inches. This light shall have a mounting height of not less than 6 feet above the roadway surface and shall be visible from all sides. This equipment shall also have attached at each side of the rear end of the vehicle an approved orange warning flag mounted not less than 6 feet above the roadway surface.

Care shall be exercised to prevent damage to all property in and around the construction zone. The Contractor shall be liable for the repair and restoration of any property damaged as a result of the contractor's prosecution of the work.

This shall include, but is not limited to, re-vegetation of all areas damaged or destroyed by construction. Contractor will be held liable and responsible for such areas until growth is reestablished to the satisfaction of the County.

Ornamental landscape plantings of trees, shrubs and grasses that are damaged or destroyed during construction shall be replaced with plant material of comparable size and quality approved by the County.

Contractor's equipment and vehicles shall not be maintained on-site during construction, except at designated maintenance sites as approved by the Inspector.

The Contractor may be required to trim and remove brush and trees in order to construct the project or to provide a vertical clearance of at least 12 feet. For this operation, the method shall be approved by the Inspector.

Contractor shall provide at least one (1) portable restroom near the work site(s) at all times in order to provide a bathroom to individuals performing work hereunder. Contractor shall monitor and prevent its employees and any of its subcontractors that are providing work on the project from urinating or defecating on property in, on or adjacent to the areas in which work is being performed.

An English-speaking Superintendent shall be available on the project at all times when work is being performed. The Contractor shall provide the Inspector with contact information for the Superintendent.

ITEM 300 – Asphalts, Oils, and Emulsions

For this project, Item 300, "Asphalts, Oils, and Emulsions," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 300.2. Materials, E. Specialty Emulsions. The first sentence is voided and replaced with the following: Specialty emulsions **must contain a minimum of 10% tire rubber content** and also must meet the requirements of Table 11A.

Article 300.2. Materials, E. Specialty Emulsions is supplemented by the following:

**Table 11A
Hard Residue Surface Sealant**

Property	Test Procedure	Min	Max
Viscosity, Krebs unit, 77°F, Krebs units	D 562	45	75
Softening point, °F	T 53 ¹	250	--
Uniformity	D 2939	Pass ²	
Resistance to heat	D 2939	Pass ³	
Resistance to water	D 2939	Pass ⁴	
Wet flow, mm	D 2939	--	0
Resistance to Kerosene (optional) ⁵	D 2939	Pass ⁶	
Ultraviolet exposure, UVA-340, 0.77 W/m ² , 50°C chamber, 8 hours UV lamp, 5 min spray, 3 hours 55 minutes condensation, 1000 hr total exposure	G 154	Pass ⁸	
Abrasion loss, 1.6 mm thickness, liquid only, %	ISSA TB-100	--	1.0
Residue by evaporation, % by weight	D 2939	33	--
Tests on residue from evaporation:			
Penetration, 77°F, 100 g, 5 sec.	T 49	15	30
Flash point, Cleveland open cup, °F	T 48	500	
Tests on base asphalt before emulsification			
Solubility in trichloroethylene, %	T 44	98	--

1. Cure the emulsion in the softening point ring in a 200°F ± 5°F oven for 2 hr.

2. Product shall be homogenous and show no separation or coagulation that cannot be overcome by moderate

stirring.

3. No sagging or slippage of film beyond the initial reference line.
4. No blistering or re-emulsification.
5. Recommended for airport applications or where fuel resistance is desired.
6. No absorption of Kerosene into the clay tile past the sealer film. Note sealer surface condition and loss of adhesion.
7. Other exposure cycles with similar levels of irradiation and conditions may be used with Department approval.
8. No cracking, chipping, surface distortion, or loss of adhesion. No color fading or lightening.

ITEM 315 – Fog Seal

315.1. Description. Apply an emulsified asphalt and water mixture as an aggregate loss preventative or surface seal.

315.2. Materials. Use emulsified asphalt of the type and grade shown on the plans that meet the requirements of Item 300, "Asphalts, Oils, and Emulsions." Provide water free of industrial wastes and other objectionable matter.

Use a quantity of emulsified asphalt in the mixture, expressed as a percentage of total volume, which meets the percentage shown on the plans or directed. While application rates will be determined in the field, an assumed rate of 0.16 gallons per square yard has been used for estimating purposes.

315.3. Equipment. Provide applicable equipment in accordance with Article 316.3, "Equipment." Furnish the necessary facilities and equipment for determining the temperature of the mixture, regulating the application rate, and securing uniformity at the junction of 2 distributor loads.

315.4. Construction. Remove or protect existing raised pavement markers. Repair any damage incurred by removal as directed. Remove dirt, dust, or other harmful material before sealing. This will be considered subsidiary to the item 315.

Apply the mixture when the air temperature is 60°F and above, or above 50°F and rising. Measure the air temperature in the shade away from artificial heat. The Engineer will determine when weather conditions are suitable for application.

The Engineer will select the application temperature within the limits recommended in Item 300, "Asphalts, Oils, and Emulsions." Apply the material within 15°F of the selected temperature.

Adjust the shot width so operations do not encroach on traffic.

Use paper or other approved material at beginning and end of each shot to construct a straight transverse joint and prevent overlapping applied material.

Use sufficient pressure to flare the nozzles fully.

Distribute material at the rate shown on the plans or as directed. While application rates will be determined in the field, an assumed rate of 0.16 gallons per square yard has been used for estimating purposes.

Do not apply asphalt to the roadway until traffic control methods and devices are in place as shown on the plans or as directed. Do not open the treated surface to traffic until directed by the Engineer. When an excessive quantity of asphalt is applied, furnish and uniformly distribute clean, fine sand on the surface to blot the excess. Maintain ingress and egress as directed by applying sand to freshly sealed areas.

315.5. Measurement. This Item will be measured by the gallon of specialty emulsified asphalt used in the specialty emulsified asphalt and water mixture.

315.6. Payment. The work performed and the materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Fog Seal" of the type and grade specified. This price is full compensation for materials, equipment, labor, tools, and incidentals. Blotter sand will not be paid for directly but will be subsidiary to this Item.

ITEM 316 – Surface Treatments

316.3. Equipment.

A. Distributor. Furnish a distributor that will apply the asphalt material uniformly at the specified rate or as directed. Stop application if asphalt application is not uniform due to streaking, ridging, formation of excess asphalt, or inability of asphalt to remain at applied location. Verify equipment condition, operating procedures, application temperature, and material properties. Determine and correct the cause for non-uniform application. If the cause is high or low viscosity of the emulsion, no further asphalt application will occur until material meeting the contract specifications is provided.

The Engineer may stop asphalt application and require test strips at the Contractor's expense if any of the following occurs: 1) non-uniformity continues after corrective action, 2) on three consecutive shots, application rate differs by more than 0.02 gallons per square yard from the desired rate, or 3) any shot differs by more than 0.04 gallons per square yard from the desired rate.

1. Transverse Variance Rate. When a transverse variance rate is shown on the plans, ensure that the nozzles outside the wheel paths will output a predetermined percentage more of asphalt material by volume than the nozzles over the wheel paths.

2. Calibration.

a. Transverse Distribution. Furnish a distributor test report, no more than 1 yr. old, documenting that the variation in output for individual nozzles of the same size does not exceed 10% when tested at the greatest shot width in accordance with Tex-922-K, Part III.

Include the following documentation on the test report:

- the serial number of the distributor,
- a method that identifies the actual nozzle set used in the test, and
- the fan width of the nozzle set at a 12-in. bar height.

When a transverse variance rate is required, perform the test using the type and grade of asphalt material to be used on the project. The Engineer may verify the transverse rate and distribution at any time. If verification does not meet the requirements, correct deficiencies and furnish a new test report.

b. Tank Volume. Furnish a volumetric calibration and strap stick for the distributor tank in accordance with Tex-922-K, Part I.

Calibrate the distributor within the previous 5 yr. of the date first used on the project. The Engineer may verify calibration accuracy in accordance with Tex-922-K, Part II.

3. Computerized Distributor. When paying for asphalt material by weight, the Engineer may allow use of the computerized distributor display to verify application rates. Verify application rate accuracy at a frequency acceptable to the Engineer.

ITEM 502 Barricades, Signs, and Traffic Handling

Contractor shall provide all traffic control measures to prosecute the work.

The driveway(s) for each residence in the cul-de-sac shall have cones or TY III barricades placed to remind residents of the fog seal work.

Contractor shall assign at least one competent employee to each cul-de-sac that has received a fog seal application but has not yet been opened to traffic. This employee will ensure that traffic does not drive on the non-cured fog seal.

Traffic Control Suitable methods shall be used by the Contractor to protect the fog seal from all types of vehicular traffic without damage. Opening to traffic does not constitute acceptance of the Work. The Engineer shall be notified of the methods to be used.

In areas which are subject to an increased rate of sharp turning vehicles, additional time may be required for a more complete cure of the fog seal mat to prevent damage. Slight tire marks may be evident in these

areas after opening but will diminish over time with rolling traffic. If these areas are not severely rutted they should be considered as normal characteristics of a fog seal and should be accepted.

The Contractor will be required to maintain a minimum of one through lane in each direction during daylight hours, on all roadways, except with the written approval by the Inspector. Two Lane roadways shall use single lane traffic control, which will require the use of flagmen. This shall not be paid for directly, but shall be considered subsidiary to bid Item emulsified fog seal.

Flaggers must comply with all requirements outlined in TxDOT Specification Item 502.2B
Limiting access to all side streets and driveways shall be minimized to the extent possible.
The Contractor's crew leader shall be a competent person who will be responsible and available on the project site or in the immediate area to insure compliance with the TCP.

6. CONTRACT ADMINISTRATION

J. Terron Evertson, P.E. (or successor), Director of Road and Bridge, Williamson County 3151 South East Inner Loop, Suite B, Georgetown, Texas, tevertson@wilco.org shall serve as Williamson County's Contract Administrator with designated responsibility to ensure compliance with the requirements of the Contract and any ensuing Agreement, such as but not limited to, acceptance, inspection and delivery. The Contract Administrator will serve as liaison between the Williamson County Commissioners Court and the Successful Bidder.

**FOG SEAL FOR WILLIAMSON COUNTY ROAD AND BRIDGE
BID # 13IFB00110**

BID SUBMITTAL CHECKLIST

**PLEASE READ, COMPLETE AND RETURN THIS
“BID SUBMITTAL CHECKLIST” WITH YOUR BID.**

The Bidder’s attention is especially called to the items listed below (return pages marked with red border), which should be submitted in full as part of Bidder’s Bid.

Failure to submit any of the documents listed below as a part of your Bid, or failure to acknowledge any addendum in writing with your Bid, or submitting a Bid on any condition, limitation, or provision not officially invited in this IFB may serve, at Williamson County’s sole discretion, as cause for rejection of the Bid. The County reserves the right to request that any Bidder clarify its Bid or to supply any additional material deemed necessary to assist in the evaluation of the Bid.

Bidder should check each box below indicating compliance.

- Transmittal Letter
- Price Sheet form (Appendix A)
- References: Identification of three (3) entities for which the Bidder is providing or has provided product/services of the type requested, including the name, position, and telephone number of a contact person at each entity (Appendix B)
- Conflict of Interest Questionnaire (Appendix C)
- Bid Affidavit (Appendix D)
- Signature Page (Appendix E)
- If Bidder is operating under an assumed business name, a file marked copy of the Assumed Name Certificate that has been filed with the Williamson County Clerk.
- One (1) original, two (2) paper copies and one (1) CD copy of the Bid should be mailed to or delivered on or before the Bid submittal deadline, to the Williamson County Purchasing Department, 301 SE Inner Loop, Suite 106, Georgetown, TX 78626.

Company

Telephone Number

Address

Fax Number

Authorized Representative (Please print)

Title

Authorized Signature

Date

BIDDER MUST RETURN THIS PAGE WITH ITS BID

APPENDIX A PRICE SHEET

THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

The undersigned Bidder, having become familiar with this IFB agrees to furnish the goods and/or services in accordance with this IFB.

ITEM #	DESCRIPTION	UNIT	ESTIMATED QUANTITIES	UNIT PRICE	COST
315	FOG SEAL (TRMSS)	GAL	19,650		
500	MOBILIZATION	LS	1		
502	BARRICADES, SIGNS & TRAFFIC HANDLING	MO	1		
	PROJECT TOTAL				

This pricing is guaranteed for one hundred and eighty (180) days starting from the date of the award of this Contract.

APPENDIX A PRICE SHEET - CONTINUED

THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

Cooperative Purchasing Program

Check one of the following options below. A non-affirmative Bid will in no way have a negative impact on the County's evaluation of the Bid.

I will offer the quoted prices to all authorized entities during the term of the County's contract.

I will not offer the quoted prices to all authorized entities.

If no box is checked Bidder agrees to offer the quoted prices to all authorized entities.

The undersigned hereby certifies that he or she has read the terms of this IFB and understands that Williamson County reserves the right to waive any informality in or to reject any or all Bids.

Bidder

Name: _____

Address: _____

Telephone: _____ Fax: _____

Contact Name (please print): _____

Authorized Signature: _____

Title or Representative Capacity of Signer:

State of Incorporation/Organization or Primary Place of Business: _____

APPENDIX B
BIDDER REFERENCES
THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

Please list at least three (3) companies or governmental agencies where the same or similar goods and/or services as contained in this IFB package that were recently provided by Bidder.

REFERENCE ONE

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

REFERENCE TWO

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

REFERENCE THREE

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

APPENDIX C
CONFLICT OF INTEREST QUESTIONNAIRE
THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

For Bidder or other person doing business with local government entity	
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.</p> <p>By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006 Local Government Code.</p> <p>A person commits an offense if the person violates Section 176.0006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>	OFFICE USE ONLY
1. Name of person doing business with local governmental entity.	
<p>2. <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p style="margin-left: 40px;">(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>	
3. Describe each affiliation or business relationship with an employee or contractor of the local government entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.	
4. Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.	

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ
Page 2

For Bidder or other person doing business with local government entity

5. Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?
 Yes No
- B. Is the filer of the questionnaire receive or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local government entity?
 Yes No
- C. Is the filer of the questionnaire affiliated with a Corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?
 Yes No
- D. Describe each affiliation or business relationship:

6. Describe any other affiliation or business relationship that might cause a conflict of interest.

7. Bidder
Name: _____
- Authorized Signature: _____
- Title or Representative Capacity of Signer: _____
- Date: _____, 20____

BIDDER MUST RETURN THIS APPENDIX COMPLETED WITH ITS BID

APPENDIX D
BID AFFIDAVIT/ACKNOWLEDGMENT OF ADDENDA
THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

ACKNOWLEDGMENT OF ADDENDA

BIDDER HEREBY ACKNOWLEDGES RECEIPT OF ALL ADDENDA THROUGH AND INCLUDING:

ADDENDUM # _____ ADDENDUM # _____ ADDENDUM # _____ ADDENDUM # _____

ADDENDUM# _____ ADDENDUM # _____ ADDENDUM # _____ ADDENDUM # _____

The undersigned certifies that the IFB and the Bidder's Bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all goods and/or services upon which prices are extended at the price Bid, and upon the conditions contained in the IFB.

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, a Notary Public in and for the State of _____, on this

day personally appeared _____ (*Name of Signer*), who after being by me duly sworn, did depose and say:

"I, _____ (*Name of Signer*) am a duly authorized officer of/agent for _____ (*Name of Bidder*) and have been duly authorized to execute the foregoing on behalf of the said _____ (*Name of Bidder*).

I hereby certify that the foregoing Bid has not been prepared in collusion with any other Bidder or other person or persons engaged in the same line of business prior to the official opening of this Bid. Further, I certify that the Bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination, to control the price of services/commodities Bid on, or to influence any person or persons to submit a Bid or not to submit a Bid thereon."

Name and Address of Bidder:

Fax: _____ Telephone#: _____

By: _____ Printed Name: _____

Title: _____

SUBSCRIBED AND SWORN to before me by the above-named _____ on

this the _____ day of _____, 20_____.

Notary Public in and for
the State of _____

APPENDIX E
SIGNATURE PAGE
THIS FORM MUST BE COMPLETED, SIGNED, AND RETURNED WITH BID

This Bid shall remain in effect for ninety (90) calendar days from Bid opening and shall be exclusive of federal excise and state and local sales tax (exempt). **Add possible delay until April language here.**

The Bidder agrees, if this Bid is accepted, to furnish any and all items upon which prices are offered, at the price and in accordance with the Specifications, Terms and Conditions contained in the IFB, and all other items made a part of this IFB.

The undersigned affirms that he or she is duly authorized to execute this Bid and that by executing this Bid, Bidder understands, acknowledges and agrees that the Bidder's Bid, when properly accepted by the Williamson County Commissioners Court, shall constitute a contract equally binding between the Successful Bidder and Williamson County upon Contract Award. Bidder represents to Williamson County that Bidder has not prepared this Bid in collusion with any other Bidder, and that the contents of this Bid as to prices, terms or conditions have not been communicated by the undersigned nor by any employee or agent to any other Bidder or to any other person(s) engaged in this type of business prior to the official opening of this Bid. And further, that neither the Bidder nor their employees nor agents have been for the past six (6) months directly nor indirectly concerned in any pool or agreement or combination to control the price of goods or services on, nor to influence any person to submit a Bid or not to submit a Bid thereon.

Bidder (Entity Name)

Signature

Street & Mailing Address

Print Name

City, State & Zip

Date Signed

Telephone Number

Fax Number

E-mail Address

Williamson County Inner Loop Annex

Address:

**301 SE Inner Loop
Georgetown, TX 78626**

Directions:

From South (Austin, Round Rock)

Take IH-35 Northbound
Exit 259

Stay on frontage road for approximately 2 miles

At stop sign, go right on Inner Loop

Just past Snead Drive, the Inner Loop Annex is on the left

Main entrance is on the side of the building by the flagpoles

From North (Georgetown, Jarrell)

Take IH-35 Southbound

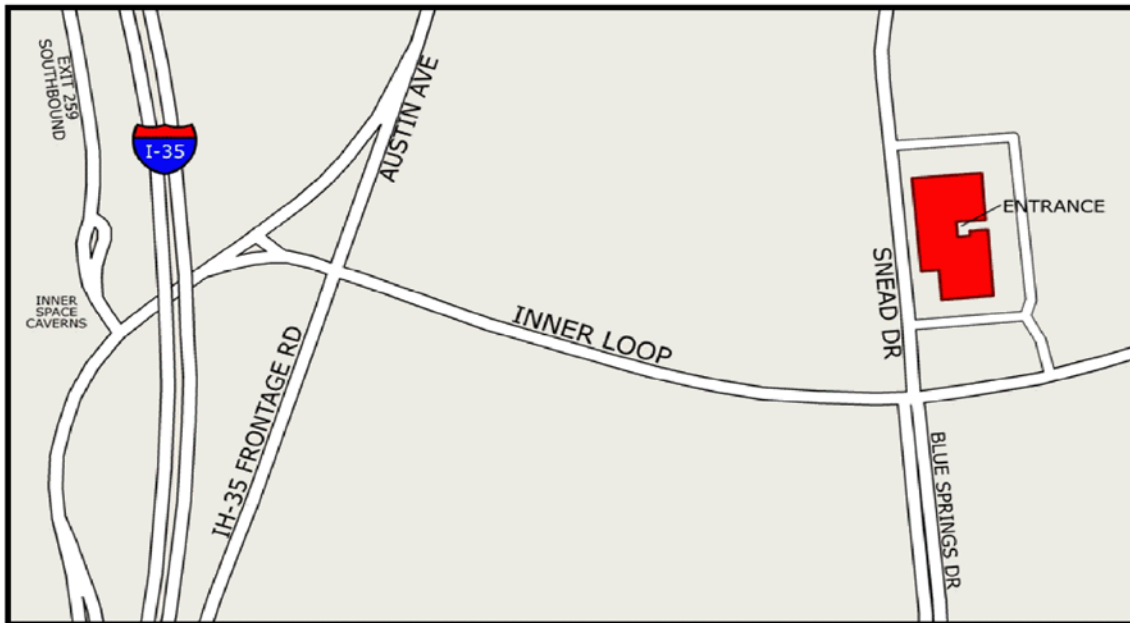
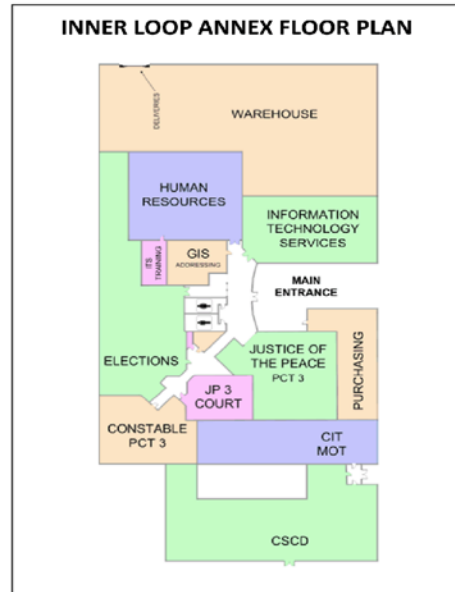
Exit 259

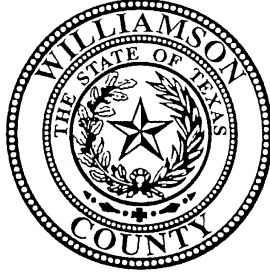
At stop sign, go left under the overpass

At stop stay straight onto Inner Loop

Just past Snead Drive, the Inner Loop Annex is on the left

Main entrance is on the side of the building by the flagpoles





AGREEMENT FOR FOG SEAL CONSTRUCTION SERVICES

This Agreement for Fog Seal Construction Services (“Agreement”) between Williamson County, Texas, a political subdivision of the State of Texas (“County”) and _____, (“Contractor”) is entered into in accordance with the following terms and conditions:

ARTICLE 1 SCOPE OF WORK: The County desires to retain Contractor to provide the construction services described herein. The Contractor shall have the overall responsibility for and shall provide complete construction services and furnish all materials, equipment, tools and labor as necessary or reasonably inferable to complete the following described construction services, or any phase of such services, in accordance with the County’s requirements and the terms of this Agreement (hereinafter collectively referred to as the “Work”):

Fog Seal to the locations set forth and described in Exhibit 1 and 2, which is incorporated herein by reference for all purposes.

ARTICLE 2 CONTRACT PRICE: County agrees to pay to the Contractor, for the satisfactory performance of the Work, \$ _____ per _____. This price shall be full compensation for furnishing all labor, equipment, time, materials and incidentals necessary to complete the Work. Surface preparation and cleaning shall be considered a part of the Work and will not be measured or paid in addition to the above stated unit price. Pricing will remain firm for a period of one hundred and eighty (180) from the date this Agreement is executed by the last party.

ARTICLE 3 PLANS AND SPECIFICATIONS: The Work shall be performed pursuant to and in accordance with the Plans and Specifications, as well as any revisions made thereto, which are attached hereto as **Exhibit-3**, which is incorporated herein by reference for all purposes.

ARTICLE 4 SUBSTANTIAL AND FINAL COMPLETION:

4.1 Commencement of Work. Contractor shall commence the Work within Five (5) calendar days from the date of County's instruction to commence the Work and construction shall be deemed to have commenced on such date.

4.2 Substantial Completion. "Substantial Completion" means the stage in the progress of the Work when the Work may still require minor modifications or adjustments but, in the County's opinion, the Work has progressed to the point such that all parts of the Work under consideration are fully operational and usable for intended purposes, as evidenced by a Certificate of Substantial Completion approved by the County. When the Contractor considers that the Work, or a portion thereof which the County agrees to accept separately, is substantially complete, the Contractor shall notify the Engineer, who is set forth and identified on the signature page herein below, and request a determination as to whether the Work or designated portion thereof is substantially complete. If the Engineer does not consider the Work substantially complete, the Engineer will notify the Contractor giving reasons therefore. Failure on the County's part to list a reason does not alter the responsibility of the Contractor to complete all Work in accordance with the terms of this Agreement.

After satisfactorily completing items identified by the Engineer, the Contractor shall then submit another request for the Engineer to determine Substantial Completion. If the Engineer considers the Work substantially complete, the Engineer will prepare and deliver a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall include a Final Punch-list of items to be completed or corrected before Final Completion and final payment, shall establish the time within which the Contractor shall finish the Work, and shall establish responsibilities of the County and the Contractor for maintenance and damage to the Work, warranty and insurance. Failure to include an item on the Final Punchlist does not alter the responsibility of the Contractor to complete all Work in accordance with the terms and conditions of this Agreement. The Certificate of Substantial Completion shall be signed by the County and the Contractor to evidence acceptance of the responsibilities assigned to them in such certificate.

Substantial Completion, as defined in this Agreement, for all stages of the Work shall be achieved on or before the following Substantial Completion date:

THE SIXTEENTH (16TH) WORKING DAY FROM THE DATE OF CONTRACTOR RECEIVING COUNTY'S INSTRUCTION TO COMMENCE THE WORK.

Under no circumstances will the time for Substantial Completion exceed this date without a written amendment to this Agreement. **THE TIMES SET FORTH IN THIS AGREEMENT ARE AN ESSENTIAL ELEMENT OF THE AGREEMENT. TIME LIMITS STATED IN THIS AGREEMENT ARE OF THE ESSENCE OF THIS AGREEMENT.**

4.3 Final Inspection, Final Completion and Final Payment. When the Contractor has completed the Final Punchlist, Contractor shall give written notice to the Engineer that the Work will be ready for Final Inspection on a date certain. This notice shall be accompanied by a copy of the Contractor's updated punch list indicating resolution of all items.

The Contractor shall correct or complete all items on the Final Punchlist before acceptance and Final Payment. If on the basis of the Final Inspection, the Engineer determines that the Work is not complete, or that the Work required by the Final Punchlist had not been performed, the

Engineer shall give the Contractor written notice thereof, and shall inform the Contractor what Work was found to be incomplete, out of compliance with the Agreement or defective in operation or workmanship, and setting a time in which incomplete or defective work is to be completed. The Contractor shall complete or correct all Work so designated prior to requesting an additional Final Inspection.

When the Final Punchlist has been completed, and the Work is fully performed and is acceptable to the County, the Engineer shall issue a certificate fixing the date of Final Completion. Final Completion of all work shall be a condition precedent to the Contractor's right to receive final payment.

The Final Inspection by the Engineer is for the purpose of determining the completion of the Work, and does not relieve the Contractor of its overall responsibility for completing the Work in a good and workmanlike fashion, in compliance with this Agreement. Failure of the County and/or Engineer to identify Work that is not in compliance with this Agreement, or which is defective in operation or workmanship, or acceptance of the Work with punchlist items left incomplete, does not constitute a waiver of such a defector of the County's rights under this Agreement or relieve the Contractor of its warranties contained herein.

Unless otherwise specified herein, or otherwise agreed in writing by the parties, the Contractor shall attain Final Completion within twenty-one (21) Working Days from the date of Contractor receiving County's initial instruction to commence the Work.

4.4 Abandonment by Contractor. In the event that Contractor fails to attain Final Completion on or before the expiration of the above said time period, the Contractor shall be subject to the remedies set forth herein below. In addition to exercising its rights and remedies hereunder, the County may also exercise any remedy that may be available to it under the law or in equity.

In case the Contractor should abandon and fail or refuse to resume work within ten (10) calendar days after written notification from either the County or the Engineer, or if the Contractor fails to comply with the orders of the Engineer when such orders are consistent with the terms of this Agreement, then and in such case where performance bonds exist, the appropriate sureties on these bonds shall be provided with a notice of abandonment and notice for completion whereby (i) the sureties are notified of the Contractor's abandonment or Contractor's failure or refusal to resume work; and (ii) the sureties are directed to complete the Work. A copy of the notice of abandonment and notice for completion shall be delivered to the Contractor. After receiving a copy of the above described notice of abandonment and notice for completion, the Contractor shall not remove any machinery, equipment, tools, materials or supplies that then currently exist on the project site, but the same, together with any materials and equipment under contract for the Work, may be held for use on the project by the County or the surety on the performance bond, or another contractor in completion of the Work; and the Contractor shall not receive any rental or credit therefor, it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the Work and be reflected in the final settlement.

Where there is no performance bond provided or in case the surety should fail to commence compliance within ten (10) calendar days after service of the herein above provided notice of abandonment and notice for completion, then the County may provide for completion of the Work in either of the following elective manners:

(A) The County may thereupon employ such force of men and use such machinery, equipment, tools, materials and supplies as the County may deem necessary to complete the Work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to the Contractor, and expense so charged shall be deducted and paid by the County out of such monies as may be due, or that may thereafter at any time become due to the Contractor under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this Agreement if the same had been completed by the Contractor, then the Contractor shall receive the difference. In case such expense is greater than the sum which would have been payable under this Agreement if the same had been completed by the Contractor, then the Contractor and/or its surety shall pay the amount of such excess to the County; or

(B) The County, under sealed bids and in accordance with the law, may let a contract for the completion of the Work under substantially the same terms and conditions which are provided in this Agreement. In case there is any increase in cost to the County under the new contract as compared to what would have been the cost under this Agreement, such increase shall be charged to the Contractor and the surety shall be and remain bound therefor. However, should the cost to complete any such contract prove to be less than what would have been the cost to complete under this Agreement, the Contractor and/or its surety shall be credited therewith.

When the Work shall have reached Final Completion, the Contractor and its surety shall be so notified and Certificates of Final Completion, shall be issued. A complete itemized statement of the contract accounts, certified by the Engineer as being correct, shall then be prepared and delivered to the Contractor and its surety, whereupon the Contractor and/or its surety, or the County as the case may be, shall pay the balance due as reflected by said statement within fifteen (15) calendar days after the date of such Certificate of Final Completion.

In the event the statement of accounts shows that the cost to complete the Work is less than that which would have been the cost to the County had the Work been completed by the Contractor under the terms of this Agreement, or when the Contractor and/or its surety shall pay the balance shown to be due by them to the County, then all machinery, equipment, tools, materials or supplies left on the site of the project shall be turned over to the Contractor and/or its surety.

Should the cost to complete the Work exceed the amount the County would have been obligated to pay the Contractor had the Work been completed by the Contractor under the terms of this Agreement, and should the Contractor and/or its surety fail to pay the amount due the County within the time designated hereinabove, and should there remain any machinery, equipment, tools, materials or supplies on the site of the Project, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor and its surety at the respective addresses designated in this Agreement. After properly tendering such notice, such property shall be held at the risk of the Contractor and its surety subject only to the duty of the County to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, the County may sell such machinery, equipment, tools, materials or supplies and apply the net sum derived from such sale to the credit of the Contractor and its surety. Such sale may be made at either public or private sale, with or without notice, as the County may elect. The County shall release, to their proper owners, any machinery, equipment, tools, materials, or supplies, which remain on the project and which belong to persons other than the Contractor or its surety. The books on all operations provided herein shall be opened to the Contractor and its surety.

4.5 Liquidated Damages. For each consecutive Working Day after the date of Substantial Completion that the Work is not Substantially Complete, the County may deduct the amount of Two Hundred Dollars per Working Day (\$200.00/Working Day) from any money due or that becomes due the Contractor, not as a penalty but as liquidated damages representing the parties' estimate at the time of contract execution of the damages that the County will sustain for late completion. The parties stipulate and agree that calculating County's actual damages for late completion of the Work would be impractical, unduly burdensome, and cause unnecessary delay and that the amount of daily liquidated damages set forth is reasonable.

Periods of time (i) during which County suspends the Work by written notice to Contractor, or (ii) during which Contractor has performed work and is waiting for County's acceptance, or (iii) during which a delay directly related to delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond Contractor's or County's reasonable control, shall not be taken into account in computing the amount retained. In the event that Work received by County is found to be incomplete, the period of time from the end of the performance of the Work to the receipt of subsequent performance necessary to produce completed Work will be taken into account in computing the number of days and the amount retained.

4.6 Working Day. For purposes of this Agreement, "Working Day" shall mean Monday through Friday, excluding County approved holidays for a continuous period of at least 13 hours between 8:00 A.M. to 9:00 P.M, if weather permits (as determined by the Engineer). Weekend work is permitted upon approval by the Engineer.

ARTICLE 5 PAYMENT: On or about the 25th calendar day of each month, Contractor shall submit invoices to the Engineer, in duplicate, indicating the Work performed during the month and the charges therefor. Each invoice shall be provided with sufficient detail and substantiation documentation as the County may reasonably request to evaluate charges contained therein. Within thirty (30) calendar days after receipt of an invoice, the County shall then pay the Contractor the total amount of the approved invoice, less ten percent (10%) of the amount thereof, which ten percent (10%) shall be retained until final payment and Final Completion, and further less all previous payments and all further sums that may be retained by the County under the terms of this Agreement. However, if County objects to all or any portion of any invoice, it shall notify Contractor within ten (10) calendar days from the date of receipt of invoice of its objection and both parties shall immediately make every effort to settle the disputed portion of the invoice prior to the date that payment is due. In the event the settlement of a disputed portion of an invoice is not reached by the date that payment is due, County will pay only that portion that is not in dispute, less ten percent (10%) of the amount thereof, which ten percent (10%) shall be retained until final payment and Final Completion, and further less all previous payments and all further sums that may be retained by the County under the terms of this Agreement.

When required by County and as a prerequisite to payment, Contractor shall provide, in a form satisfactory to County, partial lien or claim waivers and affidavits from Contractor and its subcontractors and suppliers for completed Work.

ARTICLE 6 CONTRACTOR'S GENERAL RESPONSIBILITIES AND COVENANTS:

6.1 Contractor shall perform all services specifically allocated to it hereunder, as well as those services reasonably inferable and necessary for completion of the Work. The Contractor

shall keep the County informed of the progress and quality of the Work. Contractor agrees and acknowledges that County is entering into this Agreement in reliance on Contractor's represented expertise and ability to provide the Work described in this Agreement. Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations in accordance with the highest standards used in the profession and to further the interests of County in accordance with County's requirements and procedures. Contractor's duties as set forth herein shall at no time be in any way diminished by reason of any approval by the County nor shall the Contractor be released from any liability by reason of such approval by the County, it being understood that the County at all times is ultimately relying upon the Contractor's skill and knowledge in performing the services required hereunder.

6.2 Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The safety program shall comply with all applicable requirements of the current federal Occupational Safety and Health Act and all other applicable federal, state and local laws and regulations.

6.3 Contractor shall be an independent contractor under this Agreement and shall assume all of the rights, obligations, liabilities, applicable to it as such independent contractor hereunder and any provisions in this agreement which may appear to give County the right to direct Contractor as to details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of County in the results of the Work only. County shall not retain or have the right to control the Contractor's means, methods or details pertaining to the Contractor's performance of the Work described herein, nor shall County have the power to direct the order in which Contractor's Work is performed under this agreement. County and Contractor hereby agree and declare that Contractor is an Independent Contractor and as such meets the qualifications of an Independent Contractor under Texas Worker's Compensation Act, Texas Labor Code, Section 406.141, that the Contractor is not an employee of County for purposes of this Agreement, and that the Contractor and its employees, agents and sub-subcontractors shall not be entitled to worker's compensation coverage or any other type of insurance coverage held by County.

6.4 As part of Contractor's obligation to coordinate the Work, Contractor shall:

- a. cooperate with the Engineer and County's Inspector(s) and endeavor to further the interests of the County and the Work;
- b. provide an on-site, full-time superintendent for the duration of the Work that can fluently speak English;
- c. visit the work location and inspect the existing facilities, systems and conditions to insure an accurate understanding of the existing conditions as required;
- d. five (5) calendar days prior to beginning Work on each roadway entering and exiting an intersection, Contractor shall notify residents, via Message Board, that Work will be performed on such roadway entering and exiting the intersection,. Verbiage for message boards shall be supplied by the County;
- e. at County's request, attend public meetings and hearings concerning the development of the Work;
- f. review all drawings, specifications, and other plans as they are developed by the County and/or its Engineer and advise County of any error, inconsistency or omission discovered in the drawings, specifications, and other plans;
- g. review the drawings, specifications, and other plans for compliance with all applicable laws and code requirements;
- h. advise County of any tests that should be performed;

- i. organize and maintain a competent, full-time staff at the Work site with clearly defined lines of authority and communication as necessary to coordinate construction activities, monitor and direct progress of the Work;
- j. at the written request of the Engineer, immediately remove from the Work location any employee or representative of the Contractor or a subcontractor who, in the opinion of the Engineer, does not perform Work in a proper and skillful manner or who is disrespectful, intemperate, disorderly, uncooperative, or otherwise objectionable. In this event, Contractor shall not reinstate such removed individuals without the written consent of the Engineer. The Engineer may suspend the Work without suspending Working Day charges until the Contractor complies with requests hereunder;
- k. attend County's regularly scheduled Work progress meetings, if applicable, and fully advise the Engineer of the Work status including schedule, costs, quality and changes; and
- l. shall coordinate, monitor and inspect the Work of subcontractors to ensure conformance with the drawings, specifications, other plans and with the terms of this Agreement.

6.5 Contractor shall identify every subcontractor it intends to use for the Work to the County in writing at least ten (10) calendar days before entering into any subcontract. Contractor shall not use any subcontractor to which County has a reasonable objection. Following County's acceptance of a subcontractor, that subcontractor shall not be changed without County's written consent, which shall not be unreasonably withheld.

6.6 Contractor's designated representative, which is set forth below Contractor's signature herein below, shall be responsible for the day-to-day management of the Work on behalf of Contractor. The designated representative shall be the County's primary contact during the Work and shall be available as required for the benefit of the Work and the County. The contractor's designated representative shall be authorized to act on behalf of and bind the Contractor in all matters related to the Work including, but not limited to, execution of Change Orders.

6.7 NO ALTERATIONS OR CHANGES SHALL BE MADE, HOWEVER, EXCEPT UPON THE WRITTEN ORDER OF THE COUNTY, OR THE ENGINEER.

6.8 Contractor shall promptly correct any defective Work at Contractor's sole expense, unless the County specifically agrees, in writing, to accept the Work.

COMMISSIONING AND WARRANTY RESPONSIBILITIES

6.9 Contractor hereby warrants that the materials and equipment provided for the Work will be of good quality and new unless otherwise required or permitted by the County; that the construction will be free from faults and defects; and that the construction will conform with the requirements of the plans, specifications, drawings and the terms of this Agreement.

6.10 Contractor shall provide warranty services for the Work for a full Twelve (12) months following Final Completion.

ARTICLE 7 COUNTY'S RESPONSIBILITIES

7.1 The County shall:

- a. identify a person as its Engineer who is authorized to act in the County's behalf with respect to the Work. The Engineer shall examine the documents submitted by the Contractor and shall render decisions on behalf of the County to the extent allowed by Texas law;
- b. supply an Inspector to the Contractor's crew for the oversight of the Work. Should the Work, as well as the geographical location, allow, the County may supply one Inspector for multiple crews;
- c. furnish required information and services and shall render approvals and decisions as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Contractor's services and of the Work;
- d. shall have the right to reject any defective Work. Should Contractor refuse or neglect to correct any such Work within a reasonable time after notice, County may have the Work corrected and recover all expenses incurred from Contractor on demand; and
- e. County shall furnish to the Contractor a sufficient number of plans, drawings and specifications sets.

ARTICLE 8 INSURANCE AND INDEMNITY

8.1 Insurance. The Contractor shall carry insurance in the types and amounts indicated below for the duration of the Agreement, which shall include items owned by County in the care, custody and control of Contractor prior to and during the Work. Contractor must also complete and file the declaration pages from the insurance policies with County whenever a previously identified policy period expires during the term of the Agreement, as proof of continuing coverage. Contractor shall update all expired policies prior to submission of any payment requests hereunder. Failure to update policies shall be reason for payment to be withheld until evidence for renewal is provided to the County.

10.4.1 The Contractor shall provide and maintain, until the Work covered in this Agreement is completed and accepted by the County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to County.

The following coverage limits shall be required at a minimum:

A. Worker's Compensation Statutory – Texas Law

B. Employer's Liability:

Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit

C. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability	\$1,000,000	\$1,000,000

Aggregate policy limits: \$1,000,000

D. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE
Bodily injury (including death)	\$1,000,000	\$1,000,000
Property damage	\$1,000,000	\$1,000,000
Aggregate policy limits:	No aggregate limit	

E. Umbrella Coverage: \$1,000,000

The deductible for an insurance policy required hereunder shall not exceed \$100,000. **Williamson County shall be named as an additional insured under any policy of insurance required hereunder.**

8.1.2 The above insurance requirements are not intended to be compounded with the Contractor's standing insurance policies. If the Contractor already has in force insurance policies which provide the required coverage, there is no need to purchase duplicate coverage for this project.

8.1.3 Policies must include the following clauses, as applicable:

- a. "This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) calendar days prior written notice, or ten (10) calendar days for non-payment of premium, has been given to Williamson County."
- b. "It is agreed that the Contractor's insurance shall be deemed primary with respect to any insurance or self insurance carried by Williamson County for liability arising out of operations under the Agreement with Williamson County."
- c. "Williamson County, its officials, directors, employees, representatives, and volunteers are added as additional insured as respects operations and activities of, or on behalf of the named insured performed under Agreement with the County." This is not applicable to the workers' compensation policy.
- d. "The workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of Williamson County."

8.1.4 Workers' Compensation Insurance Coverage: In the event that Contractor employs any individual to perform any portion of the Work, Contractor shall comply with Texas Labor Code, §406.096, which requires workers' compensation insurance coverage for all employees providing services on a construction project for a governmental entity.

a. Definitions:

- (1) Certificate of Coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or

TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the Duration of the Work.

(2) Duration of the Work - includes the time from the beginning of the Work until the Work has been completed and accepted by the County.

(3) Coverage – Workers' compensation insurance meeting the statutory requirements of the Texas Labor Code, §401.011(44).

(4) Persons providing services relating to the Work ("subcontractor") - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform the Work, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services in relation to the Work. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the Work, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Contractor shall provide Coverage, based on proper reporting of classification codes and payroll amounts and filing of any Coverage agreements, which meets the statutory requirements of Texas labor Code, §401.011(44) for all employees of the Contractor providing services in relation to the Work, for the Duration of the Work.
- c. The Contractor must provide a Certificate of Coverage to the County prior to or contemporaneously with the execution of this Agreement.
- d. If the Coverage period shown on the Contractor's current Certificate of Coverage ends during the Duration of the Work, the Contractor must, prior to the end of the Coverage period, file a new Certificate of Coverage with the County showing that Coverage has been extended.
- e. The Contractor shall obtain from each person providing services in relation to the Work, and provide to the County:
 - (1) a Certificate of Coverage, prior to that person beginning any of the Work, so the County will have on file Certificates of Coverage showing Coverage for all persons providing services in relation to the Work; and
 - (2) no later than seven (7) calendar days after receipt by the Contractor, a new Certificate of Coverage showing extension of Coverage, if the Coverage period shown on the current Certificate of Coverage ends during the Duration of the Work.
- f. The Contractor shall retain all required Certificates of Coverage for the Duration of the Work and for one year thereafter.
- g. The Contractor shall notify the County in writing by certified mail or personal delivery, within ten (10) calendar days after the Contractor knew or should have known, of any change that materially affects the provision of Coverage of any person providing services in relation to the Work.
- h. The Contractor shall post on the Work site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services in relation to the Work that they are required to be covered, and stating how a person may verify Coverage and report lack of Coverage.
- i. By signing this Agreement or providing or causing to be provided a Certificate of Coverage, the Contractor is representing to the County that all employees of the Contractor who will provide services in relation to the Work and all persons

providing services in relation to the Work will be covered by workers' compensation coverage for the Duration of the Work, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

- j. The Contractor's failure to comply with any of these provisions is a breach of Agreement by the Contractor which entitles the County to declare the Agreement void if the Contractor does not remedy the breach within ten (10) calendar days after receipt of notice of breach from the County.

8.1.5 The furnishing of the above listed insurance coverage must be tendered prior to execution of the Agreement. The Contractor shall not cause or allow any of its required insurance to be canceled, nor permit any insurance to lapse during the term of the Agreement or as required in the Agreement. If the Contractor fails to obtain, maintain or renew any insurance required by this Agreement, the County may, among other remedies available hereunder or at law, obtain insurance coverage directly and recover the cost of that insurance from the Contractor or declare this Agreement void if the Contractor does not remedy the breach within ten (10) calendar days after receipt of notice of breach from the County.

8.1.6 The County reserves the right to review the insurance requirements set forth in this Article during the effective period of the Agreement and to make reasonable adjustments to the insurance coverage and their limits when deemed necessary and prudent by the County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

8.1.7 The County shall be entitled, upon request, and without expense, to receive complete copies of the policies with all endorsements and may make any reasonable requests for deletion, or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon the Parties or the underwriter of any of such policies. Damages caused by the Contractor and not covered by insurance shall be paid by the Contractor.

8.1.8 The Contractor shall contractually require each person or entity with whom it contracts to provide services in relation to the Work, to comply with each insurance requirement that Contractor must comply with hereunder. More specifically, each person or entity with whom Contractor contracts to provide services on the in relation to the Work must comply with each insurance requirement under this Article 8 just as if such person or entity was the Contractor. Thus, every reference to Contractor under each insurance requirement of this Article 8 shall mean and include each person or entity with whom Contractor contracts to provide services in relation to the Work. If any such person or entity with whom Contractor contracts to provide services in relation to the Work fails to obtain, maintain or renew any insurance required by this Agreement, the County may, among other remedies available hereunder or at law, obtain insurance coverage directly and recover the cost of that insurance from the Contractor or declare this Agreement void if the Contractor does not remedy the breach within ten (10) calendar days after receipt of notice of breach from the County.

8.2 INDEMNITY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR AND ITS AGENTS, PARTNERS, EMPLOYEES, AND CONSULTANTS (COLLECTIVELY "INDEMNITORS") SHALL AND DO AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY COUNTY, AND HOLD HARMLESS THE COUNTY, REPRESENTATIVES OF THE COUNTY AND THE COMMISSIONERS COURT OF WILLIAMSON COUNTY, ITS VARIOUS DEPARTMENTS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL CLAIMS IN RELATION TO CONTRACTOR'S PERFORMANCE OF THE WORK DESCRIBED HEREIN. DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, AND EXPENSES, INCLUDING ATTORNEY FEES, OF ANY NATURE, KIND, OR DESCRIPTION (COLLECTIVELY "LIABILITIES") OF ANY PERSON OR ENTITY WHOMSOEVER ARISING OUT OF, CAUSED BY, OR RESULTING FROM THE PERFORMANCE OF THE SERVICES OR ANY PART THEREOF WHICH ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE ACTS IT MAY BE LIABLE, EVEN IF IT IS CAUSED IN PART BY THE NEGLIGENCE OR OMISSION OF ANY INDEMNITEE, SO LONG AS IT IS NOT CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE. IN THE EVENT MORE THAN ONE OF THE INDEMNITORS ARE CONNECTED WITH AN ACCIDENT OR OCCURRENCE COVERED BY THIS INDEMNIFICATION, THEN EACH OF SUCH INDEMNITORS SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE TO THE INDEMNITEES FOR INDEMNIFICATION AND THE ULTIMATE RESPONSIBILITY AMONG SUCH INDEMNITORS FOR THE LOSS AND EXPENSE OF ANY SUCH INDEMNIFICATION SHALL BE SETTLED BY SEPARATE PROCEEDINGS AND WITHOUT JEOPARDY TO ANY INDEMNITEE. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH COUNTY OR ANY OF THE INDEMNITEES HAS BY LAW. THE INDEMNITIES CONTAINED HEREIN SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

8.3 Except for the obligation of County to pay Contractor compensation pursuant to the terms of this Agreement, and to perform certain other obligations pursuant to the terms and conditions explicitly set forth herein, County shall have no liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement. Notwithstanding any obligation or liability of County to Contractor, no present or future partner or affiliate of County or any agent, officer, director, or employee of County, Williamson County, or of the various departments comprising Williamson County, or anyone claiming under County has or shall have any personal liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement.

ARTICLE 9 BONDS

10.1 Performance Bond. Upon execution of this Agreement, Contractor shall provide a Performance Bond in the amount of 100% of the Contract Price. The surety for a Performance Bond shall meet the requirements of Texas law. For unit price contracts, the Contract Price shall be estimated and calculated by multiplying the estimated quantities to the unit price.

10.2 Payment Bond. Upon execution of this Agreement, Contractor shall provide a Payment Bond in the amount of 100% of the Contract Price, as security for the true and faithful payment in full of all subcontractors and persons performing labor, services, materials, machinery, and fixtures in connection with the Work. The surety for a Payment Bond shall meet the requirements of Texas law. For unit price contracts, the Contract Price shall be estimated and calculated by multiplying the estimated quantities to the unit price.

10.3 Warranty Bond. Upon execution of this Agreement, Contractor shall provide a Warranty Bond in the amount of 20% of the total project construction cost, as security for the true and faithful performance of all warranties set forth in this Agreement. For unit price contracts, the total project construction cost shall be estimated and calculated by multiplying the estimated quantities to the unit price.

ARTICLE 10 TERMINATION

14.1 Termination for Cause. If either party commits an Event of Breach (a breach of any of the covenants, terms and/or conditions of this Agreement), the non-breaching party shall deliver written notice of such Event of Breach to the breaching party. Such notice must specify the nature of the Event of Breach and inform the breaching party that unless the Event of Breach is cured within three (3) calendar days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the breaching party begins a good faith attempt to cure the Event of Breach within three (3) calendar days, then and in that instance, the three (3) calendar day period may be extended by the non-breaching party, so long as the breaching party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Breach. If, in the opinion of the non-breaching party, the breaching party does not cure the breach within three (3) calendar days or otherwise fails to make any diligent attempt to correct the Event of Breach, the breaching party shall be deemed to be in breach and the non-breaching party may, in addition to seeking the remedies available hereunder and under the law, terminate this Agreement.

14.2 Termination for Convenience. The County may terminate this Agreement for convenience and without cause or further liability upon thirty (30) calendar day's written notice to Contractor. In the event of such termination, it is understood and agreed that only the amounts due to Contractor for goods, commodities and/or services provided and expenses incurred to and including the date of termination, will be due and payable. No penalty will be assessed for County's termination of this Agreement for convenience.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Assignment. Contractor's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party.

11.2 Governing Law and Venue. This Agreement and all of the rights and obligations of the parties and all of the terms and conditions shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas without reference to its conflicts of law provisions. Williamson County, where the Work, is located shall be the sole place of venue for any legal action arising from or related to this Agreement or the Work in which the County is a party.

11.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors.

11.4 Notices. All notices, consents, approvals, demands, requests or other communications relied on by the parties shall be in writing. Written notice shall be deemed to have been given when delivered in person to the designated representative of the Contractor or County for whom it is intended; or sent by U. S. Mail to the last known business address of the designated representative; or transmitted by fax machine to the last known business fax number of the designated representative. Mail notices are deemed effective upon receipt or on the third business

day after the date of mailing, whichever is sooner. Fax notices are deemed effective the next business day after faxing.

11.5 Severability. Should any term or provision of this Agreement be held invalid or unenforceable in any respect, the remaining terms and provisions shall not be affected and this Agreement shall be construed as if the invalid or unenforceable term or provision had never been included.

11.6 Force Majeure. If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance of this Agreement. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

11.7 No Waiver of Sovereign Immunity. Nothing herein shall be construed as a waiver of sovereign immunity by Williamson County.

11.8 Current Revenues. Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

11.9 Compliance with Laws. Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, Contractor shall furnish the County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

11.10 County's Right to Audit. Contractor agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Contractor which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees that County shall have access during normal working hours to all necessary Contractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Contractor reasonable advance notice of intended audits.

11.11 Entire Agreement; Modifications. This Agreement supersedes all prior agreements, written or oral, between Contractor and County and shall constitute the entire Agreement and understanding between the parties with respect to the Work. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by Contractor and County.

BY SIGNING BELOW, the Parties have executed and bound themselves to this Agreement to be effective as the date of the last party's execution.

COUNTY:

WILLIAMSON COUNTY, TEXAS,
a political subdivision of the state of Texas

CONTRACTOR:

[Redacted]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Party Representatives

Contractor's Designated Representative:

County's Engineer:

[Redacted]

Terron Evertson,
Director of Williamson County
Road and Bridge
3151 S.E. Inner Loop, Suite B
Georgetown, Texas 78626
Phone: (512) 943-3330

Phone _____
Fax _____

**Exhibit 1 & 2
Fog Seal Locations**

Exhibit 3

Specifications and Scope of Work

Unless set forth otherwise, all Work performed and all products furnished shall comply with requirements which pertain to the various items of Work included as *Standard Specification for Construction of Highways, Streets and Bridges* of the Texas Department of Transportation, adopted June 1, 2004, which is incorporated herein by reference for all purposes. In the event that any specification set out herein conflicts with the said TxDOT specifications, the specification set out herein shall control and govern.

Locations of Work

Work locations shall be those depicted in Exhibit #1 and 2.

Performance and Progress

Contractor shall provide a cul-de-sac by cul-de-sac schedule before any work shall begin.

Contractor shall not apply fog seal to more than 8 cul-de-sacs in one Working Day per crew. The County shall notify abutting property owners two times of upcoming fog seal operations by means of door hangers. The first door hanger will be distributed ten (10) to fourteen (14) calendar days prior to fog seal application, while the second door hanger will be distributed two (2) calendar days prior to fog seal application. Contractor will coordinate daily with the County for a listing of cul-de-sacs that have received advanced notice of fog seal operations (door hangers). Contractor shall not begin fog seal operations on streets in which no advanced notice has been provided to the residents.

Prior to commencing fog seal applications, all residences on cul-de-sac shall be informed by the Contractor that the application is about to occur and to relocate their vehicles if they anticipate needing to leave their home in the next 3 to 4 hours.

The Contractor shall arrange the fog seal operation in such a manner as to avoid excessive inconvenience to the public.

The Contractor shall not apply a fog seal the day before or the actual day that a street is to receive garbage, recycling or waste collection. Contractor shall research the applicable garbage, recycling or waste collection schedule for each street prior to bidding.

All construction equipment involved in roadway work shall be equipped with a permanently mounted 360 degree revolving or strobe warning light with amber lens. This light shall have a minimum lens height of 5 inches and a diameter of 5 inches. This light shall have a mounting height of not less than 6 feet above the roadway surface and shall be visible from all sides. This equipment shall also have attached at each side of the rear end of the vehicle an approved orange warning flag mounted not less than 6 feet above the roadway surface.

Care shall be exercised to prevent damage to all property in and around the construction zone. The Contractor shall be liable for the repair and restoration of any property damaged as a result of the Contractor's prosecution of the work. This shall include, but is not limited to, re-

vegetation of all areas damaged or destroyed by construction. Contractor will be held liable and responsible for such areas until growth is reestablished to the satisfaction of the County.

Ornamental landscape plantings of trees, shrubs and grasses that are damaged or destroyed during construction shall be replaced with plant material of comparable size and quality approved by the County.

Contractor's equipment and vehicles shall not be maintained on-site during construction, except at designated maintenance sites as approved by the Engineer or his designee.

The Contractor may be required to trim and remove brush and trees in order to construct the project or to provide a vertical clearance of at least 12 feet. For this operation, the method shall be approved by the Engineer or his designee.

Contractor shall provide at least one (1) portable restroom near the work site(s) at all times in order to provide a bathroom to individuals performing work hereunder. Contractor shall monitor and prevent its employees and any of its subcontractors that are providing work on the project from urinating or defecating on property in, on or adjacent to the areas in which work is being performed.

An English-speaking Superintendent shall be available on the project at all times when work is being performed. The Contractor shall provide the Engineer or his designee with contact information for the Superintendent.

ITEM 300 – Asphalts, Oils, and Emulsions

For this project, Item 300, "Asphalts, Oils, and Emulsions," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 300.2. Materials, E. Specialty Emulsions. The first sentence is voided and replaced with the following: Specialty emulsions **must contain a minimum of 10% tire rubber content** and also must meet the requirements of Table 11A.

Article 300.2. Materials, E. Specialty Emulsions is supplemented by the following:

**Table
11A
Hard Residue Surface
Sealant**

Property	Test Procedure	Min	Max
Viscosity, Krebs unit, 77°F, Krebs units	D 562	45	75
Softening point, °F	T 53 ¹	250	--
Uniformity	D 2939		Pass ²
Resistance to heat	D 2939		Pass ³
Resistance to water	D 2939		Pass ⁴
Wet flow, mm	D 2939	--	0
Resistance to Kerosene (optional) ⁵	D 2939		Pass ⁶
Ultraviolet exposure, UVA-340, 0.77 W/m ² , 50°C chamber hours UV lamp, 5 min spray, 3 hours 55 minutes condensation, 1000 hr total exposure ⁷	G 154		Pass ⁸
Abrasion loss, 1.6 mm thickness, liquid only, %	ISSA TB-100	--	1.0
Residue by evaporation, % by weight	D 2939	33	--
Tests on residue from evaporation:			
Penetration, 77°F, 100 g, 5 sec.	T 49	15	30
Flash point, Cleveland open cup, °F	T 48	500	
Tests on base asphalt before emulsification			
Solubility in trichloroethylene, %	T 44	98	--

1. Cure the emulsion in the softening point ring in a 200°F ± 5°F oven for 2 hr.
2. Product shall be homogenous and show no separation or coagulation that cannot be overcome by moderate stirring.
3. No sagging or slippage of film beyond the initial reference line.
4. No blistering or re-emulsification.
5. Recommended for airport applications or where fuel resistance is desired.
6. No absorption of Kerosene into the clay tile past the sealer film. Note sealer surface condition and loss of adhesion.
7. Other exposure cycles with similar levels of irradiation and conditions may be used with Department approval.
8. No cracking, chipping, surface distortion, or loss of adhesion. No color fading or lightening.

ITEM 315 – Fog Seal

315.1. Description. Apply an emulsified asphalt and water mixture as an aggregate loss preventative or surface seal.

315.2. Materials. Use emulsified asphalt of the type and grade shown on the plans that meet the requirements of Item 300, "Asphalts, Oils, and Emulsions." Provide water free of industrial wastes and other objectionable matter.

Use a quantity of emulsified asphalt in the mixture, expressed as a percentage of total volume,

which meets the percentage shown on the plans or directed. While application rates will be determined in the field, an assumed rate of 0.16 gallons per square yard has been used for estimating purposes.

315.3. Equipment. Provide applicable equipment in accordance with Article 316.3, "Equipment." Furnish the necessary facilities and equipment for determining the temperature of the mixture, regulating the application rate, and securing uniformity at the junction of 2 distributor loads.

315.4. Construction. Remove or protect existing raised pavement markers. Repair any damage incurred by removal as directed. Remove dirt, dust, or other harmful material before sealing. This will be considered subsidiary to the item 315.

Apply the mixture when the air temperature is 60°F and above, or above 50°F and rising. Measure the air temperature in the shade away from artificial heat. The Engineer will determine when weather conditions are suitable for application.

The Engineer will select the application temperature within the limits recommended in Item 300, "Asphalts, Oils, and Emulsions." Apply the material within 15°F of the selected temperature.

Adjust the shot width so operations do not encroach on traffic.

Use paper or other approved material at beginning and end of each shot to construct a straight transverse joint and prevent overlapping applied material.

Use sufficient pressure to flare the nozzles fully.

Distribute material at the rate shown on the plans or as directed. While application rates will be determined in the field, an assumed rate of 0.16 gallons per square yard has been used for estimating purposes.

Do not apply asphalt to the roadway until traffic control methods and devices are in place as shown on the plans or as directed. Do not open the treated surface to traffic until directed by the Engineer. When an excessive quantity of asphalt is applied, furnish and uniformly distribute clean, fine sand on the surface to blot the excess. Maintain ingress and egress as directed by applying sand to freshly sealed areas.

315.5. Measurement. This Item will be measured by the gallon of specialty emulsified asphalt used in the specialty emulsified asphalt and water mixture.

315.6. Payment. The work performed and the materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the Contract Price. This price is full compensation for materials, equipment, labor, tools, and incidentals. Blotter sand will not be paid for directly but will be subsidiary to this Item.

ITEM 316 – Surface Treatments

316.3. Equipment.

A. Distributor. Furnish a distributor that will apply the asphalt material uniformly at the specified rate or as directed. Stop application if asphalt application is not uniform due to streaking, ridging, formation of excess asphalt, or inability of asphalt to remain at applied location. Verify equipment condition, operating procedures, application temperature, and material properties. Determine and correct the cause for non-uniform application. If the cause is high or low viscosity of the emulsion, no further asphalt application will occur until

material meeting the contract specifications is provided.

The Engineer may stop asphalt application and require test strips at the Contractor's expense if any of the following occurs: 1) non-uniformity continues after corrective action, 2) on three consecutive shots, application rate differs by more than 0.02 gallons per square yard from the desired rate, or 3) any shot differs by more than 0.04 gallons per square yard from the desired rate.

1. Transverse Variance Rate. When a transverse variance rate is shown on the plans, ensure that the nozzles outside the wheel paths will output a predetermined percentage more of asphalt material by volume than the nozzles over the wheel paths.

2. Calibration.

a. Transverse Distribution. Furnish a distributor test report, no more than 1 yr. old, documenting that the variation in output for individual nozzles of the same size does not exceed 10% when tested at the greatest shot width in accordance with Tex-922-K, Part III.

Include the following documentation on the test report:

- the serial number of the distributor,
- a method that identifies the actual nozzle set used in the test, and
- the fan width of the nozzle set at a 12-in. bar height.

When a transverse variance rate is required, perform the test using the type and grade of asphalt material to be used on the project. The Engineer may verify the transverse rate and distribution at any time. If verification does not meet the requirements, correct deficiencies and furnish a new test report.

b. Tank Volume. Furnish a volumetric calibration and strap stick for the distributor tank in accordance with Tex-922-K, Part I.

Calibrate the distributor within the previous 5 yr. of the date first used on the project. The Engineer may verify calibration accuracy in accordance with Tex-922-K, Part II.

3. Computerized Distributor. When paying for asphalt material by weight, the Engineer may allow use of the computerized distributor display to verify application rates. Verify application rate accuracy at a frequency acceptable to the Engineer.

ITEM 502 Barricades, Signs, and Traffic Handling

Contractor shall provide all traffic control measures to prosecute the work.

The driveway(s) for each residence in the cul-de-sac shall have cones or TY III barricades placed to remind residents of the fog seal work.

Contractor shall assign at least one competent employee to each cul-de-sac that has received a fog seal application but has not yet been opened to traffic. This employee will ensure that traffic does not drive on the non-cured fog seal.

Traffic Control Suitable methods shall be used by the Contractor to protect the fog seal from all types of vehicular traffic without damage. Opening to traffic does not constitute acceptance of the Work. The Engineer shall be notified of the methods to be used.

In areas which are subject to an increased rate of sharp turning vehicles, additional time may be required for a more complete cure of the fog seal mat to prevent damage. Slight tire marks may be evident in these areas after opening but will diminish over time with rolling traffic. If these

areas are not severely rutted they should be considered as normal characteristics of a fog seal and should be accepted.

The Contractor will be required to maintain a minimum of one through lane in each direction during daylight hours, on all roadways, except with the written approval by the Inspector. Two Lane roadways shall use single lane traffic control, which will require the use of flagmen. This shall not be paid for directly, but shall be considered subsidiary to bid Item emulsified fog seal.

Flaggers must comply with all requirements outlined in TxDOT Specification Item 502.2B Limiting access to all side streets and driveways shall be minimized to the extent possible. The Contractor's crew leader shall be a competent person who will be responsible and available on the project site or in the immediate area to insure compliance with the TCP.