



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

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

INVITATION FOR BIDS (IFB)

CRACK SEAL SERVICES ROAD AND BRIDGE FOR WILLIAMSON COUNTY BID # 13IFB00114

BIDS MUST BE RECEIVED ON OR BEFORE: NOVEMBER 29, 2012 3:00 PM

BIDS WILL BE PUBLICLY OPENED NOVEMBER 29, 2012 3:00 PM

Williamson County is seeking qualified companies to provide experienced crack seal crews and equipment to clean and seal joints and cracks in asphalt pavement. This Contract is intended to assist with the preparation of County maintained roadways for the application of surface treatments this coming spring (2013). Timing is crucial in preparing as many streets as possible prior to the beginning of HMA/CP/seal coat season. Estimated cost for this project is \$350,000 with a Completion Time of ninety (90) working days for the work that is to be performed during the initial contract term. Williamson County may request that additional work be provided following the initial contract term.

MANDATORY PRE-BID CONFERENCE

**All Bidders interested in submitting a Bid must attend the MANDATORY Pre-Bid conference on
November 15, 2012 at 3:00 PM**

BID SUBMISSION

Notice is hereby given that sealed Bids will be accepted by the Williamson County Purchasing Department for Bid # 13IFB00114, Crack Seal Services. 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: Crack Seal Services Road and Bridge
BID NO: 13IFB00114
DUE DATE/TIME: NOVEMBER 29, 2012, ON OR BEFORE 3:00 PM

MAIL OR DELIVER TO: Williamson County Purchasing Department
Attn: Crack Seal Services #13IFB00114
301 SE Inner Loop, Suite 106
Georgetown, TX 78626

All Bidders interested in submitting a Bid must attend the MANDATORY Pre-Bid conference on November 15, 2012 at 3:00 PM at Williamson County Road and Bridge, 3151 South East Inner Loop, Suite B, Georgetown, TX.

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 12 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**

**CRACK SEAL SERVICES ROAD AND BRIDGE
FOR WILLIAMSON COUNTY
BID # 13IFB00114**

**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	October 30, 2012
Pre-Bid Conference	November 15, 2012 3:00 PM
Deadline to Submit Questions	November 21, 2012 5:00 PM
Bid Submission Deadline (Late Bids will not be considered)	November 29, 2012 3:00 PM
Evaluation of Bids	December 1-17, 2012
Recommendation for Contract Award	December 18, 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.

DEFINITIONS, TERMS AND CONDITIONS

1.1 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 is 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 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.

2.2.40 Initial Contract Term

The Successful Bidder shall provide the goods and/or services described herein for an initial term of ninety (90) days from the date of County's notice to proceed with the work.

2.2.41 Additional Work

For a period of twenty-four (24) months following the Initial Contract Term set forth above, the County reserves the right to add Additional Work that is to be performed at Additional Work Locations and the Successful Bidder shall provide such Additional Work at the awarded contract bid price. If County chooses to add such Additional Work, the County shall issue a written change order that describes the Additional Work Location(s), the Contract Price, the date for commencement of the Additional Work and any additional information necessary to describe the Additional Work.

All terms and conditions of this Contract and any ensuing Agreement shall control and apply to any Additional Work performed by the Successful Bidder. For Additional Work, Successful Bidder may submit a request for a contract pricing adjustment for approval by the County if the Successful 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 Successful Bidder's profits, labor or other overhead. The Successful 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 County to verify the adjustment.

A contract price adjustment request will not become effective until after approval of the Williamson County Commissioners Court. Until then, the original awarded contract bid price will remain unchanged. Any Additional Work performed by the Successful Bidder at a not agreed upon price will be deemed to have been done so at the Contractor's risk.

The awarded contract bid price must remain firm for ninety (90) days during the Initial Contract Term. A minimum period of three (3) months must elapse between adjustment requests.

2.2.42 Performance and Payment Bonds; Warranty Bond

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. The total costs of the work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of the ensuing Agreement**, Successful Bidder shall provide a Performance Bond in the amount of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). The surety for a Performance Bond shall meet the requirements of Texas law and said bond must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code.

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 total costs of the Work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of the ensuing Agreement**, Successful Bidder shall provide a Payment Bond in the amount of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00), 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 the Payment Bond shall meet the requirements of Texas law and said bond must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code.

The total costs of the Work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of the ensuing Agreement**, Contractor shall provide a Warranty Bond in the amount of Seventy Thousand and No/100 Dollars (\$70,000.00), as security for the true and faithful performance of all warranties set forth in this Agreement.

2.2.43 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.

2.2.44 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:

- Williamson County Purchasing
- Attn: Crack Seal Services #13IFB00114
- 301 SE Inner Loop – Suite 106
- 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.

2.2.45 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:

Williamson County Purchasing Department
Attn: Crack Seal Services #13IFB00114
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

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 Term. 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 Sheets and 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 ninety (90) calendar days from the deadline for submittal of Bids to Williamson County (Any Bid containing a term of less than ninety (90) calendar days for acceptance, may at Williamson County's sole discretion, be rejected as non-responsive.);
- i. 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: Crack Seal Services #13IFB00114
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

General Information

Williamson County is seeking qualified companies to provide experienced crack seal crews and equipment to clean and seal joints and cracks in asphalt pavement. This Contract is intended to assist with the preparation of County maintained roadways for the application of surface treatments this coming Spring 2013. Timing is crucial in preparing as many streets as possible prior to the beginning of the HMA/CP/seal coat season.

As set out in this IFB, all Bids received will be evaluated on the best value for the County. Best value will be determined by considering the following:

- 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

Definition of Terms

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

Contractor: Successful Bidder of the IFB.

Crack Seal: Cleaning and sealing joints and cracks (asphalt concrete) [Item 712 of the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004].

Inspector and/or Engineer: Employee of Williamson County supplied full time 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.

Crack Seal Crew: 7 persons minimum and all equipment necessary to perform and complete the work.

Specifications: These Bid Specifications and the 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 8 hrs. (excluding lunch) between 7:00 A.M. and 6:00 P.M. Time charges begin with crack seal crew on site with material at the correct temperature and ready for application.

Scope of Work

Work locations are anticipated to be, but not limited to, urban (curb and gutter) subdivisions within the central jurisdiction of Williamson County.

The County will supply the Contractor with 54.1 PN, TxDOT Class B, Asphalt Rubber Blocks.

All work shall be performed in accordance with the Specifications.

Performance and Progress

The County's Inspector and the Contractor's Designated Representative must, 24 hrs in advance, coordinate the work location(s) and the quantity and exchange of materials for the next day's work. A minimum of 24 hours notice shall be given to the Contractor prior to commencing any work at a new location. All work designated for a specific Working Day by County must be fully and finally completed by Contractor by no later than 6:00 P.M. on such Working Day.

Measurement and Payment

This work will be measured and paid for by the hour of each individual crack seal crew. All other items necessary for the proper performance of the work shall be included in the unit pricing. The Contractor will only be paid for the hours that all members of the crack seal crew are working and all equipment is functioning satisfactorily, as determined by the Inspector. The Inspector and the Contractor's Designated Representative will document and sign off on total number of hours worked on each Working Day.

County shall not be required to pay for any work that is not performed in accordance with the Specifications.

General Notes

All construction equipment involved in roadway work shall be equipped, as approved by the Inspector, 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 areas of the right of way. The Contractor shall, at its expense, restore any area disturbed as a result of his operations to a condition as good as, or better than, that present prior to this contract.

The Contractor must ensure that the Contractor's Designated Representative and crew leader of each crew is fluent in English.

Contractor will, at all times, be 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.

BARRICADES, SIGNS, AND TRAFFIC HANDLING

This item shall conform to TxDot Specification Item 502, Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004. This item will not be paid directly, but shall be included in the crack seal crew bid item.

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

The Traffic Control Plan (TCP) for this project shall be detailed on TxDOT standard plan sheets BC(1) thru BC(12)-07, as provided for in Part VI of the Texas Manual on Uniform Traffic Control Devices. A

minimum of two (2) flaggers, two (2) signs CW20-5AL1, CW20-5R or CW20-5L, and 28 inch cones will be required at each location in which crack sealing is in progress.

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 Item 712 and shall be included in the crack seal bid.

Contractor must have a flagger stationed far enough back from the crack seal operation such that vehicles are not driving on crack seal that adheres to vehicles tires.

Flaggers must comply with all requirements outlined in TxDot Specification Item 502.2B.

Access to all side streets and driveways shall be maintained at all times at the sole expense of the Contractor.

The Contractor's Designated Representative shall be a competent person who will be responsible and available on the project site or in the immediate area to ensure compliance with the TCP.

CLEANING AND SEALING JOINTS AND CRACKS

This item shall conform to TxDot Specification Item 712, Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004.

This item will not be paid directly, but shall be included in the crack seal crew bid item.

Crews must be equipped with the appropriate melter/applicator for use with 54.1 PN, TxDOT Class B, Asphalt Rubber Blocks.

All cracks will be blown free of all debris using an air compressor (before sealant is applied) to a depth at least twice the crack width.

Squeegee work shall be required as directed by the County's Inspector.

The finished bead of sealing compound shall be no more than 1/8" thick, and kept as narrow as possible, but not to exceed 4" in width.

The Contractor shall use a crew(s) experienced in the application of crack sealers and flagging operations.

The Contractor shall have stand-by equipment ready and available within 24 hours to resume work should equipment malfunction.

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, Tx, 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.

**CRACK SEAL SERVICES ROAD AND BRIDGE
FOR WILLIAMSON COUNTY
BID # 13IFB00114**

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 forms (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 at the following Bid price/rate:

ITEM #	DESCRIPTION	UNIT	UNIT PRICE
1	Cost per crew (as defined in the Bid Specifications)	Hour	

Number of crews available: _____

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
<p>1. Name of person doing business with local governmental entity.</p>	
<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>	
<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.</p>	
<p>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.</p>	

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 during the Initial Contract Term and shall be exclusive of federal excise and state and local sales tax (exempt).

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**

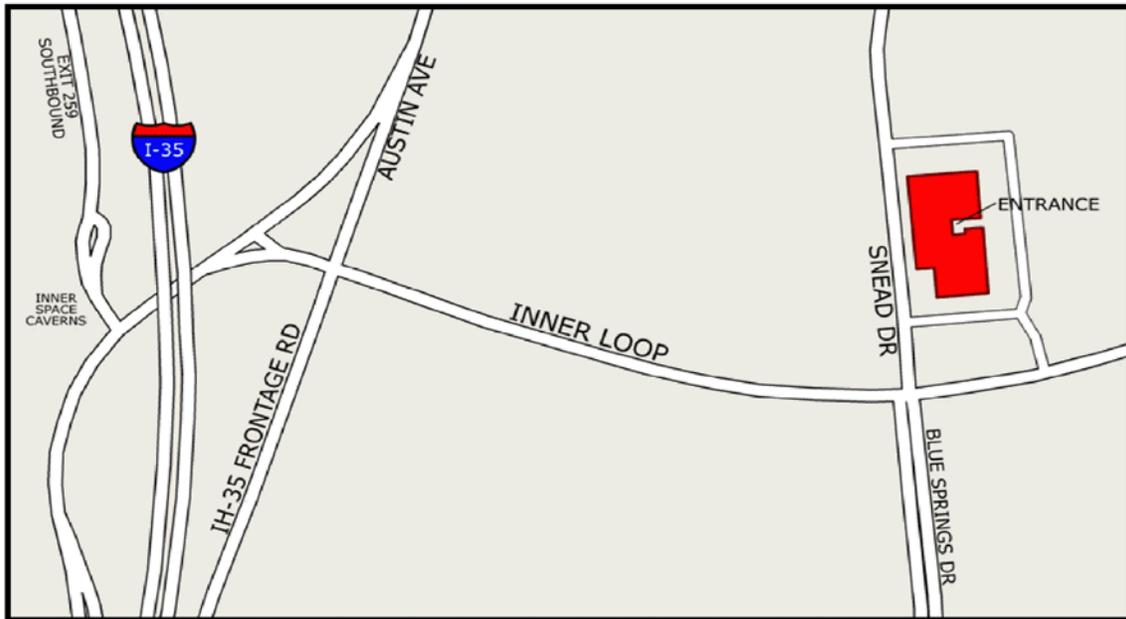
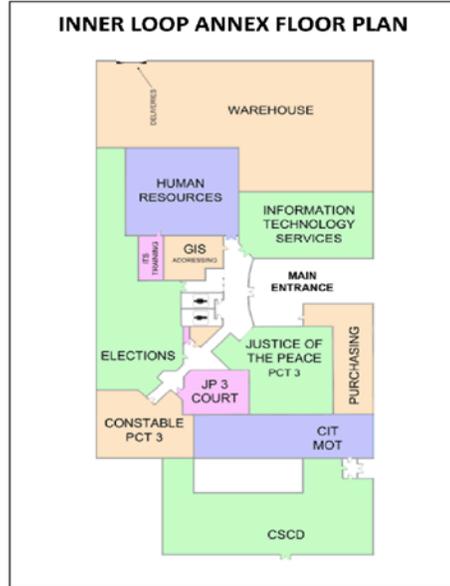
Directions:

From South (Austin, Round Rock)

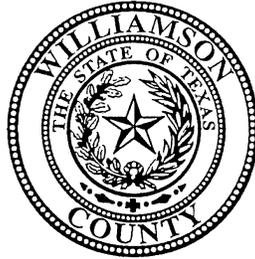
Take IH-35 Northbound
Exit 259
Stay on frontage road for approximately 2 miles
At stop sign, go right on Inner Loop
Just past Snead Drive, the Inner Loop Annex is on the left
Main entrance is on the side of the building by the flagpoles

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



Ensuing Agreement to be Executed After Award



AGREEMENT FOR CRACK SEAL CONSTRUCTION SERVICES

This Agreement for Crack 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"):

Crack seal crews and equipment to clean and seal joints and cracks in asphalt pavement that is necessary for the preparation of County's maintained roadways for the application of surface treatments this coming Spring 2013.

The Work shall be performed at the work locations designated by County. Work locations shall be urban (curb and gutter) subdivisions within the central jurisdiction of Williamson County.

ARTICLE 2 CONTRACT PRICE: County agrees to pay to the Contractor, for the satisfactory performance of the Work, \$ _____ per hour. 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. County shall not be required to pay for any Work that is not performed by Contractor in accordance with the Work Specifications and the terms of this Agreement.

ARTICLE 3 WORK SPECIFICATIONS: The Work shall be performed pursuant to and in accordance with the Work Specifications, as well as any revisions made thereto, which are attached hereto as **Exhibit-1**, which is incorporated herein by reference for all purposes.

Ensuing Agreement to be Executed After Award

ARTICLE 4 TERM, COMMENCEMENT; PROGRESS AND COMPLETION OF WORK; ADDITIONAL WORK:

4.1 Initial Contract Term. The Contractor shall provide the Work described herein, at the Contract Price, for an initial term of ninety (90) Working Days from the effective date of this Agreement.

4.2 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.

4.3 Progress of Work. The County's Inspector and the Contractor's Designated Representative must, at least 24 hrs in advance, coordinate the work location(s) and the quantity and exchange of materials for the following day's Work. A minimum of 24 hours notice shall be given to the Contractor's Designated Representative prior to commencing any Work at a new work location. Contractor must achieve Completion, as defined below, of all Work that was coordinated on the prior day by no later than 6:00 P.M. on each particular Working Day.

4.4 Completion. "Complete" or "Completion" means the stage in the progress of the Work when, in the County's opinion, the Work has progressed to the point such that all parts of the Work under consideration have been performed in accordance with the Work Specifications and are fully operational. At the conclusion of each Working Day, County's Inspector shall make the determination as to whether the Work for such Working Day shall be deemed Complete. If the County's Inspector does not consider the Work Complete, the County's Inspector will notify the Contractor's Designated Representative giving reasons therefore. Contractor shall complete any uncompleted Work on the following Working Day prior to commencing any new Work at any new work location. Failure of the Contractor to prosecute the Work in the most efficient means possible and complete all Work in accordance with the terms of this Agreement shall constitute a breach of this Agreement by Contractor.

Completion and final payment shall establish responsibilities of the County and the Contractor for maintenance and damage to the Work, warranty and insurance.

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.

4.4 Abandonment by Contractor. In the event that Contractor fails to attain Completion of the Work as set forth above, the Contractor shall be deemed to have abandoned the Work. In such case, County may exercise any rights and remedies in relation to any payment and/or performance bonds subject of this Agreement in addition to exercising any remedy that may be available to County under this Agreement, the law and/or in equity.

4.5 Additional Work

For a period of twenty-four (24) months following the Initial Contract Term, the County reserves the right to add Additional Work that is to be performed at Additional Work Locations and Contractor hereby agrees to provide such Additional Work at the Contract Price set forth above. If County chooses to add such Additional Work, the County shall issue a written change order that describes the Additional Work Locations, the Contract Price, the date for commencement,

Ensuing Agreement to be Executed After Award

the date for Completion of the Additional Work and any additional information necessary to describe the Additional Work.

All terms and conditions of this Agreement shall control and apply to any Additional Work performed by Contractor. For Additional Work, Contractor may submit a request for a contract pricing adjustment for approval by the County if the Contractor 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 Contractor's profits, labor or other overhead. The Contractor'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 County to verify the adjustment.

A contract price adjustment request will not become effective until after approval of the Williamson County Commissioners Court. Until then, the original Contract Price will remain unchanged. Any Additional Work performed by the Contractor at a not agreed upon price will be deemed to have been done so at the Contractor's risk.

ARTICLE 5 PAYMENT: On or about the 25th calendar day of each month, Contractor shall submit invoices to the County's 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. 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.

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

Ensuing Agreement to be Executed After Award

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 and crew leader for the duration of the Work that can fluently speak English;
- c. visit the work location and inspect the conditions to insure an accurate understanding of the existing conditions as required;
- d. at County's request, attend public meetings and hearings concerning the development of the Work;
- e. review all 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 specifications and other plans;
- f. review the specifications and other plans for compliance with all applicable laws and code requirements;
- g. advise County of any tests that should be performed;
- h. organize and maintain a competent, full-time crew 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;
- i. 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;
- j. attend County's regularly scheduled work progress meetings, if applicable, and fully advise the Engineer and/or County's Inspector of the Work status including schedule, costs, quality and changes; and
- k. shall coordinate, monitor and inspect the Work of subcontractors to ensure conformance with the specifications, other plans and with the terms of this Agreement.

Ensuing Agreement to be Executed After Award

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 Contractor's 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 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 and specifications sets, if applicable.

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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.

8.1.1 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

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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

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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.

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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

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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

9.1 Performance Bond. The total costs of the Work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of this Agreement,** Contractor shall provide a Performance Bond in the amount of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). The surety for a Performance Bond shall meet the requirements of Texas law and said bond must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code.

9.2 Payment Bond. The total costs of the Work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of this Agreement,** Contractor shall provide a Payment Bond in the amount of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00), 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 and said bond must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code.

9.3 Warranty Bond. The total costs of the Work performed during the Initial Contract Term and any Additional Work performed thereafter shall not to exceed Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00). **Upon execution of this Agreement,** Contractor shall provide a Warranty Bond in the amount of Seventy Thousand and No/100 Dollars (\$70,000.00), as security for the true and faithful performance of all

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warranties set forth in this Agreement and said bond must be executed by a corporate surety or sureties in accordance with the Texas Insurance Code..

ARTICLE 10 TERMINATION

10.1 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.

10.2 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 Incorporation and Order of Precedence. The terms and conditions of the Invitation for Bids (IFB) and its Addenda for the Work subject of this Agreement and the Contractor's bid shall be incorporated into this Agreement by reference. In the event a dispute or conflict arises between (1) terms and conditions of this Agreement, (2) the IFB and its Addenda; and (3) the Contractor's bid; applicable documents will be referred to for the purpose of clarification, resolution and/or for additional detail in the following order of precedence: (1) terms and conditions of this Agreement, (2) the IFB and its Addenda; and (3) the Contractor's bid.

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

11.3 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.

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

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11.5 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 Contractor's Designated Representative or County for whom it is intended; or sent by U. S. Mail to the last known business address of the Contractor's Designated Representative; or transmitted by fax machine to the last known business fax number of the Contractor's 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.

11.6 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.

11.7 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.

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

11.9 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.

11.10 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.

11.11 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.

11.12 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

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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:

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Party Representatives

Contractor's Designated Representative:

County's Engineer:

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 _____

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EXHIBIT 1 WORK SPECIFICATIONS

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.

General Information

Contractor shall provide experienced crack seal crews and equipment to clean and seal joints and cracks in asphalt pavement at the work locations designated by County. This Agreement is intended to assist with the preparation of County maintained roadways for the application of surface treatments this coming Spring 2013. Timing is crucial in preparing as many streets as possible prior to the beginning of HMA/CP/seal coat season.

Locations of Work

The Work shall be performed at the work locations designated by County. Work locations shall be urban (curb and gutter) subdivisions within the central jurisdiction of Williamson County.

Scope of Work

As state above, work locations shall be urban (curb and gutter) subdivisions within the central jurisdiction of Williamson County.

The County will supply the Contractor with 54.1 PN, TxDOT Class B, Asphalt Rubber Blocks. The County Inspector and the Contractor's Designated Representative must designated and coordinate 24 hrs in advance the work locations and quantity and exchange of materials for the next day's work.

General Notes

All construction equipment involved in roadway work shall be equipped, as approved by the County's Inspector, 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 areas of the right of way. The Contractor shall, at its expense, restore any area disturbed as a result of his operations to a condition as good as, or better than, that present prior to this Agreement.

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The Contractor must ensure that the Contractor's Designated Representative and the crew leader of each crew is fluent in English.

BARRICADES, SIGNS, AND TRAFFIC HANDLING

This item shall conform to TxDot Specification Item 502, Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004. This item will not be paid directly, but shall be included in the crack seal crew bid item.

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

The Traffic Control Plan (TCP) for this project shall be detailed on TxDOT standard plan sheets BC(1) thru BC(12)-07, as provided for in Part VI of the Texas Manual on Uniform Traffic Control Devices. A minimum of two (2) flaggers, two (2) signs CW20-5AL1, CW20-5R or CW20-5L, and 28 inch cones will be required at each location in which crack sealing is in progress.

The Contractor shall 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 712.

Contractor must have a flagger stationed far enough back from the crack seal operation such that vehicles are not driving on crack seal that adheres to vehicles tires.

Flaggers must comply with all requirements outlined in TxDot Specification Item 502.2B

Access to all side streets and driveways shall be maintained at all times at the sole expense of the Contractor.

The Contractor's Designated Representative shall be a competent person who will be responsible and available on the project site or in the immediate area to ensure compliance with the TCP.

CLEANING AND SEALING JOINTS AND CRACKS

This item shall conform to TxDot Specification Item 712, Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges 2004. This item will not be paid directly, but shall be included in the crack seal crew bid item.

Contractor's crews must be equipped with the appropriate melter/applicator for use with 54.1 PN, TxDOT Class B, Asphalt Rubber Blocks.

All cracks shall be blown free of all debris using an air compressor (before sealant is applied) to a depth at least twice the crack width.

Squeegee work shall be required as directed by the County's Inspector.

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The finished bead of sealing compound shall be no more than 1/8" thick, and kept as narrow as possible, but not to exceed 4" in width.

The Contractor shall use a crew(s) experienced in the application of crack sealers and flagging operations.

The Contractor shall have stand-by equipment ready and available within 24 hours to resume work should equipment malfunction.