

3421 Paesanos Parkway San Antonio Texas 78231  
Main: 877 627 3772  
colliersengineering.com

TBPLS Reg. 10194550 • TBPE Reg. F-14909 • TBPG 50617



# **BID DOCUMENTS**

## **FOR**

### **MORGAN MEADOWS UNIT 2C**

**July 15, 2024**

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**TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC**

**NOTICE OF REQUEST FOR COMPETITIVE BIDS  
AND INSTRUCTIONS TO BIDDERS**

Bid Name: MORGAN MEADOWS UNIT 2C

Bid Number:

Bid Opening Date and Time: Monday, August 05, 2024 at 10:00 AM

Location of Bid Opening: Office of Colliers Engineering & Design  
3421 Paesanos Parkway, Suite 200  
San Antonio, Texas 78231

Pursuant to the provisions of Texas Government Code Chapter 252, as amended, it is the intention of TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC to select, via the competitive bidding method, a construction contractor for the project described herein.

## INSTRUCTIONS TO BIDDERS

1. BID DOCUMENTS: The Bid Documents shall include this Notice of Request for Competitive Bids and Instructions to Bidders, the Bid Form (including all Schedules thereto), the Contract Documents (as defined below), and any other sample bidding and contract forms referred to herein. The Contract Documents shall consist of the Standard Form of Agreement and the General Conditions of Agreement, the Project Drawings, Specifications and all Addenda issued with respect to any of the Contract Documents prior to the receipt of bids.

2. INTERPRETATIONS, CHANGES AND SUBSTITUTIONS: Each bidder shall carefully study and compare these Bid Documents with any existing work or work under construction; examine the site and local conditions; and promptly report to Colliers Engineering & Design ("Engineer") any suspected errors, inconsistencies or ambiguities. Bidders may only request clarification or interpretation of Bid Documents in writing, which request must be received by the Engineer at least five (5) days prior to the last date for submission of bids.

IN NO EVENT SHALL REQUESTS FOR SUBSTITUTIONS BE ACCEPTED OR CONSIDERED BY OWNER PRIOR TO THE AWARD OF THE AGREEMENT.

Interpretations, corrections, and/or changes of or to the Bid Documents will be made by written Addendum issued by the Engineer. Any interpretations, corrections or changes of or to the Bid Documents made in any other manner will not be binding upon the Owner, and bidders may not rely thereon. Addenda will be mailed or faxed to all persons known by the Engineer to have received a complete set of Bid Documents, and will be mailed or faxed to each bidder at the address or fax number furnished by such bidder

to the Engineer for such purposes. No Addenda will be issued later than three (3) days prior to the last date for submission of bids except an Addendum withdrawing the request for bids or which includes postponement of the date for receipt of bids. Each bidder shall acknowledge the receipt of all Addenda issued in its bid. Failure of a bidder to receive any such Addenda shall not relieve the bidder from any obligation under its bid as submitted. Any Addenda so issued shall become a part of the Contract Documents.

3. BID FORM: Bids shall be submitted on the prescribed form included in the Bid Documents. All blanks on the Bid Form shall be completed, in ink or typewritten, with sums expressed in unit prices and subtotal amounts. In case of discrepancy between the unit prices and subtotal amounts, the lowest amount shall govern. Each copy of the Bid Form shall include the legal name of the bidder and shall indicate whether the bidder is a sole proprietor, partnership, corporation or other legal entity. Each copy of the Bid Form shall be signed and each page initialed by the person or persons legally authorized to bind the bidder. A bid by a corporation or other entity shall include the state of incorporation or organization of the bidder, evidence of registration to do business in Texas and reasonable evidence of the authority of the person signing the bid to bind the corporation or other entity. Each bidder shall complete, execute and deliver (as applicable) with its bid, as part of the Bid Form included with the Bid Documents, the following:

a. CONTRACTOR'S QUALIFICATION STATEMENT (AIA FORM A305): Executed counterpart of the Contractor's Qualification Statement to be procured from AIA San Antonio, which will be attached to the Bid Form as Schedule 1.

b. HOLD HARMLESS AGREEMENT: Executed counterpart of the Hold Harmless Agreement attached to the Bid Form as Schedule 2.

c. CERTIFICATE OF INSURANCE: A specimen form of insurance certificate (which may be marked "For Bid Purposes Only") evidencing the coverages specified in the General Conditions and the Supplementary Conditions, on the most current edition of the ACORD form 25-S, to be procured by Bidder and, which will be attached to the Bid Form as Schedule 3.

d. BID SECURITY: A certified check or bid bond issued by a surety authorized to issue surety bonds in the State of Texas in the amount equal to five percent (5%) of the Base Bid, plus all additive alternates, if applicable, to be attached to the Bid Form as Schedule 4.

e. FELONY CONVICTION NOTIFICATION: Executed counterpart of the Felony Conviction Notification attached to the Bid Form as Schedule 5.

f. OUT OF STATE CERTIFICATION: Executed counterpart of Out of State Certification attached to the Bid Form as Schedule 6

g. BID PROPOSAL SCHEDULE: Executed counterpart of the Bid Proposal Schedule attached to the Bid Form as Schedule 7.

Above items (a) - (g) are required by the Owner to adequately evaluate the bidder's qualifications. Failure of the bidder to deliver any such items with its bid shall constitute a basis for rejection of the bid by the Owner. All responses in the bid and qualification statement may be used by the Owner in the selection of the bidder. The Owner reserves the right to verify the accuracy and completeness of all responses by utilizing any information available to the Owner without regard to whether such information appears in the proposal or qualification statement.

4. SUBMISSION OF BID: All bids must be delivered in person, by United States mail, or by a commercial delivery service. Bids received by oral, telephonic, facsimile, telegraph or other electronic means are invalid and will not receive consideration. All documents required to be submitted as set forth in the Bid Form and in the Notice of Request for Competitive Bids and Instructions to Bidders shall be enclosed in a sealed envelope, addressed to Gordon Koenig, Colliers Engineering & Design, 3421 Paesanos Parkway, Suite 200, San Antonio, Texas 78231 and identified as a bid for **MORGAN MEADOWS UNIT 2C**. Bids shall be enclosed in a separate envelope, clearly notated "Sealed Bid Enclosed" on the face thereof.

The Owner will receive bids until 10:00 AM on Monday, August 05, 2024. Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Each bidder shall assume full responsibility for timely delivery of its bid to the location designated for receipt of bids. Bids received after the date and time for receipt of bids will not receive consideration and will be returned unopened.

By submitting a bid, the bidder warrants and represents to Owner that (i) the bidder has prior experience on construction projects of the same or similar type, nature and class as the work to be performed under the Contract Documents; (ii) the bidder has read and understands the Bid Documents and the Contract Documents; (iii) the bid is made in accordance with the Bid Documents; and (iv) the bidder has carefully inspected the site, and that from the bidder's own investigation, the bidder has satisfied itself as to the nature and location of the work to be performed under the Contract Documents and the character, quality, quantities, materials and difficulties to be encountered; the kind and extent of equipment and other facilities needed for the performance of the work to be performed under the Contract Documents; the general and local conditions and other items which may in any way affect the

work to be performed under the Contract Documents or its performance; and the bidder has correlated the bidder's site observations with the requirements of the Contract Documents. The bidder understands and accepts the difficulties and costs associated with the work to be performed under the Contract Documents and the project site and the potential delays, disruptions in work and costs associated therewith and has included such considerations in its construction schedule and the bid amount.

By submitting a bid, each bidder agrees to waive any claim it has or may have against the Owner, Developer (as that term is defined in the General Conditions of Agreement), Engineer (as that term is defined in the Standard Form of Agreement), and their respective trustees, officers, shareholders, director, partners, agents, contractors, consultants and employees, arising out of or in connection with the administration of any bid; waiver of any requirements under the Bid Documents or the Contract Documents; acceptance or rejection of any bids; or award of the Agreement.

5. MODIFICATION AND WITHDRAWAL OF BIDS: A bid may not be modified, withdrawn or canceled by a bidder for a period of sixty (60) days after the last date specified for receipt of bids. Prior to the last date specified for submission of bids, a bid may be modified or withdrawn by notice to Owner at the place designated for receipt of bids. Such notice shall be in writing and executed by the bidder, or by facsimile, or telegram. If by facsimile or telegram, written confirmation executed by the bidder shall be mailed and postmarked on or before the stated time set for receipt of bids. Any modification shall be worded so as not to reveal the amount of the original bid. Any bid withdrawn may be resubmitted within the time designated for the submission of bids.

6. ACCEPTANCE AND/OR REJECTION OF BIDS: The Owner may request from a bidder a written interpretation of any term or statement in a



bid that is or appears unclear or subject to more than one interpretation, and may act upon such written interpretation. The Owner shall have the right to reject all bids; to reject a bid not accompanied by the required bid documents or security; to reject a bid which is in any way incomplete, irregular, or nonconforming; or to reject a bid which may otherwise be legally rejected for any reason. The Owner may waive any formality in any bid to the fullest extent permitted by applicable law.

7. BID SELECTION CRITERIA: The Owner will evaluate bids submitted by qualified bidders based solely on the bid price and compliance with bid requirements.

8. AWARD OF AGREEMENT: Time is of the essence, and the award of the Agreement to the successful bidder is expressly conditioned upon (i) the bidder's execution and delivery of the Contract Documents, and delivery of all required payment and performance bonds and evidence of insurance, within five (5) calendar days after the successful bidder is notified of the acceptance of its bid, and (ii) the bidder's timely fulfillment of any and all other conditions expressly set forth in the Contract Documents. Should the bidder fail to timely execute and deliver the Contract Documents and evidence of insurance, or fail to timely fulfill any other conditions to the Contract Documents and the commencement of the work to be performed under the Contract Documents, the Owner may, at its option and discretion, without releasing, impairing or affecting its right to receive the bid security, rescind the award and thereafter award the agreement to another bidder, or may reject all bids. There will be no contractual obligation on the part of the Owner to any bidder, nor will any bidder have any property interest or other right in the Agreement or work to be performed under the Contract Documents unless and until the Contract Documents are unconditionally executed and delivered by all parties, and all conditions to be fulfilled by the bidder have either been so fulfilled by the bidder or waived in writing by the Owner

9. TRENCH EXCAVATION PROTECTION: Specific reference is hereby made to requirements for trench excavation protection with respect to the work to be performed under the Contract Documents. Each bidder is advised that certain requirements with respect to trench excavation protection must be satisfied prior to award of the Agreement.

10. PREVAILING WAGE RATES: As set forth in the Contract Documents, each bidder is advised that, if awarded the Agreement, the bidder must comply with the requirements of V.T.C.A., Government Code §2258.001 et seq., with respect to the work to be performed under the Contract Documents, and in this regard shall pay to and cause all of its subcontractors to pay not less than the general prevailing rate of per diem wages and the prevailing rate for legal holidays and overtime work, as ascertained by the Owner.

11. BID MEETING: Each bidder is **ENCOURAGED** to attend a pre-bid meeting to be held at 10:00 AM, on Wednesday, July 17, 2024 at Colliers Engineering & Design, 3421 Paesanos Parkway, Suite 200, San Antonio, Texas 78231.

## **BID FORM**

PROPOSAL OF:

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(Name of Bidder)

To:           TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC  
              c/o COURTNEY GROFF  
              Colliers Engineering & Design  
              3421 Paesanos Parkway, Suite 200  
              San Antonio, TX 78231

For:           MORGAN MEADOWS UNIT 2C

Dear Owner:

The Bidder named herein ("Bidder"), in compliance with the Notice of Request for Competitive Bids and Instructions to Bidders for the MORGAN MEADOWS UNIT 2C ("Project") for TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC ("Owner"), having inspected the Project site and carefully examined the Project Drawings, Specifications, and all other Contract Documents (as such term is defined in the Notice of Request for Competitive Bids and Instructions to Bidders), hereby, offers to enter into a contract to perform the Work, within the time set forth herein, and at the price stated herein

. The Bidder fully understands the intent and purpose of the Contract Documents and the conditions of bidding as set forth herein and in the Notice of Request for Competitive Bids and Instructions to Bidders. The Bidder hereby covenants and agrees that claims for additional compensation or extensions of time because of the Bidder's failure to familiarize itself with the Contract Documents or any condition at the Project site, which might affect the Work, will not be allowed.

12. Bid: The Bidder agrees to execute all of the Work described in the Project Drawings, and other Contract Documents, including allowances, for the grand total set forth on the Bid Proposal Schedule. In case of discrepancy between the unit prices and subtotal amounts, the lowest amount shall govern.

13. Time for Completion: If awarded the Agreement, the Bidder agrees to commence the Work on or before September 02, 2024, and to achieve Substantial Completion of the Work on or before September 17, 2025. Failure to complete the Work on or before September 17, 2025, will cause Owner to sustain damages, accordingly, for each calendar day that the Work or any portion thereof remains uncompleted after expiration of the contract time for completion of the Work, the applicable amount per day as detailed in Section 4.04 of the General Conditions of Agreement, will be deducted from sums otherwise due or to become due the Bidder, not as a penalty, but as liquidated damages for the Bidder's default in timely completing the work.

14. Bid Security: Bid security in the form of a certified check or bid bond in the amount of five percent (5%) of the Base Bid, plus all additive alternates, if applicable, is attached hereto, as a guaranty that the Bidder will unconditionally execute a satisfactory contract and furnish the payment and performance bonds, insurance and satisfy all other requirements for execution and delivery of the Contract Documents and commencement of the

Work.

15. Contractor's Personnel: The Bidder agrees to employ the following individuals for the entire duration of the Work at the positions indicated, and agrees not to remove them from the Work nor replace them with others except as otherwise allowed in the Contract Documents or approved in writing by Owner:

Project Manager: \_\_\_\_\_  
\_\_\_\_\_

Project Superintendent: \_\_\_\_\_  
\_\_\_\_\_

16. Representations: By execution and submission of this Bid, the Bidder hereby represents and warrants to Owner as follows:

a. The Bidder has prior experience on construction projects of the same or similar type, nature and class as the Work for the Project.

b. The Bidder has read and understands the Bid Documents and the Contract Documents, and this Bid is made in accordance with the Bid Documents.

c. The Bidder has carefully inspected the Project site, and that from the Bidder's own investigation, the Bidder has satisfied itself as to

the nature and location of the Work and the character, quality, quantities, materials and difficulties to be encountered; the kind and extent of equipment and other facilities needed for the performance of the Work; the general and local conditions and other items which may in any way affect the Work or its performance; and the Bidder has correlated the Bidder's site observations with the requirements of the Contract Documents. The Bidder understands and accepts the difficulties and costs associated with the Work and the Project site and the potential delays, disruptions in work and costs associates therewith and has included such considerations in its construction schedule and the bid amount.

d. To the fullest extent permitted by applicable law, the Bidder waives any claim it has or may have against the Owner, Developer or the Engineer, and their respective trustees, officers, shareholders, directors, partners, agents, contractors, consultants and employees arising out of or in connection with the administration, evaluation, or recommendation of any bids; waiver of any requirements under the Bid Documents or the Contract Documents; acceptance or rejection of any bids; and the award of the Agreement.

17. Attached Schedules: The following Schedules are attached to this Bid Form and incorporated herein:

Schedule 1 -	Contractor's Qualification Statement (AIA Form A305)
Schedule 2 -	Hold Harmless Agreement
Schedule 3 -	Certificate of Insurance
Schedule 4 -	Bid Security
Schedule 5 -	Felony Conviction Notification
Schedule 6 -	Out of State Certification
Schedule 7 -	Bid Proposal Schedule

BIDDER:

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By: 

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Name: 

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Title: 

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## SCHEDULE 1

### CONTRACTOR'S QUALIFICATION STATEMENT (AIA form A305)

The AIA form A305 is available from AIA San Antonio, 1344 South Flores St., Suite 102, San Antonio, Texas 78204, Telephone 210-226-4979, Fax 210-226-3062.

The AIA form A305 is available digitally at the following link:  
<https://ecomm.aiacontracts.com/contract-documents/6331908-contractors-qualification-statement>



SCHEDULE 2  
HOLD HARMLESS AGREEMENT

The Contractor shall defend, indemnify, and hold harmless, TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC ("Owner"), TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC ("Developer"), and Colliers Engineering & Design (previously KFW Engineers) ("Engineer") and all of their trustees, officers, agents, and employees from and against all suits, actions, or claims of any character brought for or on account of any injuries or damages (including death) received or sustained by any person or property on account of, arising out of, or in connection with, any negligent act or omission of Contractor or any agent, employee, subcontractor or supplier of Contractor in the execution or performance of the Agreement for MORGAN MEADOWS UNIT 2C ("Project").

The Contractor shall also defend, indemnify and hold harmless, Owner and Developer and all of its trustees, officers, agents and employees, from and against claims by any subcontractor, supplier, laborer, materialman or mechanic for payment for work materials provided on behalf of the Contractor in the performance of the Agreement and all such claimants shall look solely to Contractor and not Owner or Developer for satisfaction of such claims.

This Hold Harmless Agreement shall be binding upon the undersigned, and its successors, legal representatives, heirs and assigns.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

CONTRACTOR:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS       §

§

COUNTY OF BEXAR     §

This instrument was acknowledged before me on the day of \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a Texas \_\_\_\_\_, on behalf of said \_\_\_\_\_.

\_\_\_\_\_

Notary Public, State of Texas

SCHEDULE 3  
CERTIFICATE OF INSURANCE

Certificate of Insurance to be supplied by Bidder

SCHEDULE 4  
BID SECURITY

Bid security to be supplied by Bidder

SCHEDULE 5  
FELONY CONVICTION NOTIFICATION

Any person or business entity that enters into a contract with TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC ("Owner") must give advance notice to the Owner if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

The Owner may terminate a contract with a person or business entity if the Owner determines that the person or business entity failed to give notice as required by this Schedule 5 or misrepresented the conduct resulting in the conviction. The Owner must compensate the person or business entity for services performed before the termination of the contract.

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge:

CONTRACTOR'S NAME: \_\_\_\_\_

AUTHORIZED COMPANY OFFICIAL'S NAME (printed): \_\_\_\_\_

DATE: \_\_\_\_\_, 2024.

A. My firm is a publicly-held corporation, therefore, this reporting requirement is not applicable.

Signature of Company Official:\_\_\_\_\_

B. My firm is **NOT** owned **NOR** operated by anyone who has been convicted of a felony.

Signature of Company Official:\_\_\_\_\_

C. My firm **IS** owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s):\_\_\_\_\_

Details of Conviction(s):\_\_\_\_\_

Signature of Company Official:\_\_\_\_\_

SCHEDULE 6  
OUT OF STATE CERTIFICATION

As defined by Texas House Bill 602, a “nonresident contractor” means a contractor whose principal place of business is not in Texas, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

I certify that my company is a **“Resident Contractor”**:

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Company Name (Please Print)

I certify that my company qualifies as a **“Nonresident Contractor”**

( NOTE: You must furnish the following information: )

Indicate the following information for your **“Resident State”**: (The state your principal place of business is located in)

<hr/>	<hr/>
Company Name	Address

<hr/>	<hr/>	<hr/>
City	State	Zip Code

Does your "resident state" require contractors whose principal place of business is in Texas to under proposed contractors whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract? ("Resident State" means the state in which the principal place of business is located.)

I. Yes

II. No

B. What is the prescribed amount or percentage? \$\_\_\_\_\_ or \_\_\_\_\_%

**Certification:** I certify that the information provided above is correct.

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Signature of Authorized Representative

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Name (Please Print)

Title



SCHEDULE 7  
BID PROPOSAL SCHEDULE

As attached

**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
BID SUMMARY**

BIDDER'S NAME: \_\_\_\_\_

**MORGAN MEADOWS UNIT 2C**

LOT GRADING IMPROVEMENTS	\$ _____
DRAINAGE IMPROVEMENTS	\$ _____
STREET IMPROVEMENTS	\$ _____
SANITARY SEWER IMPROVEMENTS	\$ _____
WATER IMPROVEMENTS	\$ _____
SEDIMENTATION AND EROSION CONTROL	\$ _____
MISC. IMPROVEMENTS	\$ _____

**TOTAL BASE BID:** \$ \_\_\_\_\_

**Note to Bidders:**

- \* Includes Warranty Assignments or Bonds, per AHJ General Construction Permit requirements.
- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
LOT GRADING IMPROVEMENTS**

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	LOT CLEARING & GRUBBING	AC	14.30	\$ _____	\$ _____
2.	LOT EXCAVATION	CY	2,988	\$ _____	\$ _____
3.	LOT EMBANKMENT	CY	21,585	\$ _____	\$ _____

**TOTAL COST** \$ \_\_\_\_\_

**Note to Bidders:**

- \* All final lot grading shall be compacted in accordance with notes on the Lot Grading Plan
- \* Contractor shall account for any shrinkage/swelling of soil material within bid price for excavation/embankment.
- \* Contractor to field verify and survey the existing site topography and submit information to engineer prior to submitting final bid for verification. No shrinkage or swelling factor is accounted for in the engineering excavation and embankment quantities. Contractor to adjust unit price as he deems necessary to account for shrinkage and swelling.
- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
DRAINAGE IMPROVEMENTS**

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
<b>Drain "A"</b>					
1.	DRAINAGE EXCAVATION	CY	11	\$ _____	\$ _____
2.	DRAINAGE EMBANKMENT	CY	54	\$ _____	\$ _____
3.	6" CONCRETE RIP-RAP	SY	74	\$ _____	\$ _____
4.	CONCRETE SIDEWALK BOX	CY	4	\$ _____	\$ _____
5.	PIPE HANDRAIL	LF	17	\$ _____	\$ _____
6.	12" ROCK RUBBLE	SY	21	\$ _____	\$ _____
7.	BAFFLE BLOCKS	CY	0.08	\$ _____	\$ _____
<b>Drain "B"</b>					
1.	DRAINAGE EXCAVATION	CY	64	\$ _____	\$ _____
2.	6" CONCRETE RIP-RAP	SY	67	\$ _____	\$ _____
3.	CONCRETE SIDEWALK BOX	CY	4	\$ _____	\$ _____
4.	PIPE HANDRAIL	LF	17	\$ _____	\$ _____
5.	12" ROCK RUBBLE	SY	21	\$ _____	\$ _____
6.	BAFFLE BLOCKS	CY	0.08	\$ _____	\$ _____
<b>Drain "C"</b>					
1.	DRAINAGE EXCAVATION	CY	37	\$ _____	\$ _____
2.	6" CONCRETE RIP-RAP	SY	29	\$ _____	\$ _____
3.	CONCRETE SIDEWALK BOX	CY	2	\$ _____	\$ _____
4.	PIPE HANDRAIL	LF	8	\$ _____	\$ _____
5.	RENO MATTRESS	SY	25	\$ _____	\$ _____
6.	BAFFLE BLOCKS	CY	0.08	\$ _____	\$ _____

**TOTAL COST** \$ \_\_\_\_\_

**Note to Bidders:**

\* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.

\* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
STREET IMPROVEMENTS**

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	MOBILIZATION	LS	1	\$ _____	\$ _____
2.	CLEARING & GRUBBING (Streets & Easements)	AC	7.70	\$ _____	\$ _____
3.	EXCAVATION	CY	8,598	\$ _____	\$ _____
4.	EMBANKMENT	CY	3,002	\$ _____	\$ _____
5.	1.5" HMAC, TYPE D	SY	4,476	\$ _____	\$ _____
6.	2" HMAC, TYPE D	SY	11,644	\$ _____	\$ _____
7.	2.5" HMAC, TYPE C	SY	4,476	\$ _____	\$ _____
8.	10" FLEX BASE	SY	11,644	\$ _____	\$ _____
9.	16" FLEX BASE	SY	4,476	\$ _____	\$ _____
10.	6" LIME STABILIZATION	SY	11,644	\$ _____	\$ _____
11.	8" LIME STABILIZATION	SY	4,476	\$ _____	\$ _____
12.	CONCRETE CURB	LF	8,127	\$ _____	\$ _____
13.	REMOVE HEADER CURB	LF	84	\$ _____	\$ _____
14.	REMOVE TIMBER GUARD POST	EA	15	\$ _____	\$ _____
15.	4' SIDEWALK	SY	50	\$ _____	\$ _____
16.	6' SIDEWALK	SY	803	\$ _____	\$ _____
17.	TIE IN TO EXISTING ASPHALT	EA	3	\$ _____	\$ _____
18.	STRIPING	LS	1	\$ _____	\$ _____
19.	SIGNAGE	LS	1	\$ _____	\$ _____

**TOTAL COST \$ \_\_\_\_\_**

**Note to Bidders:**

\* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.

\* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

\* Street base and subgrade material is measured per square yard between curbs of the specified thickness required. The cost of the base and subgrade material under and behind the curb is to be included in the cost of the curb.

\* Costs associated with installation of wheelchair ramps shall be included in the cost of the sidewalks. (no separate pay item)

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

# BID PROPOSAL SCHEDULE MORGAN MEADOWS UNIT 2C SANITARY SEWER IMPROVEMENTS

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	SANITARY SEWER PIPE				
	8" SDR 26	0' - 6'	LF	198	\$
	8" SDR 26	6' - 8'	LF	1,146	\$
	8" SDR 26	8' - 10'	LF	1,718	\$
	8" SDR 26 (160 PSI)	0' - 6'	LF	10	\$
	8" SDR 26 (160 PSI)	6' - 8'	LF	70	\$
	8" SDR 26 (160 PSI)	8' - 10'	LF	120	\$
2.	STANDARD MANHOLE	EACH	15	\$	\$
3.	MANHOLE EXTRA DEPTH	VF	39.1	\$	\$
4.	MANHOLE RING ENCASEMENT	EACH	18	\$	\$
5.	RECONSTRUCT TOP OF EXISTING MANHOLE	EACH	2	\$	\$
6.	ADJUST TOP OF EXISTING MANHOLE	EACH	1	\$	\$
6.	6" SANITARY SEWER LATERAL (SDR 26)	LF	4,213	\$	\$
7.	EXTERNAL DROP STRUCTURE	VF	4.5	\$	\$
7.	TIE-IN TO EXISTING MANHOLE	EACH	3	\$	\$
8.	TRENCH EXCAVATION PROTECTION	LF	3,262	\$	\$
8.	TV VIDEO SEWER LINE	LF	3,262	\$	\$

**TOTAL COST** \$

**Note to Bidders:**

- \* Unit cost of 6" Sanitary Sewer Lateral shall include WYES, fittings, cleanouts, and trench excavation protection.
- \* Refer quantities to the current AHJ Standard Specifications for Construction. An AHJ GCP (General Construction Permit) is required. Contractor shall provide proof of trench compaction test results as tested by a Geotechnical Engineer, to comply with AHJ GCP. Cost of first time testing to be paid by owner. Cost of required retesting shall be paid by Contractor.
- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

# BID PROPOSAL SCHEDULE MORGAN MEADOWS UNIT 2C WATER IMPROVEMENTS

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	TRENCH EXCAVATION PROTECTION	LF	4,827	\$ _____	\$ _____
2.	HYDROSTATIC TESTING	LF	4,827	\$ _____	\$ _____
3.	MACHINE CHLORINATION	LF	4,827	\$ _____	\$ _____
4.	2" HDPE PIPE	LF	974	\$ _____	\$ _____
5.	8" C-900 PVC PIPE	LF	3,853	\$ _____	\$ _____
6.	DUCTILE IRON FITTINGS	TON	1.57	\$ _____	\$ _____
7.	8" GATE VALVE & BOXES, M.J.	EACH	14	\$ _____	\$ _____
8.	1" SHORT DUAL SERVICE W/ 5/8" METERS	EACH	16	\$ _____	\$ _____
9.	1" LONG DUAL SERVICE W/ 5/8" METERS	EACH	16	\$ _____	\$ _____
10.	3/4" SHORT SINGLE SERVICE W/ 5/8" METER	EACH	31	\$ _____	\$ _____
11.	3/4" LONG SINGLE SERVICE W/ 5/8" METER	EACH	16	\$ _____	\$ _____
12.	3/4" IRRIGATION SERVICE W/ 3/4" METER	EACH	3	\$ _____	\$ _____
13.	FIRE HYDRANT ASSEMBLY	EACH	7	\$ _____	\$ _____
14.	2" BLOWOFFS (PERM)	EACH	4	\$ _____	\$ _____
15.	8" WATER TIE IN	EACH	5	\$ _____	\$ _____
16.	CAST IRON METER BOXES	EACH	114	\$ _____	\$ _____

**TOTAL COST** \$ \_\_\_\_\_

## Note to Bidders:

- \* Cost of joint restraint facilities shall be included in the cost for PVC pipe (no separate pay item)
- \* Fitting weights are (and are to be) based on S.A.W.S. weights for Compact M.J. Fittings
- \* Service cost shall include cost of 4" PVC sleeve
- \* Cost of pipe to include bedding & backfill
- \* Water tie-in to include all fittings necessary for completion and sanitization including 2" temporary blowoff
- \* Cost of irrigation services shall include cost of 4" pvc sleeves and/or conduits.
- \* Refer quantities to the current AHJ Standard Specifications for Construction. An AHJ GCP (General Construction Permit) is required. Contractor shall provide proof of trench compaction test results as tested by a Geotechnical Engineer, to comply with AHJ GCP. Cost of first time testing to be paid by owner. Cost of required retesting shall be paid by Contractor.
- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
SEDIMENTATION & EROSION CONTROL**

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	STABILIZED CONSTRUCTION ENTRANCE	EA	1	\$ _____	\$ _____
2.	CONCRETE WASHOUT PIT	EA	1	\$ _____	\$ _____
3.	SILT FENCE	LF	8,931	\$ _____	\$ _____
4.	INLET PROTECTION	LF	42	\$ _____	\$ _____
5.	ROCK BERM	LF	22	\$ _____	\$ _____

**TOTAL COST** \$ \_\_\_\_\_

**Note to Bidders:**

- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be in error of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.
- \* Contractor shall provide BMP to protect the perimeter floodplain from any stockpile.

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_



**BID PROPOSAL SCHEDULE  
MORGAN MEADOWS UNIT 2C  
MISC. IMPROVEMENTS**

NO.	DESCRIPTION	UNIT OF MEASURE	APPROX. QUANTITIES	UNIT PRICES	COST
1.	IMPORT MATERIAL	CY	12,943	\$	\$
2.	(3) 6" & (2) 4" SCH 80 CONDUITS	LF	150	\$	\$
3.	PAYMENT & PERFORMANCE BOND	LS	1	\$	\$

**TOTAL COST** \$

**Note to Bidders:**

- \* Conduit line items are just to acquire Unit Price. Actual quantities will be pending municipalities final design.
- \* All Conduit to be Schedule 80
- \* Contractor is to perform an independent quantity take-off prior to signing the contract, to verify that the quantities given in the bid proposal are within three percent (3%) of the actual quantities required to complete the construction represented by the plans and specifications. If any quantity is found to be a difference of more than three percent (3%), the Contractor shall notify the Engineer forty-eight (48) hours prior to signing the contract.
- \* Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work

**Bidders Initials** \_\_\_\_\_  
**Date** \_\_\_\_\_

STANDARD FORM OF AGREEMENT

STATE OF TEXAS

COUNTY OF BEXAR

THIS AGREEMENT made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC ("OWNER"), and \_\_\_\_\_ ("CONTRACTOR").

The Contract Documents consist of this Standard Form of Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Notice of Request for Competitive Bids and Instructions to Bidders, Bid Form, Performance and Payment Bonds, special Bonds (when required), Project Drawings, Specifications and Addenda issued prior to the execution of this Standard Form of Agreement, and other documents listed in this Standard Form of Agreement; these form the contract, and are as fully a part of the contract as if attached to this Standard Form of Agreement or repeated herein. The Contract Documents represent the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. Signing this Standard Form of Agreement shall be considered as signing all Contract Documents identified. After execution of the original Contract Documents, the contract may thereafter be amended or modified only by a written modification.

For and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by OWNER, CONTRACTOR hereby

agrees to commence and complete the construction of certain improvements described as follows:

Construction of MORGAN MEADOWS UNIT 2C as per the Project Drawings and Specifications prepared by Colliers Engineering & Design (previously KFW Engineers) & Bexar County ("ENGINEER") and all Extra Work in connection therewith, under the terms as stated in the General Conditions of Agreement and at its own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendents, labor, insurance, all permits required by any Governmental Authorities and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Bid Form attached hereto and in accordance with the General Conditions of Agreement, Project Drawings and other drawings and printed or written explanatory matter thereof, and the Specifications and addenda therefor, as prepared by the ENGINEER, each of which has been identified by the CONTRACTOR and the ENGINEER, and together evidence and constitute the entire contract.

The CONTRACTOR hereby agrees to commence the Work on or before September 02, 2024 and to have the Work Substantially Completed by September 17, 2025.

The OWNER agrees to pay the CONTRACTOR in current funds the price shown in the Bid Form, which forms a part of this Agreement, such payments to be subject to the General Conditions of Agreement.

IN WITNESS WHEREOF, the parties to these presents have executed this Standard Form of Agreement in the year and day first above written.

**Owner:**

Talley Extension Revitalization Initiative, LLC

**By:** \_\_\_\_\_

**Name:** Gordon Hartman

**Title:** 0

**Contractor:**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

## GENERAL CONDITIONS OF AGREEMENT

### 1. Definitions

1.01 OWNER, CONTRACTOR, ENGINEER and DEVELOPER. The OWNER, the CONTRACTOR, ENGINEER and the DEVELOPER are referred to throughout the Contract Documents as if singular in number and masculine gender. DEVELOPER means TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC or its duly authorized representative. OWNER means TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC or its duly authorized representative as set forth in the Standard Form of Agreement. CONTRACTOR means the CONTRACTOR or its duly authorized representative as set forth in the Standard Form of Agreement. ENGINEER means Colliers Engineering & Design (previously KFW Engineers) or its duly authorized representative as set forth in the Standard Form of Agreement.

1.02 CONTRACT DOCUMENTS. The Contract Documents means and includes the Standard Form of Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Notice of Request for Competitive Bids and Instructions to Bidders, Bid Form, Performance and Payment Bonds, special Bonds (when required), Project Drawings and Specifications and Addenda issued prior to the execution of this Agreement, and other documents listed in the General Conditions. Project Drawings and Specifications are equivalent in authority and priority. Should they disagree in themselves, or with each other, prices shall be based on the better quality and greater quantity of work indicated. In the event of the above mentioned disagreements, the resolution shall be determined by the DEVELOPER.

1.03 SUB-CONTRACTOR. SUB-CONTRACTOR means and includes only those having a direct contract with the CONTRACTOR and includes one who furnished material specially fabricated according to the Project Drawings and Specifications, but does not include one who merely furnishes material not so specially fabricated.

1.04 WRITTEN NOTICE. Any notice required by or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

1.05 WORK. Work means the provision of and payment for all materials, supplies, machinery, equipment, tools, superintendents, labor, services, permits, taxes, insurance, and all water, light, power, fuel transportation and other facilities and services necessary for the proper execution and completion of the work required by the Contract Documents.

1.06 WARRANTY. Warranty means that materials and equipment furnished under the Agreement will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be performed in a good and workmanlike matter except to the extent that the Contract Documents expressly specify a higher degree of finish or workmanship, that the Work will be free from defects not inherent in the quality required or permitted by the Contract Documents for a period of one (1) year from the date of Substantial Completion (as hereinafter defined) and

that the Work will conform with the requirements of the Contract Documents. The Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The CONTRACTOR'S warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR or any of its Subcontractors, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. The CONTRACTOR'S express warranty herein shall be in addition to, and not in lieu of, any other remedies the OWNER may have under this Agreement, at law, or in equity for defective the Work.

1.07 EXTRA WORK. Extra Work means and includes all of the Work that may be required by the DEVELOPER or the OWNER to be done by the CONTRACTOR to accomplish any change, alteration or addition to the Work shown upon the Project Drawings and Specifications, and not covered by the Bid Form, except as provided under Changes and Alterations, herein.

1.08 WORKING DAY. A Working Day means any day not including Saturdays, Sundays or any generally-recognized legal holidays, in which weather or other conditions not under the control of the CONTRACTOR will permit construction of the principal units of the Work for a period of not less than seven (7) hours between 7:00 a.m. and 6:00 p.m.

1.09 CALENDAR DAY. Calendar Day means any day of the week or month, no days being excepted.

1.10 SUBSTANTIALLY COMPLETED OR SUBSTANTIAL COMPLETION. Substantially Completed or Substantial Completion means that the Work has been completed and accepted by the OWNER and the Governmental

Authorities, and the ENGINEER has made no uncured written objections to any of the Work.

1.11 PREVAILING WAGE RATES. Wage Rates required to be paid as provided in V.T.C.A. Government Code 2258.001 et seq., with respect to the Work, as detailed on Exhibit B attached hereto.

1.12 CONTRACT PRICE. Contract Price means the prices set forth in paragraph 1 of the Bid Form as increased or decreased as provided herein.

1.13 PROJECT DRAWINGS AND SPECIFICATIONS. Project Drawings and Specifications means the drawings and specifications and plans prepared by the ENGINEER for the Project.

1.14 BID FORM. Bid Form means the bid form submitted by the CONTRACTOR regarding the Project which was accepted by the OWNER.

1.15 AGREEMENT. Agreement means the contract by and between the OWNER and the CONTRACTOR regarding the performance of the Work.

1.16 GOVERNMENTAL AUTHORITIES. Governmental Authorities means the City of San Antonio, San Antonio Water System, Bexar Metropolitan Water District, Texas Commission on Environmental Quality, or other authorities having jurisdiction over the Project as the case may be.

## 2. RESPONSIBILITIES OF THE DEVELOPER AND THE CONTRACTOR



2.01 OWNER-DEVELOPER RELATIONSHIP. The DEVELOPER will be the OWNER'S representative during construction. The duties, responsibility and limitations of authority of the DEVELOPER as the OWNER representative during construction are as set forth in the Contract Documents and shall not be extended or limited without written consent of the OWNER and DEVELOPER. The DEVELOPER will advise and consult with the OWNER, and all of the OWNER instruction to the CONTRACTOR shall be issued through the DEVELOPER.

2.02 PROFESSIONAL INSPECTION BY the DEVELOPER. The DEVELOPER shall make periodic visits to the Project site to familiarize itself generally with the progress and quality of the executed Work and to determine if such Work generally meets the essential performance and design features and the technical and functional engineering requirements of the Contract Documents; provided and except, however, that the DEVELOPER shall not be responsible for making exhaustive, comprehensive or continuous on-site inspections to check the quality or quantity of the Work or be in any way responsible, directly or indirectly, for the construction means, methods, techniques, sequences, procedures, programs, safety precautions or lack of same incident thereto or in connection therewith. Notwithstanding any other provision of this Agreement or any other Contract Documents, the DEVELOPER shall not be in any way responsible or liable for any acts, errors, omissions or negligence of the CONTRACTOR, any subcontractor or any of the CONTRACTOR or subcontractor agents, servants or employees or any other person, firm or corporation performing or attempting to perform any of the Work.

2.03 PAYMENTS FOR WORK. The DEVELOPER shall review the CONTRACTOR'S applications for payment and supporting data, determine the

amount owed to the CONTRACTOR and shall approve in writing payment to the CONTRACTOR of such amounts; each such approval of payment to the CONTRACTOR constitutes a representation to the OWNER of the DEVELOPER professional judgment that the Work has progressed to the point indicated and that, to the best of its knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents, but such approval of an application for payment to the CONTRACTOR shall not be deemed as a representation by the DEVELOPER that the DEVELOPER has made any examination to determine how or for what purpose the CONTRACTOR has used the moneys paid on account of the Contract Price.

2.04 INITIAL DETERMINATIONS. The DEVELOPER initially shall determine all claims, disputes and other matters in question between the CONTRACTOR and OWNER relating to the execution or progress of the Work or the interpretation of the Contract Documents and DEVELOPER decision shall be rendered in writing within a reasonable time.

2.05 OBJECTIONS. In the event the DEVELOPER renders any decision which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Agreement, either party may file with the DEVELOPER within thirty (30) days its written objection to the decision, and by such action may reserve the right to submit the question so raised to mediation as hereinafter provided.

2.06 LINES AND GRADES. Unless otherwise specified, all lines and grades shall be furnished by the ENGINEER or its representative in accordance with Project Drawings and Specifications. Whenever necessary, the Work shall be suspended to permit performance of this engineering work, but such suspension will be as brief as practicable and the CONTRACTOR shall be allowed no extra compensation. The CONTRACTOR shall give the ENGINEER

ample notice of the time and place where lines and grades will be needed. All stakes, marks, etc. shall be carefully preserved by the CONTRACTOR, and in case of destruction or removal by it or its employees, such stakes, marks, etc., shall be replaced at the CONTRACTOR'S expense.

The exactness of grades, elevations, dimensions, or locations given on any Project Drawings and Specifications issued by the ENGINEER, or the work installed by other contractors, is not guaranteed by the OWNER, the DEVELOPER or the ENGINEER. The CONTRACTOR shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations. In all cases of interconnection of the Work with existing or other work, it shall verify at the Project site all dimensions relating to such existing or other work. Any errors due to the CONTRACTOR'S failure to so verify all such grades, elevations, dimensions, or locations shall be promptly rectified by the CONTRACTOR without any additional cost to the OWNER.

Notwithstanding the delivery of a survey or other documents by the OWNER, the CONTRACTOR shall use reasonable efforts to perform all work in such a manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the property. The CONTRACTOR shall be responsible for, and shall repair at the CONTRACTOR'S own expense, any damage done to lines, cables, pipes, and pipelines.

2.07 CONTRACTORS DUTY AND SUPERINTENDENCE. The CONTRACTOR shall supervise and direct the Work, using the CONTRACTOR'S best skill and attention to the faithful prosecution and completion of this Agreement and shall keep on the Work, during its progress, a competent superintendent and any necessary assistants. The superintendent shall represent the CONTRACTOR and all directions given to it shall be as binding as if given to the CONTRACTOR. The CONTRACTOR shall not replace the

Superintendent prior to final completion of the Work unless (1) the Superintendent shall cease to be employed by the CONTRACTOR or its subsidiaries or affiliated companies, or (2) the OWNER agrees to such replacement. The Superintendent may not be employed on any other project prior to final completion of the Work.

The CONTRACTOR is and at all times shall remain an independent contractor, and shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Agreement, with full power and authority to select the means, method and manner of performing such Work, the OWNER being interested only in the result obtained and conformity of such completed improvements to the Project Drawings and Specifications and Agreement.

Likewise, the CONTRACTOR shall be responsible to the OWNER and DEVELOPER for acts and omissions of the CONTRACTOR'S employees, Subcontractors and their agents and employees and other persons performing portions of the Work under a contract with the CONTRACTOR, and solely responsible for the safety of it, its employees and other persons, as well as for the protection of the safety of the improvements being erected and the property of itself or any other person, as a result of its operation hereunder. Engineering construction drawings and specifications as well as any additional information concerning the Work to be performed passing from or through the DEVELOPER shall not be interpreted as requiring or allowing the CONTRACTOR to deviate from the Project Drawings and Specifications, the intent of such drawings and any other such instructions being to define with particularity the agreement of the parties as to the Work the CONTRACTOR is to perform. The CONTRACTOR shall be fully and completely liable, at its own expense, for design, construction, installation and use, or non-use, of all items and methods incident to performance of the Agreement, and for all loss,

damages or injury incident thereto, either to person or property, including, without limitation, the adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices, and similar items or devices used by it during construction.

The CONTRACTOR will carefully study and compare the Contract Documents with each other and with information furnished by the OWNER and Developer pursuant hereto, and will promptly report to the Developer errors, inconsistencies or omissions discovered. The CONTRACTOR will take field measurements and verify field conditions and will carefully compare them and other information known to the CONTRACTOR with the Contract Documents before beginning the Work, and will promptly report to the Developer errors, inconsistencies or omissions discovered. The CONTRACTOR will perform the Work in accordance with the Contract Documents.

The CONTRACTOR shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, Subchapter C, Sections 756.021, et seq. The OWNER will pay for the trench backfill test but this does not alleviate the obligations of the CONTRACTOR to independently verify the information.

The CONTRACTOR shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the CONTRACTOR'S duties shall not relieve any Subcontractor(s) or any other person or entity (e.g. a supplier) including any person or entity with whom the CONTRACTOR does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property

and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this section are not intended to impose upon the CONTRACTOR any additional obligations that the CONTRACTOR would not have under any applicable state or federal laws including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

The CONTRACTOR shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. The CONTRACTOR'S obligations under this section do not require it to perform engineering services during the pre-construction phase to prepare proper drainage for the Project site. However, any drainage alterations made by the CONTRACTOR during the construction process which require the issuance of a permit shall be at the CONTRACTOR'S sole cost.

Any review of the Work in process, or any visit or observation during construction, or any clarification of the Project Drawings and Specifications, by the DEVELOPER, or any agent, employee or representative of either of them, whether through personal observation on the Project site or by means of approval of shop drawings for temporary construction or construction processes, or by other means or methods, is agreed by the CONTRACTOR, to be for the purpose of observing the extent and nature of the Work completed or being performed, as measured against the Project Drawings and Specifications constituting the contract, or for the purpose of enabling the CONTRACTOR to more fully understand the Project Drawings and Specifications so that the Work that is completed will conform thereto, and shall in no way relieve the CONTRACTOR from full and complete responsibility

for the proper performance of the Work on the Project, including but without limitation the propriety of means and methods of the CONTRACTOR in performing the Work, and the adequacy of any designs, plans or other facilities for accomplishing such performance. Deviation by the CONTRACTOR from the Project Drawings and Specifications that may have been in evidence during any such visitation or observation by the DEVELOPER, or any of its representatives, whether called to the CONTRACTOR'S attention or not, shall in no way relieve the CONTRACTOR from its responsibility to complete all Work in accordance with the Project Drawings and Specifications.

2.08 CONTRACTOR'S UNDERSTANDING. It is understood and agreed that the CONTRACTOR has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local condition, and all other matters which can in any way affect the Work under this Agreement. No verbal agreement or conversation with any officer, agent or employee of the OWNER or the DEVELOPER before or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained.

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

2.10 CONTRACTOR'S BUILDINGS. The building of structures for housing men, or the erection of tents or other forms of protection, will be permitted only at such places as the DEVELOPER shall direct, and the sanitary conditions of the ground in or about such structures shall all times be maintained in a manner satisfactory to the DEVELOPER.

2.11 SANITATION. Necessary sanitary conveniences for the use of laborers on the Work, properly secluded from public observation, shall be constructed and maintained by the CONTRACTOR in such manner and at such points as shall be approved by the DEVELOPER, and their use shall be strictly enforced.

2.12 SHOP DRAWINGS. The CONTRACTOR shall submit to the DEVELOPER, with such promptness as to cause no delay in its own work or in that of any other contractor, four checked copies, unless otherwise specified, of all shop and/or setting drawings and schedules required for the Work of the various trades, and DEVELOPER shall pass upon them with reasonable promptness, making desired corrections. The CONTRACTOR shall make any corrections required by the DEVELOPER, file with it two corrected copies and furnish such other copies as may be needed. The DEVELOPER'S approval of such drawings or schedules shall not relieve the CONTRACTOR from responsibility for deviations from the Project Drawings and Specifications, unless the CONTRACTOR has in writing called the DEVELOPER'S attention to such deviations at the time of submission, nor shall it relieve the CONTRACTOR from responsibility for errors of any sort in shop drawings or schedules. It shall be the CONTRACTOR'S responsibility to fully and completely review all shop drawings to ascertain their effect on its ability to perform the Work in accordance with the Project Drawings and Specifications and within the contract time.



Such review by the DEVELOPER shall be for the sole purpose of determining the sufficiency of said drawings or schedules to result in finished improvements in conformity with the Project Drawings and Specifications, and shall not relieve the CONTRACTOR of its duty as an independent contractor as previously set forth, it being expressly understood and agreed that the DEVELOPER does not assume any duty to pass upon the propriety or adequacy of such drawings or schedules, or any means or methods reflected thereby, in relation to the safety of either person or property during the CONTRACTOR'S performance hereunder.

2.13 PRELIMINARY APPROVAL. The DEVELOPER shall not have the power to waive the obligations of this Agreement for the furnishing by the CONTRACTOR of good material, and of its performing good Work as herein described, and in full accordance with the Project Drawings and Specifications. No failure or omission of the DEVELOPER to discover, object to or condemn any Work or material that is defective shall release the CONTRACTOR from the obligations to fully and properly perform the Agreement, including without limitation, the obligation to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of Work or material that is defective: provided, however, that the DEVELOPER shall, upon request of the CONTRACTOR, inspect and accept or reject any material furnished, and in event the material has been once accepted by the DEVELOPER, such acceptance shall be binding on the OWNER, unless it can be clearly shown that such material furnished does not meet the specifications for the Work.

Any Work that is questioned may be ordered taken up or removed for re-examination, by the DEVELOPER, prior to final acceptance, and if found not in accordance with the specifications for the Work, all expense of removing, re-examination and replacement shall be borne by the CONTRACTOR, otherwise the expense thus incurred shall be allowed as Extra Work, and shall

be paid for by the OWNER; provided that, where inspection or approval is specifically required by the specifications prior to performance of certain work, should the CONTRACTOR proceed with such Work without requesting prior inspection or approval it shall bear all expense of taking up, removing, and replacing the Work if so directed by the DEVELOPER.

2.14 DEFECTS AND THEIR REMEDIES: If the Work or any part thereof, or any material brought on the site of the Work for use in the Work or selected for the same, shall be deemed by the DEVELOPER as unsuitable or not in conformity with the Project Drawings and Specifications, the CONTRACTOR shall, after receipt of written notice thereof from the DEVELOPER, forthwith remove such material and rebuild or otherwise remedy such work so that it shall be in full accordance with this Agreement. If the CONTRACTOR fails to correct work the DEVELOPER so deems unsuitable or not in conformity with the Project Drawings and Specifications, or persistently fails to carry out the Work in accordance with this Agreement, the OWNER may order the CONTRACTOR to stop the Work, or any portion of it, until the CONTRACTOR has eliminated the cause for such order and cured its material effects; provided, however, that the OWNER shall have no duty to exercise such right for the benefit of the CONTRACTOR or anyone else.

2.15 CHANGES AND ALTERATIONS. The CONTRACTOR further agrees that the OWNER may make such changes and alterations as the OWNER may see fit, in the line, grade, form, dimensions, plans or materials for the Work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this Agreement or the accompanying Performance and Payment Bonds.

If such changes or alterations diminish the quantity of the Work to be done, they shall not constitute the basis for a claim for damages, or anticipated

profits on the Work that may be dispensed with, except as provided for unit price items under Section 5 "Measurement and Payment." In case the OWNER shall make changes or alterations as shall make useless any Work already done or material already furnished or used in the Work, then the OWNER shall recompense the CONTRACTOR for any material or labor so used, and for any actual loss occasioned by such change, due to actual expenses incurred in preparation for the Work as originally planned.

2.16 PAYMENT OF WORK. The CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendents, labor, services, insurance, all permits required by any Governmental Authorities and all water, light, power, fuel, transportation and other facilities and services necessary for the proper execution and completion of the Work required by the Contract Documents. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or Work described in words which have a well known technical or trade meaning shall be held to refer to such recognized standards.

### 3. GENERAL OBLIGATIONS AND RESPONSIBILITIES

3.01 KEEPING OF THE PROJECT DRAWINGS AND SPECIFICATIONS ACCESSIBLE. The DEVELOPER shall furnish the CONTRACTOR with an adequate and reasonable number of copies of the Project Drawings and Specifications, and the CONTRACTOR shall keep one copy of the same constantly accessible on the Project site, with the latest revisions noted thereon.

3.02 OWNERSHIP OF THE PROJECT DRAWINGS AND SPECIFICATIONS. All drawings and copies thereof furnished by the DEVELOPER shall not be reused on other work, and with the exception of the signed contract sets, are to be returned to it on request, at the completion of the Work. All models are the property of the OWNER.

3.03 ADEQUACY OF DESIGN. The OWNER and CONTRACTOR agree that the Contract Documents may not be free from errors, inconsistencies, or omissions, and further agree that the OWNER makes no warranty as to the completeness or accuracy of the Contract Documents, either express or implied. Execution of this Agreement by the CONTRACTOR is a representation that the CONTRACTOR has thoroughly reviewed and become familiar with the Contract Documents and that the CONTRACTOR is not aware of any errors, inconsistencies or omissions in the Contract Documents which would delay the CONTRACTOR in the performance of the Work. The CONTRACTOR shall not be entitled to any damages or increase in the Contract Price due to delays, acceleration of or disruptions to the Work.

3.04 RIGHT OF ENTRY. The OWNER reserves the right to enter the Project site or location on which the Work herein contracted for are to be constructed or installed, by such agent or agents as it may elect, for the purpose of inspecting the Work, or for the purpose of constructing or installing such collateral Work as the OWNER may desire.

3.05 COLLATERAL CONTRACTS. The OWNER reserves the right to perform construction or related operations related to the Work with the OWNER'S own forces, to award separate contracts in connection with other portions of the Work or other construction or operations on the Project site. If the CONTRACTOR claims that delay or additional cost is involved because of

such operations by the OWNER, the CONTRACTOR shall make a claim as provided herein.

3.06 DISCREPANCIES AND OMISSIONS. It is further agreed that it is the intent of this Agreement that all Work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the separate Contract Documents, the priority of interpretation defined under Contract Documents shall govern. In the event that there is still any doubt as to the meaning and intent of any portion of the Agreement or drawings, the DEVELOPER shall define which is intended to apply to the Work.

3.07 EQUIPMENT, MATERIALS AND CONSTRUCTION PLANT. The CONTRACTOR shall be responsible for the care, preservation, conservation, and protection of all material, supplies, machinery, equipment, tools, apparatus, accessories, facilities, all means of construction, and any and all parts of the Work, until the entire Work is completed and accepted.

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

the sole responsibility of the CONTRACTOR, acting at its discretion as an independent contractor.

### 3.09 PERFORMANCE AND PAYMENT BONDS.

The CONTRACTOR is required, as a condition precedent to the execution of this Agreement, to execute a PERFORMANCE BOND (AIA Form No. A312: December 1984 Edition), in an amount equal to ONE HUNDRED PERCENT (100%) of the total combined accepted bid(s).

The CONTRACTOR is required, as a condition precedent to the execution of the Agreement, to execute a PAYMENT BOND in the form required by TEXAS STATUTES, in the amount equal to ONE HUNDRED PERCENT (100%) of the total bid as security for payment of all persons performing labor and furnishing materials in connection with this Agreement. (Bonding Company is to furnish such forms). All bonds shall name the OWNER as additional obligee.

The Payment and Performance Bond shall meet requirements of Chapter 2253 of the Texas Governmental Code. All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance. The surety company may be required by the OWNER to have a rating of not less than "B" in the latest edition of Best's Insurance Reports, Property-Casualty. The surety company shall provide, if requested, information on bonding capacity, other projects under coverage and shall provide proof to establish adequate financial capacity for this Project.

Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the OWNER, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by an reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus.

The Sureties shall promptly file a signed copy of this Agreement, Performance, and Payment Bonds with the OWNER in full compliance with Chapter 2253 of the Texas Governmental Code.

All bonds will be reviewed by the ENGINEER for compliance with the Contract Documents prior to execution of this Agreement. In the event that the ENGINEER has any questions concerning the sufficiency of the bonds, the bonds will be referred to the OWNER or the OWNER'S representative for review and decision.

All bonds shall be originals. The CONTRACTOR shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the Power-of-Attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

Upon the request in writing of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under this Agreement, the CONTRACTOR shall promptly furnish a copy of the bonds or shall permit a copy to be made.

Bonds shall be signed by an agent resident in the State of Texas and the date of the bond shall be the date of execution of this Agreement. If at any time during the continuance of this Agreement, the surety of the CONTRACTOR'S bonds becomes insufficient, the OWNER shall have the right to require additional and sufficient sureties which the CONTRACTOR shall furnish to the satisfaction of the OWNER within ten (10) business days after notice to do so. In default thereof, the CONTRACTOR may be suspended, and all payment or money due to the CONTRACTOR withheld.

3.10 LOSSES FROM NATURAL CAUSES. Unless otherwise specified, all loss or damage to the CONTRACTOR arising out of the nature of the Work to be done, or from the action of the elements, from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the same, or from unusual obstruction or difficulties which may be encountered in the prosecution of the Work, shall be sustained and borne by the CONTRACTOR at its own costs and expense.

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



shall not apply to any claim of any kind arising out of the existence or character of the Work.

3.12 PROTECTION AGAINST CLAIMS OF SUB-CONTRACTORS, LABORERS, MATERIALMEN AND FURNISHING OF MACHINERY, EQUIPMENT AND SUPPLIES. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE OWNER AND DEVELOPER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO THE CONTRACTOR.** When so desired by the OWNER, the CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged or waived.

3.13 PROTECTION AGAINST ROYALTIES OR PATENTED INVENTION. The CONTRACTOR shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with the patentee or owner. The CONTRACTOR shall defend all suits or claims for infringement of any patent or copyright rights and shall indemnify and save the OWNER and ENGINEER harmless from any loss on account thereof, except that the OWNER shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process or the product of a particular manufacturer is specified or required by the OWNER; provided, however, if choice of alternate design, device, material or process is allowed to the CONTRACTOR then the CONTRACTOR shall indemnify and save the OWNER harmless of any loss on account thereof. If the material or process specified or required by the OWNER is an infringement, the CONTRACTOR shall be responsible for such loss unless it promptly gives such information to the OWNER.

3.14 LAWS AND ORDINANCES. The CONTRACTOR shall at all times observe and comply with all Federal, State, and local laws, ordinances and regulations, which in any manner affect the Agreement or the Work, and shall indemnify and save harmless the OWNER and DEVELOPER against any claim arising from the violation of any such laws, ordinances, and regulations whether by the CONTRACTOR or its employees. If the CONTRACTOR observes that the Project Drawings and Specifications are at variance therewith it shall promptly notify the DEVELOPER in writing, and any necessary changes shall be adjusted as provided in the Agreement for changes in the Work. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the DEVELOPER, it shall bear all costs arising therefrom. In case the OWNER is a body politic and corporate, the law from which it derives its powers, insofar as the same regulates the objects for which, or the manner in which, or the conditions under which the OWNER may enter into contract, shall be controlling, and shall be considered as part of this Agreement, to the same effect as though embodied herein.

3.15 ASSIGNMENT AND SUBLETTING. The CONTRACTOR further agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement and that he will not assign by Power of Attorney, or otherwise, or sublet this Agreement without the written consent of the DEVELOPER, and that no part or feature of the Work will be sublet to anyone objectionable to the DEVELOPER or the OWNER. The CONTRACTOR further agrees that the subletting of any portion or feature of the Work, or materials required in the performance of this Agreement, shall not relieve the CONTRACTOR from its full obligations to the OWNER as proved by the AGREEMENT

**3.16 INDEMNIFICATION. THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, THE DEVELOPER, THE ENGINEER, THE CITY OF SAN ANTONIO, BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER FIFTEEN AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL DAMAGES, CLAIMS, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, PROVIDED THAT ANY SUCH DAMAGES, CLAIM, LOSS, DEMAND, SUIT, JUDGMENT, COST OR EXPENSE;**

**(1) IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF) INCLUDING THE LOSS OF USE RESULTING THEREFROM; AND,**

**(2) IS CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANYONE OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT IT IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER; BUT**

**(3) IS NOT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OWNER OR THE DEVELOPER; PROVIDED, THAT THE PARTIES INTEND THE CONTRACTOR'S INDEMNITY TO EXTEND TO THINGS CAUSED BY THE ORDINARY NEGLIGENCE OF THE OWNER OR THE DEVELOPER.**

**THE OBLIGATION OF THE CONTRACTOR UNDER THIS SECTION SHALL NOT EXTEND TO THE LIABILITY OF THE DEVELOPER, ITS AGENTS OR EMPLOYEES ARISING OUT OF THE PREPARATION OR APPROVAL OF MAPS, DRAWINGS, REPORTS, SURVEYS, CHANGE ORDERS, DESIGNS OR SPECIFICATIONS OR THE GIVING OF OR THE FAILURE TO GIVE DIRECTION OR INSTRUCTIONS BY THE DEVELOPER, ITS AGENTS OR EMPLOYEES, PROVIDED SUCH GIVING OR FAILURE TO GIVE IS THE PRIMARY CAUSE OF THE INJURY OR DAMAGE.**

Indemnification hereunder shall include, without limiting the generality of the foregoing, liability which could arise to the OWNER, the DEVELOPER, Board of Directors of Reinvestment Zone Number Fifteen and the City of San Antonio and their agents, consultants, and representatives, or the ENGINEER pursuant to State statutes for the safety of workmen and in addition, all Federal statutes and rules existing thereunder for protection, occupational safety and health to workmen. It being agreed that the primary obligation of the CONTRACTOR is to comply with said statutes in performance of the Work by the CONTRACTOR and that the obligations of the OWNER, the DEVELOPER, their agents, consultants, and representatives under said statutes are secondary to that of the CONTRACTOR. The CONTRACTOR is required, as a condition precedent to the execution of the Agreement to execute the Indemnification Agreement which is attached hereto as Exhibit "C".

3.17 INSURANCE. The CONTRACTOR at its own expense shall, and shall require its Subcontractors to, purchase, maintain and keep in force such insurance as will protect it from claims set forth below which may arise out of or result from the CONTRACTOR'S operations under the Agreement, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including, without limitation, the following:

### Commercial General Liability Coverage

Commercial General Liability Insurance on a Claim Occurrence Form containing a per occurrence or aggregate combined single limit of \$5,000,000.00 providing protection against bodily injury, property damage (Broad Form) and personal injury claims arising from the exposures of 1) premises-operations; 2) Products and completed operations including material designed, furnished and/or modified in any way by the CONTRACTOR; 3) independent contractors; 4) contractual liability risk covering the indemnity obligations set forth in this Agreement; and 5) property damage resulting from explosion, collapse, or underground (x, c, u,) exposures.

### Automobile Liability Coverage

Automobile Liability Coverage containing a \$1,000,000 per occurrence and aggregate combined single limit of liability insuring against bodily injury and/or property damage arising out of the operations, maintenance or use of any auto including, owned, non-owned, hired, agent and employee auto use.

### Worker's Compensation Insurance

Worker's Compensation Insurance providing statutory benefits imposed by applicable state or federal law such that (a) the OWNER will have no liability to the CONTRACTOR'S or any Subcontractor's employees and agents; and (b) the CONTRACTOR will satisfy, and will require its Subcontractors to satisfy, all

Worker's Compensation obligation imposed by state law. Such Worker's Compensation Insurance shall provide for a waiver of subrogation. Should the CONTRACTOR or any subcontractor of the CONTRACTOR fail to provide a certificate evidencing such Worker's Compensation Insurance, the OWNER may withhold ten percent (10%) of the amount otherwise due to the CONTRACTOR hereunder to protect the OWNER against potential claims by workers.

### Statutory Notice

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 is required for the duration of the Project.

Duration of the Project includes the time from the beginning of the work on the Project until the CONTRACTOR'S/person's work on the Project has been completed and accepted by the governmental entity.

Persons providing services on the Project ("subcontractor" in Texas Labor Code 406.096) include 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 that 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 do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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.

The CONTRACTOR must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

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 the governmental entity showing that coverage has been extended.

The CONTRACTOR shall obtain from each person providing services on a Project, and provide to the governmental entity:

a. A certificate of coverage, prior to that person beginning work on the Project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and

b. No later than seven (7) 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.

The CONTRACTOR shall retain all required certificates of coverage for the duration of the Project and for one (1) year thereafter.

The CONTRACTOR shall notify the governmental entity 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.

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.

The CONTRACTOR shall contractually require each person with whom it contracts to provide services on a Project, to:

a. 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 of its employees providing services on the Project for the duration of the Project;

b. 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;

c. 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;

d. Obtain from each other person with whom it contracts, and provide to the CONTRACTOR:

(1) A certificate of coverage, prior to the other person beginning work on the Project; and

(2) 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;

e. Retain all required certificates of coverage on file for the duration of the Project and for one (1) year thereafter;

f. Notify the governmental entity 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

g. Contractually require each person with whom it contracts to perform as required by items a-f, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract or providing or causing to be provided a certificate of coverage, the CONTRACTOR is representing to the governmental entity 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.

The CONTRACTOR's failure to comply with any of these provisions is a breach of contract by the CONTRACTOR that entitles the governmental entity to declare the contract void if the CONTRACTOR does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC 110.110(i)

3.17.1 CERTIFICATE OF INSURANCE. Before commencing any of the Work, the CONTRACTOR shall file with the OWNER valid Certificates of Insurance acceptable to the OWNER and DEVELOPER. Such Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days prior written notice has been given to the OWNER. The CONTRACTOR shall also file with the OWNER valid Certificates of Insurance covering all Subcontractors.

3.17.2 The policy or policies so issued in the name of the CONTRACTOR shall also name subcontractors and the OWNER, DEVELOPER, ENGINEER and City of San Antonio as additional insureds,

as their respective interests may appear. Such coverage shall be primary coverage.

3.17.3 Nothing contained herein shall limit or waive the CONTRACTOR'S legal or contractual responsibilities to the OWNER or others.

#### 4. PROSECUTION AND PROGRESS

4.01 TIME AND ORDER OF COMPLETION. It is the meaning and intent of the Agreement, unless otherwise herein specifically provided, that the CONTRACTOR shall be allowed to prosecute the Work at such times and seasons, in such order of precedence, and in such manner as shall be most conducive to economy of construction: provided, however, that the order and the time of prosecution shall be such that the Work shall be Substantially Completed as a whole and in part, in accordance with this Agreement, the Project Drawings and Specifications, and within the time of completion designated in the Bid Form; provided, further that when the OWNER is to have other Work done, either by contract or by its own force, the DEVELOPER may direct the time and manner of constructing the Work done under this Agreement, so that conflict will be avoided and the construction of the various Works being done for the OWNER shall be harmonized.

The CONTRACTOR shall submit, at such times as may reasonably be requested by the DEVELOPER, schedules which shall show the order in which the CONTRACTOR proposes to carry on the Work, with dates at which the CONTRACTOR will start the several parts of the Work, and estimated dates of completion of the several parts.

4.02 EXTENSION OF TIME. Should the CONTRACTOR be delayed in the completion of the Work by any act or neglect of the OWNER or the ENGINEER, or of any employee of either, or by other contractors employed by the OWNER, or by changes ordered in the Work, or by strikes, lockouts, fires, and unusual delays by common carriers, or unavoidable cause or causes beyond the CONTRACTOR'S control, or by any cause which the DEVELOPER shall decide justifies the delay, then an extension of time shall be allowed for completing the Work, sufficient to compensate for the delay, the amount of the extension to be determined by the DEVELOPER; conditioned, however, on the CONTRACTOR'S giving the DEVELOPER notice in writing of the cause of such delay and requesting an extension, by no later than ten (10) days after the inception of the delay.

4.03 HINDRANCES and DELAYS. The OWNER, except as provided for in this section 4.03, shall not be liable to the CONTRACTOR for delay to the Work by the act, neglect or default of the OWNER, the DEVELOPER or the ENGINEER, or by reason of fire, act of God, riot, strike, action of workmen or others, or any cause beyond the OWNER'S control. Should the OWNER, the DEVELOPER or the ENGINEER delay the CONTRACTOR in the Work, the CONTRACTOR shall receive an extension of time for completion equal to the delay if a written claim is made within forty-eight (48) hours, and under no circumstances shall the OWNER be liable to pay the CONTRACTOR any compensation for such OWNER-caused delays. This Agreement does not permit the recovery of damages by the CONTRACTOR for delay, disruption or acceleration. The CONTRACTOR agrees that the CONTRACTOR shall be fully compensated for all delays solely by an extension of time.

4.04 TIME of COMPLETION and LIQUIDATED DAMAGES. The time set forth in this Agreement for the completion of the Work is an essential element

of this Agreement. The parties understand and agree that (i) the CONTRACTOR'S failure to complete the Work within the contract time will cause the OWNER to sustain damages, including, but not limited to, loss resulting from delay in recovering the OWNER'S investments in the property upon which the Project is being constructed and in the Project itself, additional interest costs and additional engineering and other fees, costs and expenses, (ii) the damages that the OWNER will thereby sustain are difficult or impossible to predict, (iii) FOUR HUNDRED DOLLARS (\$400.00) per Calendar Day is a reasonable estimate of the damages the OWNER will sustain if the CONTRACTOR does not complete the Work within the contract time, and (iv) accordingly, for each calendar day that the Work or any portion thereof remains uncompleted after expiration of the contract time for completion of the Work, FOUR HUNDRED DOLLARS (\$400.00) per Calendar Day will be deducted from sums otherwise due or to become due the CONTRACTOR, not as a penalty, but as liquidated damages for the CONTRACTOR'S default in timely completing the Work.

## 5. MEASUREMENT AND PAYMENT

5.01 QUANTITIES AND MEASUREMENTS. No extra or customary measurements of any kind will be allowed, but the actual measured and/or computed length, area or volume, number and weight only shall be considered, unless otherwise specifically provided.

5.02 ESTIMATED QUANTITIES. This Agreement, including the Project Drawings and Specifications and estimate, is intended to show clearly all Work to be done and material to be furnished hereunder. Where quantities are shown for the various portions and classes of the work to be done and material to be furnished under this Agreement, they are approximate and are to be used only as a basis for estimating the probable costs of the Work and

for comparing the bids offered for the Work. It is the CONTRACTOR responsibility to verify all quantities needed and to request any corrections prior to contract execution. It is understood and agreed that the actual amount of the Work to be done and material to be furnished under this Agreement may differ somewhat from the provided estimates, and that the basis for payment under this Agreement is the lump sum method, payment for any change shall be for the actual amount of such Work done and the material furnished per the provided unit rates.

Payment is based on the lump sum method, based on the unit rates and quantities provided, and the CONTRACTOR agrees that it will make no claim (or seek damages) for anticipated profits or otherwise, on account of any differences which may be found between (x) the quantities of the Work actually done and the quantities of material actually furnished under this Agreement and (y) the estimated quantities thereof contemplated and contained in the Bid Form; provided, however, that in case the actual quantity of any major item should become as much as 10% more, or 10% less, than the estimated or contemplated quantity for such items, then either party to this Agreement, upon demand, shall be entitled to a revised consideration upon the portion of the Work above or below 10% of the estimated quantity.

A "Major" Item shall be construed to be any individual bid item incurred in the Bid Form that has a total cost equal to or greater than five percent (5%) of the Contract Price, computed on the basis of the Bid Form quantities and the contract unit prices.

Any revised consideration is to be determined by agreement between the parties, otherwise by the terms of this Agreement as provided under "Extra" Work.

The CONTRACTOR is responsible for bidding the Project Drawings and Specifications as designed. The ENGINEER and OWNER have made every effort to accurately describe the improvements that are in the Project Drawings and Specifications within the Bid Form; however, any quantity omissions in the Bid Form whose cumulative price is less than or equal to 20% of the Contract Price shall be deemed to be included in the bid.

5.03 PRICE OF WORK. In consideration of the furnishing of all the necessary labor, equipment and material, and the completion of the Work by the CONTRACTOR, and on the completion of the Work and of the delivery of all material embraced in this Agreement in full conformity with the Project Drawings and Specifications and stipulations herein contained, the OWNER agrees to pay the CONTRACTOR the Contract Price. The CONTRACTOR hereby agrees to receive such prices as full and complete compensation to the CONTRACTOR for furnishing all material and all labor required for the work, including reimbursement for all expense incurred by it, and for well and truly performing the same and the whole thereof in the manner provided for in this Agreement.

5.04 PARTIAL PAYMENTS: On or before the 20th day of each month, the CONTRACTOR shall prepare and submit to the DEVELOPER for approval or modification a statement showing as completely as practicable the total value of the Work done by the CONTRACTOR up to and including the last day of the preceding month; said statement shall also include the value of all sound materials delivered to the site of the Work that are to be incorporated into the Work.



The OWNER shall then pay the CONTRACTOR on or before the 15th day of the following month the total amount of the approved statement, less five percent (5%) of the amount thereof, which five percent (5%) shall be retained until final payment, and also less all previous payments made and all further sums that may be retained by the OWNER pursuant to other provisions of this Agreement. It is understood, however, that in case the whole work be near to completion and some unexpected and unusual delay occurs due to no fault or neglect on the part of the CONTRACTOR, the OWNER may, upon written recommendation of the DEVELOPER, pay a reasonable and equitable portion of the retained percentage to the CONTRACTOR, or at the OWNER'S option, exercisable by written notice to the CONTRACTOR, the CONTRACTOR may be relieved of the obligation to fully complete the Work and thereupon, the CONTRACTOR shall receive payment of the balance due it under the Agreement subject only to conditions stated under "Final " Payment.

The CONTRACTOR shall, within ten (10) days following receipt of payment from the OWNER, pay all bills for labor and materials performed and furnished by others in connection with the performance of the Work, and shall, if requested, provide the OWNER with evidence of such payment. The CONTRACTOR'S failure to make payments within such time shall constitute a material breach of this Agreement. The CONTRACTOR shall include a provision in each of its subcontracts imposing the same payment obligations on its subcontractors as are applicable to the CONTRACTOR hereunder, and if the OWNER so requests, shall provide copies of such subcontractor payments to the OWNER. If the CONTRACTOR has failed to make payment promptly to the CONTRACTOR'S subcontractors or for materials or labor used in the Work for which the OWNER has made payment to the CONTRACTOR, the OWNER shall be entitled to withhold payment to the CONTRACTOR in part or in whole to the extent necessary to protect the OWNER.

5.05 USE OF COMPLETED PORTIONS. The OWNER shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or such portions may not have expired, but such taking of possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents.

The CONTRACTOR shall notify the DEVELOPER when, in the CONTRACTOR'S opinion, the Agreement is Substantially Completed and when so notifying the DEVELOPER, the CONTRACTOR shall furnish to the DEVELOPER in writing a detailed list of unfinished Work. The ENGINEER will review the CONTRACTOR'S list of unfinished Work and will add thereto such items as the CONTRACTOR has failed to include. The Substantial Completion of the structure or facility shall not excuse the CONTRACTOR from the CONTRACTOR'S obligation to perform all of the Work, whether of a minor or major nature, and complete the structure or facility in accordance with the Contract Documents.

5.06 FINAL COMPLETION AND ACCEPTANCE. Within ten (10) days after the CONTRACTOR has given the DEVELOPER written notice that the Work has been completed, or Substantially Completed, the DEVELOPER and OWNER shall inspect the Work and within said time, if the Work be found to be completed or Substantially Completed in accordance with the Contract Documents, the DEVELOPER shall issue to the OWNER and the CONTRACTOR its Certificate of Completion, and thereupon it shall be the duty of the OWNER within ten (10) days to issue a Certificate of Acceptance of the Work to the CONTRACTOR or to advise the CONTRACTOR in writing of the reason for non-acceptance.

5.07 FINAL PAYMENT. Upon the issuance of the Certificate of Completion, the DEVELOPER shall proceed to make final measurements and prepare a final statement of the value of all work performed and materials furnished under the terms of the Agreement and shall certify same to the OWNER, who shall pay to the CONTRACTOR on or after the 30th day, and before the 40th day, after the date of the Certificate of Completion, the balance due the CONTRACTOR under the terms of this Agreement, provided it has fully performed its contractual obligations under the terms of this Agreement. Neither the Certificate of Acceptance nor the final payment, nor any provision in the Contract Documents, shall relieve the CONTRACTOR of the obligation for fulfillment of any warranty which may be required.

5.08 PAYMENTS WITHHELD. The OWNER may, on account of subsequently discovered evidence, withhold or nullify the whole or part of any certificate to such extent as may be necessary to protect itself from loss on account of:

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

When the above grounds are removed, or the CONTRACTOR escrows an amount of money which will protect the OWNER for twice the amount withheld, payment shall be made for amounts withheld because of them.

5.09 DELAYED PAYMENT. Should the OWNER fail to make payment to the CONTRACTOR of the sum stated in any partial or final statement, when payment is due, then the OWNER shall pay to the CONTRACTOR, in addition to the sum shown as due by such statement, interest thereon at the rate of six percent (6%) per annum, unless otherwise specified, from the date due as provided under "Partial Payments" and Final Payments until fully paid, which shall fully liquidate any damages to the CONTRACTOR growing out of such delay in payment.

## 6. EXTRA WORK

6.01 CHANGE ORDERS: Without invalidating this Agreement, the OWNER may, at any time or from time to time, order additions, deletions or revisions to the Work; such changes will be authorized by Change Order to be prepared by the DEVELOPER for execution by the OWNER and the CONTRACTOR. The Change Order shall set forth the basis for any change in the Contract Price, as hereinafter set forth for Extra Work, and any change in contract time that may result from the change. Acceptance of a Change Order by the CONTRACTOR shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including but not limited to impact, delay or acceleration damages, arising from the subject matter of the Change Order.

6.02 MINOR CHANGES: The DEVELOPER may authorize minor changes in the Work not inconsistent with the overall intent of the Contract Documents and not involving an increase in the Contract Price. If the CONTRACTOR

believes that any minor change or alteration authorized by the DEVELOPER involves Extra Work and entitles it to an increase in the Contract Price, the CONTRACTOR shall make a written request to the DEVELOPER for a written Field Order stating that the Work involved may result in an increase in the Contract Price and the amount thereof.

Any request by the CONTRACTOR for a change in the Contract Price shall be made prior to beginning the Work covered by the proposed change.

6.03 EXTRA WORK: It is agreed that the basis of compensation to the CONTRACTOR for the Work either added or deleted by a Change Order or for which a claim for Extra Work is made shall be determined by one or more of the following methods.

Method (A)-By agreed unit prices: or

Method (B)-By agreed lump sum:

No claim for Extra Work of any kind will be allowed unless ordered in writing by the OWNER. In case any orders or instructions, either oral or written, appear to the CONTRACTOR to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to the DEVELOPER for a written order authorizing such Extra Work within 21 days after occurrence of the event giving rise to the claim. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the DEVELOPER insists upon its performance, the CONTRACTOR shall proceed with the Work after making written request for a written order authorizing it and shall keep an accurate account of the actual field cost thereof. Provided the CONTRACTOR has sent

written notice of the claim to the DEVELOPER within 21 days after the occurrence of the event giving rise to the claim, the CONTRACTOR will thereby preserve the right to submit the claim for payment to mediation, as herein below provided.

6.04 TIME OF FILING CLAIMS. It is further agreed by both parties hereto that all questions of dispute or adjustment presented by the CONTRACTOR shall be made in writing and filed with the DEVELOPER within thirty (30) days after the DEVELOPER has given any direction, order or instruction to which the CONTRACTOR desires to take exception. The DEVELOPER shall reply within thirty (30) days to such written exceptions by the CONTRACTOR and render its final decision in writing. In case the CONTRACTOR should disagree with the DEVELOPER'S decision, any demand for mediation must be filed with the DEVELOPER and OWNER in writing within (10) days after the date of delivery to the CONTRACTOR of the DEVELOPER'S final decision or the CONTRACTOR'S right to contest the DEVELOPER'S decision will be deemed waived and such decision will be final and binding on the parties. It is further agreed that final acceptance of the Work by the OWNER and the acceptance by the CONTRACTOR of the final payment shall be a bar to any claims by either party, except for warranty claims and except where noted otherwise in the Contract Documents.

6.05 MEDIATION. After the initial decision of the DEVELOPER or thirty (30) days after the claim is submitted to the DEVELOPER if the DEVELOPER has not sooner rendered its decision, any claim arising out of or related to the Agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by any party. A request for mediation shall be in writing, and shall request that the mediation commence not less than 30 or more than 90 days following the date of the request, except upon agreement of both parties. In the event the OWNER and the CONTRACTOR are unable to agree to a date for the mediation or to the identity

of the mediator or mediators within 30 days following the date of the request for mediation, all conditions precedent in this section shall be deemed to have occurred. Venue for any mediation or lawsuit arising under this Agreement shall be in Bexar County, Texas.

## 7. ABANDONMENT OF AGREEMENT

7.01 ABANDONMENT BY CONTRACTOR. In case the CONTRACTOR should abandon and fail or refuse to resume the Work within ten (10) days after written notification from the OWNER, or the DEVELOPER, or if the CONTRACTOR fails to comply with the orders of the DEVELOPER when such orders are consistent with the Contract Documents, then, and in that case; where performance and payment bonds exist, the Sureties on these bond shall be notified in writing and directed to complete the Work, and a copy of said notice shall be delivered to the CONTRACTOR.

After receiving any such notice of abandonment, the CONTRACTOR shall not remove from the Work any machinery, equipment, tools, materials or supplies then on the Project site or stored offsite, but the same, together with any materials and equipment under contract for the Work, may be held for use on the Work by the OWNER or the Surety on the performance bond, or another contractor in completion of the Work; and the CONTRACTOR shall not receive any rental or credit therefor (except when used in connection with Extra Work, where credit shall be allowed as provided for under Section 6. Extra Work), it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the Work and such savings shall be reflected in the final settlement.

Where there is no performance bond provided or in case the Surety should fail to commence compliance with the notices for completion hereinbefore provided for within ten (10) days after service of such notice, then the OWNER may provide for completion of the Work in either of the following elective manners:

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

7.01.2 The OWNER under sealed bids, after five (5) days notice published one or more times in a newspaper having general circulation in the county of the location of the Work, may let the contract for the completion of the Work under substantially the same terms and conditions which are provided in this Agreement. In case there are any increases in the cost to the OWNER under the new contract as compared to what would have been the cost under this Agreement, such increase shall be charged to the CONTRACTOR and the Surety, and they shall pay such excess to the OWNER. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this Agreement, the CONTRACTOR and/or its Surety shall be credited therewith.



When the Work shall have been Substantially Completed, the CONTRACTOR and its Surety shall be so notified and Certificates of Completion and Acceptance, as provided in Section 5.06 herein above, shall be issued. A complete, itemized statement of the contract accounts, certified to by the DEVELOPER as being correct, shall then be prepared and delivered to the CONTRACTOR and its Surety, whereupon the CONTRACTOR and/or its Surety, or the OWNER as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

In the event the statement of accounts shows that the cost to complete the Work is less than that which would have been the cost to the OWNER had the Work been completed by the CONTRACTOR under the terms of this Agreement; or when the CONTRACTOR and/or its Surety shall pay the balance shown to be due by them to the OWNER, then all machinery, equipment, tools, materials or supplies left on the site of the Work shall be turned over to the CONTRACTOR and/or its Surety. To secure performance of the CONTRACTOR'S obligations under this Agreement, the CONTRACTOR hereby grants the OWNER a security interest in all of the CONTRACTOR'S right, title and interest in and to all machinery, equipment, tools, materials and supplies from time to time brought to or placed on the Project site. Should the cost to complete the Work exceed the Contract Price, and the CONTRACTOR and/or its Surety fail to pay the amount due the OWNER within the time designated herein above, and there remains any machinery, equipment, tools, material or supplies on the site of the Work, an itemized list of such machinery, equipment, etc., together with notice of the time and place or any public sale, or of the time after which any private sale or other disposition thereof is to be made, shall be sent by the OWNER to the CONTRACTOR and its Surety by postage prepaid certified mail addressed to the CONTRACTOR'S and its Surety's respective addresses last known to the OWNER (and if so given, such notice shall be deemed given when

mailed - notice given by any other legally effective means shall also be effective), and such property may thereafter be sold or otherwise disposed of as provided by law and the proceeds of such sale or other disposition applied. After mailing or other giving of such notice, such property shall be held at the risk of the CONTRACTOR and its Surety, subject only to the duty of the OWNER to exercise ordinary care to protect such property. Such sale may be made at either public or private sale, as the OWNER may elect. The OWNER shall release any machinery, equipment, tools, materials, or supplies, which remain on the Project site, and belong to persons other than the CONTRACTOR or its Surety, to their proper owners. The books on all operations provided herein shall be open to the CONTRACTOR and its Surety.

7.02 ABANDONMENT BY THE OWNER. In case the OWNER shall fail to comply with the terms of this Agreement, and should fail or refuse to comply with said terms within THIRTY (30) days after written notification by the CONTRACTOR, and within five (5) business days after written notice from the CONTRACTOR given on or after thirty (30) days after such first notice, stating that unless paid, the CONTRACTOR will suspend or abandon the Work, then the CONTRACTOR may suspend or wholly abandon the Work, and may remove therefrom all machinery, tools and equipment and all materials on the site of Work that have not been included in payment to the CONTRACTOR and have not been incorporated into the Work. And thereupon the DEVELOPER shall make an estimate of the total amount earned by the CONTRACTOR, which estimate shall include the value of all Work actually completed by the CONTRACTOR (at the prices stated in the attached Bid Form where unit prices are used), the value of all partially completed work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the terms of this Agreement, and a reasonable sum to cover the cost of any provisions made by the CONTRACTOR to carry the Work to completion and which cannot be utilized. The DEVELOPER shall then make a final statement of the balance due the CONTRACTOR by deducting from the above estimate all previous payments by the OWNER and all other sums that

the OWNER has the right to retain under the terms of the Agreement and shall certify same to the OWNER, who shall pay to the CONTRACTOR on or before thirty (30) days after the date of the notification by the CONTRACTOR the balance shown by said final statement as due the CONTRACTOR, under the terms of the Agreement.

## 8. SUSPENSION OR TERMINATION FOR CONVENIENCE

8.01 SUSPENSION BY THE OWNER FOR CONVENIENCE. Without cause, the OWNER may at any time order the CONTRACTOR in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the OWNER shall elect. In that event, the Contract Price payable to the CONTRACTOR (including the CONTRACTOR'S profit) and the contract time shall be adjusted for increases in the cost and time caused by such suspension, delay or interruption. No adjustment shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the CONTRACTOR is responsible, or that an equitable adjustment is made or denied under another provision of the Agreement.

8.02 TERMINATION BY THE OWNER FOR CONVENIENCE. The OWNER may at any time terminate the Agreement for the OWNER'S convenience and without cause. Upon receipt of written notice of such termination from the OWNER, the CONTRACTOR shall cease operations as directed by such notice, take such actions as the OWNER shall direct, or as shall be necessary, for the protection and preservation of the Work and, except for the Work directed to be performed before the effective date of the termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no other subcontracts or purchase orders. If the OWNER so terminates the Agreement for its convenience, the CONTRACTOR shall be entitled to receive

payment for the Work done and for costs incurred by reason of such termination, along with profits only on that portion of the Work executed.

## 9. TAX INCREMENT REINVESTMENT ZONE

9.01 CREATION OF ZONE. By Ordinance Number 90312, dated August 19, 1999, pursuant to Chapter 311 of the Texas Tax Code (as amended), the City of San Antonio ("City") created Reinvestment Zone Number Six in accordance with the Tax Increment Financing Act, as amended which encompasses the Project. The OWNER and City have entered into (or will enter into) a Development Agreement ("Development Agreement") which is attached hereto as Exhibit "A" and requires the OWNER and OWNER'S contractors to abide by certain requirements of the City of San Antonio. The CONTRACTOR shall comply with the requirements and obligations set forth in the Development Agreement that apply to the CONTRACTOR which includes, but is not limited to, Article VIII - INSURANCE, ARTICLE XXI - COMPLIANCE WITH SBEDA AND EEO POLICIES, and ARTICLE XXII - WAGES as set forth in the Development Agreement. If the requirements and obligations set forth in this Agreement conflict with the requirements and obligations of the Development Agreement then the more stringent of the requirements and obligations shall control.

EXHIBIT A  
DEVELOPMENT AGREEMENT

Attached

EXHIBIT B  
MINIMUM PER DIEM WAGE RATE DETERMINATION

Attached

AN ORDINANCE 2008-11-20-1045

AMENDING ORDINANCE 71312 CONCERNING WAGE AND HOUR  
LABOR STANDARD PROVISIONS FOR CITY OF SAN ANTONIO  
CONSTRUCTION PROJECTS.

\* \* \* \* \*

**WHEREAS**, federal and state laws require that all companies working on publicly funded construction projects must pay prevailing wage rates to its contractor and subcontractor employees, as determined by the U.S. Department of Labor; and

**WHEREAS**, governing procedures were established to ensure the City's compliance with various state laws through Ordinance No. 71312 approved on March 29, 1990 which provided for the Wage and Labor Standard Provision for locally funded City construction projects; and

**WHEREAS**, there have been changes in state law, as well as, organizational and process changes within the City that necessitate an amendment to Ordinance No. 71312; and

**WHEREAS**, this Ordinance amends Ordinance No. 71312 to a) reflect the changes in the Texas Government Code, Section 2258, Prevailing Wages, (superseding Article 5159a, Revised Civil Statutes), b) incorporate changes in the City's organizational structure renaming the Wage and Hour Office of the Public Works Department to the Labor Compliance Office, Capital Improvements Management Services Department, c) reflect changes in the City processes and the implementation of an electronic compliance program, and d) clarify language and eliminate ambiguities in the Ordinance, including the processes used by contractors for the restitution of underpayment of wages to workers whose contact information or current address is unknown; and

**WHEREAS**, approval of this Amendment will accurately reflect current laws, City organizational structure and current processes; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Ordinance No. 71312 concerning Wage and Hour Labor Standard Provisions for City of San Antonio construction projects are hereby amended and the amended Wage and Labor Standard Provisions are attached hereto and incorporated by reference herein as Attachment I.

**SECTION 2.** This Ordinance shall take effect ten days after passage.


**PASSED AND APPROVED** this 20th day of November, 2008.

ATTEST:

  
City Clerk

  
MAYOR  
PHIL HARDBERGER

APPROVED AS TO FORM:

  
City Attorney For

WAGE AND LABOR STANDARD PROVISIONS  
CITY OF SAN ANTONIO FUNDED CONSTRUCTION

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1. GENERAL STATEMENT

For all City of San Antonio funded public works construction contracts, the City of San Antonio, in accordance with Texas Government Code Section 2258, requires that not less than the general prevailing wage rates (minimum hourly base pay and minimum hourly fringe benefit contribution) for work of similar character be paid to contractor and subcontractor employees. These wage rates are derived from the most current applicable federal prevailing wage rates as published by the United States Department of Labor, Dallas, Texas and authority of Ordinance Nos. 60110 and 71312 as amended and passed by the City Council of the City of San Antonio.

Any deviation from Wage and Labor Standard Provisions compliance shall be cause for City's withholding either periodic interim or final payment to the contractor until such deviations are properly corrected.

2. LABOR COMPLIANCE OFFICE, CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT RESPONSIBILITIES

Labor Compliance Office, Capital Improvements Management Services Department, City of San Antonio, is primarily responsible for all Wage and Labor Standard Provisions investigation and enforcement and will monitor contractor/subcontractor practices to assure the Director of Capital Improvements Management Services Department that:

- a. Appropriate weekly compliance statements and payroll records are submitted to the City by the contractor/subcontractors and that such are reviewed for compliance with the Wage and Labor Standard Provisions.
- b. Apprentices/trainees working on the project are properly identified by the contractor/subcontractor on payroll records and documented as being included in programs currently sanctioned by appropriate federal or state regulatory agencies.
- c. Applicable Wage Determination Decisions, including any applicable modifications and related statements must be posted at the work-site by the contractor and that proper job classification and commensurate minimum hourly base and fringe wage rates are paid.
- d. Employees are periodically interviewed (at random) to assure proper work classification and wage rates.
- e. The Labor Compliance Office will investigate all allegations that no person employed by contractor/subcontractor is induced against his will, by any means, to give up any part of the compensation to which he is otherwise entitled.
- f. That any and all periodic administrative directives to the Labor Compliance Office from the Director of Capital

Improvements are being implemented. For purpose of these Wage and Labor Standard Provisions, the Director of Capital Improvements Management Services means the Director, his successor, or his designee.

3. CLAIMS & DISPUTES PERTAINING TO WAGE RATES

Claims and disputes not promptly and routinely settled by the contractor/subcontractor and employee pertaining to wage rates, or to job classifications of labor employed regarding the work covered by this contract, shall be reported by the employee in writing, within sixty (60) calendar days of employee's receipt of any allegedly incorrect classification, wage or benefit report, to the Labor Compliance Office, City of San Antonio for further investigation. Claims and disputes not reported by the employee to the City's Wage & Hour Office in writing within the sixty (60) calendar day period shall be deemed waived by the employee for the purposes of the City administering and enforcing the City's contract rights against the contractor on behalf of the employee. Waiver by the employee of this City intervention shall not constitute waiver by the City to independently pursue contractual rights it has against the contractor/subcontractor for breach of contract and other sanctions available to enforce the Wage and Labor Standard Provisions.

4. BREACH OF WAGE & LABOR STANDARD PROVISIONS

The City of San Antonio reserves the right to terminate a contract for cause if the contractor/subcontractors shall knowingly and continuously breach, without timely restitution or cure, any of these governing Wage and Labor Standard Provisions. A knowing and unremedied proven violation of these Wage and Labor Standard Provisions may also be grounds for debarment of the contractor/subcontractor from future City of San Antonio contracts for lack of responsibility, as determined by the City of San Antonio. Recurrent violations, whether remedied or not, will be considered by the Director of Capital Improvements Management Services Department when assessing the responsibility history of a potential contractor/subcontractor prior to competitive award of future Project Management Office projects. The general remedies stated in this paragraph 4. above, are not exhaustive and not cumulative for the City reserves legal and contractual rights to other specific remedies outlined herein below and in other parts of this contract and as are allowed by applicable City of San Antonio ordinances, state and federal statutes.

5. EMPLOYMENT OF LABORERS/MECHANICS NOT LISTED IN WAGE DETERMINATION DECISION

In the event that a contractor/subcontractor discovers that construction of a particular work element requires a certain employee classification and skill that is not listed in the wage determinations decision contained in the original contract documents, contractor/subcontractors will make prompt inquiry

(before bidding, if possible) to the Labor Compliance Office identifying that class of laborer/mechanics not listed in the wage determination decision who are intended to be employed, or who are being employed, under the contract. Using his best judgment and information resources available to him at the time, and any similar prior decisions, the Director of Capital Improvements Management Services Department, City of San Antonio shall classify said laborers/mechanics by issuing a special local wage determination decision to the contractor/subcontractor, which shall be enforced by the Labor Compliance Office.

6. MINIMUM WAGE

All laborers/mechanics employed to construct the work governed by this contract shall be paid not less than weekly the full amount of wages due (minimum hourly base pay and minimum hourly fringe benefit contribution for all hours worked, including overtime) for the immediately preceding pay period computed at wage and fringe rates not less than those contained in the wage determination decision included in this contract. Only payroll deductions as are mandated by state or federal law and those legal deductions previously approved in writing by the employee, or as are otherwise permitted by state or federal law, may be withheld by the contractor/subcontractor.

Should the contractor/ subcontractor subscribe to fringe benefit programs for employees, such programs shall be fully approved by the City in adopting a previous U.S. Department of Labor (DOL) decision on such fringe benefit programs or by applying DOL criteria in rendering a local decision on the adequacy of the fringe benefit programs. The approved programs shall be in place at the time of City contract execution and provisions thereof disclosed to the Labor Compliance Office, City of San Antonio, for legal review prior to project commencement.

Regular contractor/subcontractor contributions made to, or costs incurred for, approved fringe benefit plans, funds or other benefit programs that cover periods of time greater than the one week payroll periods of time period (e.g. monthly or quarterly, etc.) shall be prorated by the contractor/subcontractor on weekly payroll records to reflect the equivalent value of the hourly and weekly summary of fringe benefits per employee.

7. OVERTIME COMPENSATION

No contractor/subcontractor contracting for any part of the City of San Antonio funded contract work (except for worksite related security guard services) which may require or involve the employment of laborers/mechanics shall require or permit any laborer/mechanic in any seven (7) calendar day work period in which he or she is employed on such work to work in excess of 40 hours in such work period unless said laborer/mechanic receives compensation at a rate not less than one and one-half times the basic hourly rate of pay for all hours worked in

excess of 40 hours in a seven (7) calendar day work period. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.

8. PAYMENT OF CASH EQUIVALENT FRINGE BENEFITS

The contractor/subcontractor is allowed to pay a minimum hourly cash equivalent of minimum hourly fringe benefits listed in the wage determination decision in lieu of the contribution of benefits to a permissible fringe benefit plan for all hours worked including overtime as described in paragraph 6 above. An employee is not allowed to receive less than the minimum hourly basic rate of pay specified in the wage determination decision.

9. WORK CONDUCTED ON HOLIDAYS

If a laborer/mechanic is employed in the normal course and scope of his or her work on the jobsite on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, and Martin Luther King, Jr. Day, or the calendar days observed as such in any given year, work performed shall be paid for at no less than one and one half (1 1/2) times the regular minimum hourly base pay regardless of the total number of the laborer/mechanic has accumulated during the pay period.

10. UNDERPAYMENT OF PREVAILING WAGES OR SALARIES

a. When a "full investigation" (as called for in and as construed under Texas Government Code Section 2258) establishes underpayment of wages by contractor/subcontractor to laborers/mechanics employed upon the work covered by a contract with the City of San Antonio, the City shall withhold an amount from the contractor, out of any payments (Interim progress and/or final) due the contractor, the City of San Antonio may also consider it necessary to secure ultimate payment by the appropriate party to such laborers/mechanics, of full wages plus possible penalty (see b. below). The amount withheld, excluding any possible penalty to be retained by City, may be disbursed at an appropriate time after "full investigation" by the City of San Antonio, for and on behalf of the contractor/subcontractor (as may be appropriate), to the respective laborers/mechanics to whom the same is due or on their behalf to fringe benefit plans, funds or programs for any type of minimum fringe benefits prescribed in the applicable wage determination decision.

b. Texas Government Code Section 2258, states that the contractor shall forfeit as a penalty to the City of San Antonio the sum of sixty dollars (\$60.00) for each calendar day, or portion thereof, for each laborer, workman, or mechanic, who is paid less than the said stipulated rate for any work done under this contract, whether by the contractor himself or by any subcontractor working under him. Pursuant to and supplemental to this statutory authority, the City of

San Antonio and the contractor/subcontractor contractually acknowledge and agree that said sixty dollar (\$60.00) statutory penalty shall be construed by and between the City of San Antonio and the contractor/subcontractor as liquidated damages and will apply to any violations of paragraphs 6, 7, or 9 herein, resulting from contractor/subcontractor underpayment violations.

- c. If unpaid or underpaid workers cannot be located by the Contractor or the City after diligent efforts to accomplish same, the contractor shall report the wages as "unclaimed property" in accordance to Texas State law.

The City of San Antonio requires that the prime contractor send to the Labor Compliance Office a copy of the supporting documentation for the unclaimed property submitted to the State.

11. POSTING WAGE DETERMINATION DECISIONS/AND NOTICE TO LABORERS/MECHANICS STATEMENT

The applicable wage determination decision as described in the "General Statement" (and as specifically included in each project contract), outlining the various worker classifications and mandatory minimum wages and minimum hourly fringe benefit deductions, if any, of laborers/mechanics employed and to be employed upon the work covered by this contract, shall be displayed by the contractor/subcontractor at the site of work in a conspicuous and prominent public place readily and routinely accessible to workmen for the duration of the project. In addition, the contractor/subcontractor agrees with the contents of the following statement, and shall display same, in English and Spanish, near the display of the wage determination decision:

NOTICE TO LABORERS/MECHANICS

Both the City of San Antonio and the contractor/subcontractor agree that you must be compensated with not less than the minimum hourly base pay and minimum hourly fringe benefit contribution in accordance with the wage rates publicly posted at this jobsite and as are applicable to the classification of work you perform.

Additionally, you must be paid not less than one and one-half times your basic hourly rate of pay for any hours worked over 40 in any seven (7) calendar day work period, and for any work conducted on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, and Martin Luther King Day or the calendar days observed as such in any given year.

Apprentice and trainee hourly wage rates and ratios apply only to apprentices and trainees recognized under approved Federal, or State, apprenticeship training program registered with the Bureau of Apprenticeship and Training, U.S. Dept. of Labor.

If you believe that your employer is not paying the posted minimum wage for the type of work you do, you must make direct inquiry to the employer and inquire in writing within sixty (60) calendar days of your receipt of any allegedly incorrect wage or benefit check or report, to the City of San Antonio Labor Compliance Office, Capital Improvements Management Services Department, P.O. Box 839966, San Antonio, Texas 78283-3966. It is mandatory that the worker promptly file written inquiry of any allegedly incorrect wage or benefit checks or reports with the City of San Antonio, Labor Compliance Office within the sixty (60) calendar day period so that they do not waive your potential right of recovery under the provisions of the City of San Antonio Project Management Office contract that governs this project.

Both the City of San Antonio and the contractor/subcontractor agree that no laborer/mechanic who files a complaint or inquiry concerning alleged underpayment of wages or benefits shall be discharged by the employer or in any other manner be discriminated against by the employer for filing such complaint or inquiry.

12. PAYROLLS & BASIC PAYROLL RECORDS

- a. The contractor and each subcontractor shall prepare payroll reports in accordance with the "General Guideline" instructions furnished by the Labor Compliance Office of the City of San Antonio. Such payroll submittals shall contain the name and address of each such employee, his correct labor classification, rate of pay, daily and weekly number of hours worked, any deductions made, and actual basic hourly and fringe benefits paid. The contractor shall submit payroll records each week, and no later than seven (7) working days following completion of the workweek being processed, to the Labor Compliance Office, City of San Antonio. These payroll records shall include certified copies of all payrolls of the contractor and of his subcontractors, it being understood that the contractor shall be responsible for the submission and general mathematical accuracy of payrolls from all his subcontractors. Each such payroll submittal shall be on forms deemed satisfactory to the City's Labor Compliance Office and shall contain a "Weekly Statement of Compliance", as called for by the contract documents. Such payrolls will be forwarded to Capital Improvements Management Services, Labor Compliance Office, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966.
- b. All City of San Antonio construction contracts are subject to contract compliance tracking, and the prime contractor and any subcontractors are required to provide any stated and/or requested contract compliance-related data electronically in the Labor Compliance Electronic Certified Payrolls System. The prime contractor and all subcontractors are required to respond not later than the stated response date or due date to any instructions or

request for information from the Labor Compliance Office. All prime contractors and subcontractors shall periodically review the City of San Antonio labor Compliance Electronic Certified Payrolls System to manage contact information and the contract records. The prime contractor shall ensure that all subcontractors have completed all requested forms and that all contact information is accurate and up-to-date. The City of San Antonio Labor Compliance Office may require additional information related to the contract to be provided through the San Antonio Labor Compliance Electronic Certified Payrolls System at any time before, during, or after contract award.

- c. A designated point of contact for contractor access to the San Antonio Labor Compliance Electronic Certified Payrolls System shall be provided for each prime contractor upon award of the contract.
- d. Copies of payroll submittals and basic supporting payroll records of the contractor/subcontractors accounting for all laborers/mechanics employed under the work covered by this contract shall be maintained during the course of the work and preserved for a period of three (3) years after completion of the project. The contractors/subcontractors shall maintain records which demonstrate: any contractor commitment to provide fringe benefits to employees as may be mandated by the applicable wage determination decision, that the plan or program is adjudged financially responsible by the appropriate approving authority, (i.e. U. S. Department of Labor, U.S. Department of Treasury, etc.), and that the provisions, policies, certificates, and description of benefits of the plan or program as may be periodically amended, have been clearly communicated in a timely manner and in writing, to the laborers/mechanics affected prior to their performing work on the project.
- e. The contractor/subcontractor shall make the above records available for inspection, copying, or transcribing by authorized representatives of the City of San Antonio at reasonable times and locations for purposes of monitoring compliance with this contract.
- f. All certified payrolls submitted to the Labor Compliance Office are deemed true and accurate. If upon review of the certified payrolls, wage underpayment violations are identified and noted, restitution will be calculated and penalties will be issued to the prime contractor of the project. In order to refute a wage violation, the contractor/subcontractor must provide supporting documentation to the Labor Compliance Office for review and consideration.

13. LABOR DISPUTES

The contractor/subcontractor shall immediately notify the Project Management Office or designated representative of any actual or impending contractor/subcontractor labor dispute

which may affect, or is affecting, the schedule of the contractor, or any other contractor/subcontractor work. In addition, the contractor/subcontractor shall consider all appropriate measures to eliminate or minimize the effect of such labor disputes on the schedule, including but not limited to such measures as: promptly seeking injunctive relief if appropriate; seeking appropriate legal or equitable actions or remedies; taking such measures as establishing a reserved rate, as appropriate; if reasonably feasible, seeking other sources of supply or service; and any other measures that may be appropriately utilized to mitigate or eliminate the jobsite and scheduling effects of the labor dispute.

14. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES

No laborers/mechanics to whom the wage, salary, or other labor standard provisions of this contract are applicable shall be discharged in any other manner discriminated against by the contractor/subcontractors because such employee has filed any formal inquiry or complaint or instituted, or caused to be instituted, any legal or equitable proceeding or has testified, or is about to testify, in any such proceeding under or relating to the wage and labor standards applicable under this contract.

15. EMPLOYEE INTERVIEWS TO ASSURE WAGE AND LABOR STANDARD COMPLIANCE

Contractor/subcontractors shall allow expeditious jobsite entry of City of San Antonio Labor Compliance representatives displaying and presenting proper identification credentials to the jobsite superintendent or his representative. While on the jobsite, the Labor Compliance representatives shall observe all jobsite rules and regulations concerning safety, internal security and fire prevention. Contractor/subcontractors shall allow project employees to be separately and confidentially interviewed at random for a reasonable duration by the Labor Compliance representatives to facilitate compliance determinations regarding adherence by the contractor/subcontractor to these Wage and Labor Standard Provisions.

16. "ANTI-KICKBACK" PROVISION

No person employed in the construction or repair of any City of San Antonio public work shall be induced, by any means, to give up to any contractor/subcontractor or public official or employee any part of the hourly and/or fringe benefit compensation to which he is otherwise entitled.

17. "FALSE OR DECEPTIVE INFORMATION PROVISION"

Any person employed by the contractor/subcontractor in the construction or repair of any City of San Antonio public work, who is proven to have knowingly and willfully falsified, concealed or covered up by any deceptive trick, scheme, or device a material fact, or made any false, fictitious or fraudulent statement or representation, or made or used any



false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be permanently removed from the jobsite by contractor/subcontractor. The City of San Antonio reserves the right to terminate this contract for cause as a result of serious and uncured violations of this provision.

18. EMPLOYMENT OF APPRENTICES/TRAINEES

- a. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship & Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship & Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor/subcontractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in (b) below or is not registered or otherwise employed as stated above, shall be paid the wage rate for the classification of work he actually performs. The contractor/subcontractor is required to furnish to the Labor Compliance Office of the City of San Antonio, a copy of the certification, along with the payroll record that the employee is first listed on. The wage rate paid apprentices shall be not less than the specified rate in the registered program for the apprentice's level of progress expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination decision.
- b. Trainees will be permitted to work at less than the predetermined rate for the work performed when they are employed pursuant to an individually registered program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress. Any employee listed on the payroll at a trainee wage rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the wage rate determined by the classification of work he actually performs. The contractor/subcontractor is required to furnish a copy of the trainee program certification, registration of employee-trainees, ratios and wage rates

prescribed in the program, along with the payroll record that the employee is first listed on, to the Labor Compliance Office of the City of San Antonio. In the event the Employment and Training Administration withdraws approval of a training program, the contractor/subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved by the Employment and Training Administration.

- c. Paragraphs above shall not operate to exclude training programs approved by the OFCCP, United States Department of Labor and as adopted by the Associated General Contractors (AGC) of Texas, Highway, Heavy, Utilities and Industrial Branch. Guidelines for these training programs shall be the same as those established for federally funded projects. This sub-paragraph shall not apply to those portions of a project deemed to be building construction.
- d. The Ratio to Apprentice to Journeyman for this project shall be the same as the ratio permitted under the plan approved by the Employment and Training, Administration, Bureau of Apprenticeship and Training, U.S. Department of Labor, by Craft. A copy of the allowable Ratios is included with the applicable Wage Determination Decision in the specifications for this project.

When a "full investigation" (as called for in, and as construed under, Texas Government Code Section 2258) evidences a violation of the Apprentice or Trainee to Journeyman ratios effective for contractor/subcontractor employees working on this contract, the City of San Antonio, in addition to such other rights as may be afforded it under state and/or federal law and/or other sections of this contract, shall withhold from the contractor, out of any payments (interim progress and/or final) due the contractor, the liquidated damages sum of seventy-five dollars (\$75.00) for each calendar day, or portion thereof, for each certified Apprentice or Trainee employee assigned to a Journeyman that exceeds the maximum allowable Apprentice/Trainee to Journeyman ratio stipulated for any work done under this contract, whether by the contractor himself or by any subcontractor working under him.

19. JOBSITE CONDITIONS

Contractors/subcontractors shall not allow any person employed for the project to work in surroundings or under construction conditions which are unsanitary, unhealthy, hazardous, or dangerous as governed by industry standards and appropriate local, state and federal statutes, ordinances, and regulatory guidelines.

20. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

- a. The contractor/subcontractor shall knowingly only employ persons of appropriate ages commensurate with the degree of

required skill, strength, maturity and judgment associated with the activity to be engaged in, but not less than the age of fourteen (14) years, as governed by the Texas Child Labor Law, Chapter 51 of the Texas Labor Code "Child Labor" and Texas Department of Labor and Standards rulings and interpretations associated with that statute. It is hereby noted that in some circumstances generally governed by this section, a federal statute (see: Fair Labor Standards Act, 29 USCS Section 212; Volume 6A of the Bureau of National Affairs Wage Hour Manual at Paragraph 96:1; "Child Labor Requirements in Nonagricultural Occupations" WH Publication 1330, July 1978 as may be amended), could pre-empt the Texas Statute and therefore be the controlling law on this subject. The contractor/subcontractor should seek clarification from state and federal agencies and legal counsel when hiring adolescent employees for particular job classifications.

- b. Prohibited persons not to be employed are also those persons who, at the time of employment for this contract, are serving sentence in a penal or correctional institution except that prior approval by the Director of Capital Improvements Management Services is required to employ any person participating in a supervised work release or furlough program that is sanctioned by appropriate state or federal correctional agencies.
- c. The Contractor/subcontractors shall be responsible for compliance with the provisions of the "Immigration Reform and Control Act of 1986" Public Law 99-603, and any related State enabling or implementing statutes, especially as they in combination apply to the unlawful employment of aliens and unfair immigration-related employment practices affecting this contract.

21. PROVISIONS TO BE INCLUDED IN SUBCONTRACTS

The contractor shall cause these Wage and Labor Standard Provisions, or reasonably similar contextual adaptations hereof, and any other appropriate state and federal labor provisions, to be inserted in all subcontracts relative to the work to bind subcontractors to the same Wage and Labor Standards as contained in these terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors or sub-subcontractors and to give the contractor similar, if not greater, general contractual authority over the subcontractor or subcontractors as the City of San Antonio may exercise over the contractor.

22. CONTRACTOR'S RESPONSIBILITY

The prime contractor shall be responsible for ensuring that its subcontractors comply with the Wage and Labor Standards Provisions.

"General Decision Number: TX20230231 02/03/2023

Superseded General Decision Number: TX20220231

State: Texas

Construction Type: Building

County: Bexar County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	01/13/2023

2

02/03/2023

ASBE0087-014 06/06/2022

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Duct, Pipe and Mechanical System Insulation)....	\$ 28.10	8.29

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BOIL0074-003 01/01/2021

	Rates	Fringes
BOILERMAKER.....	\$ 29.47	24.10

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ELEC0060-003 06/01/2022

	Rates	Fringes
ELECTRICIAN (Communication Technician Only).....	\$ 31.95	15%+6.41

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ELEC0060-004 06/01/2022

	Rates	Fringes
ELECTRICIAN (Excludes Low Voltage Wiring).....	\$ 31.95	15%+6.41

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ELEV0081-001 01/01/2023

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 46.83	37.335+a+b

## FOOTNOTES:

a. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

b. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; and Veterans Day.

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ENGI0450-002 04/01/2014

	Rates	Fringes
POWER EQUIPMENT OPERATOR Cranes.....	\$ 34.85	9.85

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IRON0066-013 06/01/2022

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 25.25	7.28

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IRON0084-011 06/01/2022

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 26.76	7.88

\* PLUM0142-009 07/01/2022

	Rates	Fringes
HVAC MECHANIC (Electrical Temperature Control Installation & Unit Installation Only).....	\$ 34.45	11.75
PIPEFITTER (Including HVAC Pipe Installation).....	\$ 34.45	11.75
Including HVAC Pipe Installation PLUMBER.....	\$ 34.45	11.75
Excludes HVAC Pipe Installation		

\* SFTX0669-002 01/01/2023

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 33.11	23.30

SHEE0067-004 04/01/2022

	Rates	Fringes
Sheet metal worker Excludes HVAC Duct Installation.....	\$ 27.89	16.25
HVAC Duct Installation Only.	\$ 27.89	16.25

\* SUTX2014-006 07/21/2014

	Rates	Fringes
BRICKLAYER.....	\$ 22.15	0.00
CARPENTER (Acoustical Ceiling Installation Only).....	\$ 17.83	0.00
CARPENTER (Form Work Only).....	\$ 13.63 **	0.00
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Hanging, Form Work, and Metal Stud Installation.....	\$ 16.86	4.17
CAULKER.....	\$ 15.00 **	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 22.27	5.30
DRYWALL FINISHER/TAPER.....	\$ 13.81 **	0.00
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 15.18 **	0.00
ELECTRICIAN (Low Voltage Wiring Only).....	\$ 20.39	3.04
IRONWORKER, REINFORCING.....	\$ 12.27 **	0.00
LABORER: Common or General.....	\$ 10.75 **	0.00
LABORER: Mason Tender - Brick...	\$ 11.88 **	0.00

LABORER: Mason Tender -		
Cement/Concrete.....	\$ 12.00 **	0.00
LABORER: Pipelayer.....		
	\$ 11.00 **	0.00
LABORER: Roof Tearoff.....		
	\$ 11.28 **	0.00
LABORER: Landscape and		
Irrigation.....	\$ 8.00 **	0.00
OPERATOR:		
Backhoe/Excavator/Trackhoe.....	\$ 15.98 **	0.00
OPERATOR: Bobcat/Skid		
Steer/Skid Loader.....	\$ 14.00 **	0.00
OPERATOR: Bulldozer.....		
	\$ 14.00 **	0.00
OPERATOR: Drill.....		
	\$ 14.50 **	0.00
OPERATOR: Forklift.....		
	\$ 12.50 **	0.00
OPERATOR: Grader/Blade.....		
	\$ 23.00	5.07
OPERATOR: Loader.....		
	\$ 12.79 **	0.00
OPERATOR: Mechanic.....		
	\$ 18.75	5.12
OPERATOR: Paver (Asphalt,		
Aggregate, and Concrete).....	\$ 16.03 **	0.00
OPERATOR: Roller.....		
	\$ 12.00 **	0.00
PAINTER (Brush, Roller and		
Spray), Excludes Drywall		
Finishing/Taping.....	\$ 13.07 **	0.00
ROOFER.....		
	\$ 12.00 **	0.00
TILE FINISHER.....		
	\$ 11.32 **	0.00
TILE SETTER.....		
	\$ 14.94 **	0.00
TRUCK DRIVER: Dump Truck.....		
	\$ 12.39 **	1.18
TRUCK DRIVER: Flatbed Truck.....		
	\$ 19.65	8.57
TRUCK DRIVER: Semi-Trailer		
Truck.....	\$ 12.50 **	0.00
TRUCK DRIVER: Water Truck.....		
	\$ 12.00 **	4.11

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the

Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average



calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator

U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

"General Decision Number: TX20230007 01/06/2023

Superseded General Decision Number: TX20220007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClellon and Williamson Counties) and HIGHWAY Construction Projects

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

<http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
0                              01/06/2023

SUTX2011-006 08/03/2011

Rates                      Fringes

CEMENT MASON/CONCRETE  
FINISHER (Paving and  
Structures).....\$ 12.56 \*\*

ELECTRICIAN.....\$ 26.35

FORM BUILDER/FORM SETTER  
Paving & Curb.....\$ 12.94 \*\*  
Structures.....\$ 12.87 \*\*

LABORER  
Asphalt Raker.....\$ 12.12 \*\*  
Flagger.....\$ 9.45 \*\*  
Laborer, Common.....\$ 10.50 \*\*  
Laborer, Utility.....\$ 12.27 \*\*  
Pipelayer.....\$ 12.79 \*\*  
Work Zone Barricade  
Servicer.....\$ 11.85 \*\*

PAINTER (Structures).....\$ 18.34

POWER EQUIPMENT OPERATOR:  
Agricultural Tractor.....\$ 12.69 \*\*  
Asphalt Distributor.....\$ 15.55 \*\*  
Asphalt Paving Machine.....\$ 14.36 \*\*  
Boom Truck.....\$ 18.36  
Broom or Sweeper.....\$ 11.04 \*\*  
Concrete Pavement  
Finishing Machine.....\$ 15.48 \*\*  
Crane, Hydraulic 80 tons  
or less.....\$ 18.36  
Crane, Lattice Boom 80  
tons or less.....\$ 15.87 \*\*  
Crane, Lattice Boom over  
80 tons.....\$ 19.38  
Crawler Tractor.....\$ 15.67 \*\*  
Directional Drilling  
Locator.....\$ 11.67 \*\*  
Directional Drilling  
Operator.....\$ 17.24  
Excavator 50,000 lbs or  
Less.....\$ 12.88 \*\*  
Excavator over 50,000 lbs...\$ 17.71  
Foundation Drill, Truck  
Mounted.....\$ 16.93  
Front End Loader, 3 CY or  
Less.....\$ 13.04 \*\*  
Front End Loader, Over 3 CY.\$ 13.21 \*\*  
Loader/Backhoe.....\$ 14.12 \*\*  
Mechanic.....\$ 17.10  
Milling Machine.....\$ 14.18 \*\*  
Motor Grader, Fine Grade...\$ 18.51  
Motor Grader, Rough.....\$ 14.63 \*\*  
Pavement Marking Machine...\$ 19.17  
Reclaimer/Pulverizer.....\$ 12.88 \*\*

Roller, Asphalt.....\$ 12.78 \*\*  
 Roller, Other.....\$ 10.50 \*\*  
 Scraper.....\$ 12.27 \*\*  
 Spreader Box.....\$ 14.04 \*\*  
 Trenching Machine, Heavy....\$ 18.48

Servicer.....\$ 14.51 \*\*

#### Steel Worker

Reinforcing.....\$ 14.00 \*\*  
 Structural.....\$ 19.29

#### TRAFFIC SIGNALIZATION:

##### Traffic Signal Installation

Traffic Signal/Light Pole  
 Worker.....\$ 16.00 \*\*

#### TRUCK DRIVER

Lowboy-Float.....\$ 15.66 \*\*  
 Off Road Hauler.....\$ 11.88 \*\*  
 Single Axle.....\$ 11.79 \*\*  
 Single or Tandem Axle Dump  
 Truck.....\$ 11.68 \*\*  
 Tandem Axle Tractor w/Semi  
 Trailer.....\$ 12.81 \*\*

WELDER.....\$ 15.97 \*\*

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 WELDERS - Receive rate prescribed for craft performing  
 operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher  
 minimum wage under Executive Order 14026 (\$16.20) or 13658  
 (\$12.15). Please see the Note at the top of the wage  
 determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave  
 for Federal Contractors applies to all contracts subject to the  
 Davis-Bacon Act for which the contract is awarded (and any  
 solicitation was issued) on or after January 1, 2017. If this  
 contract is covered by the EO, the contractor must provide  
 employees with 1 hour of paid sick leave for every 30 hours  
 they work, up to 56 hours of paid sick leave each year.  
 Employees must be permitted to use paid sick leave for their  
 own illness, injury or other health-related needs, including  
 preventive care; to assist a family member (or person who is  
 like family to the employee) who is ill, injured, or has other  
 health-related needs, including preventive care; or for reasons  
 resulting from, or to assist a family member (or person who is  
 like family to the employee) who is a victim of, domestic  
 violence, sexual assault, or stalking. Additional information  
 on contractor requirements and worker protections under the EO  
 is available at  
<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within  
 the scope of the classifications listed may be added after  
 award only as provided in the labor standards contract clauses  
 (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"





"General Decision Number: TX20230011 01/06/2023

Superseded General Decision Number: TX20220011

State: Texas

Construction Type: Residential

Counties: Bexar, Comal and Guadalupe Counties in Texas.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories.)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
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Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
0                              01/06/2023

SUTX1983-005 05/01/1983

	Rates	Fringes
Air Conditioning Mechanic.....	\$ 7.25	**
CARPENTER.....	\$ 7.25	**
CEMENT MASON/CONCRETE FINISHER...	\$ 7.46	**
DRYWALL HANGER.....	\$ 8.73	**
ELECTRICIAN.....	\$ 9.66	**
IRONWORKER.....	\$ 7.25	**
LABORER.....	\$ 7.25	**
PAINTER (Including Drywall taping).....	\$ 8.16	**
PLUMBER.....	\$ 7.70	**
ROOFER.....	\$ 7.25	**

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
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200 Constitution Avenue, N.W.  
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3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

EXHIBIT C  
INDEMNIFICATION AGREEMENT

**INDEMNIFICATION AGREEMENT**

This Indemnification Agreement ("Agreement") is made by and between TALLEY EXTENSION REVITALIZATION INITIATIVE, LLC, ("Owner"), and \_\_\_\_\_ ("Contractor").

**RECITALS**

A. Owner, the City of San Antonio, a Texas municipal corporation of Bexar County, Texas ("City") and Board of Directors of Reinvestment Zone Number Six, City of San Antonio, Texas, a tax increment financing zone ("Board") entered into a Development Agreement passed and approved by the City on June 29, 2006 ("Development Agreement") regarding the construction of roads, utilities and other public improvements on an 812 acre parcel in Bexar County, Texas ("Zone Property").

B. The Development Agreement requires Owner and any contractor constructing improvements in the Zone Property to indemnify and hold harmless, City (and the elected officials, employees, officers, directors, and representatives of City), Board (and the officials, employees, officers, directors, and representatives of Board), Alamo Community College District (and the elected officials, employees, officers, directors, and representatives of these Participating Taxing Entities) and Bexar County (and the elected officials, employees, officers, directors, and representatives of these Participating Taxing Entities) ("Indemnified Parties").

C. Owner publicly bid street, utility and other public improvements for Sapphire Grove Phase 1A ("Public Improvements") and Contractor was awarded the construction work.

D. Owner and Contractor entered in a construction contract of even date herewith regarding the Public Improvements ("Construction Contract") which required Contractor to comply with the obligations set forth in the Development Agreement, which, among other things, requires the Contractor to indemnify and hold harmless the Indemnified Parties.

**AGREEMENT**

In connection with the Construction Contract and Ten Dollars and No/100 (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. To the fullest extent permitted by law, Contractor covenants and agrees to fully indemnify and hold harmless, the Indemnified Parties, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon the Indemnified Parties directly or indirectly arising out of, resulting from or related to Contractor's negligence, willful misconduct or criminal conduct in its activities under the Development Agreement or Construction Contract, including any such acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subconsultants of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under the Development Agreement or Construction Contract, all without, however, waiving any governmental immunity available to the Indemnified Parties under Texas Law and without waiving any defenses of the parties under Texas Law. The provisions of this Agreement are solely for the benefit of the parties hereto and the Indemnified Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Contractor shall promptly advise the Indemnified Parties in writing of any claim or demand against the Indemnified Parties related to or arising out of Contractor's activities under the Development Agreement or Construction Contract and shall see to the investigation and defense of such claim or demand at Contractor's cost to the extent required in this Agreement. The Indemnified Parties shall have the right, at their option and at their own expense, to participate in such defense without relieving Contractor of any of its obligations under this Agreement.

2. **It is the express intent of the parties to this Agreement, that the indemnity provided for in this Agreement, is an indemnity extended by Contractor to indemnify, protect and hold harmless the Indemnified Parties from the consequences of the Indemnified Parties' own negligence, provided however, that the indemnity provided for in this Agreement shall apply only when the negligent act of the Indemnified Party is a contributory cause of the resultant injury, death, or damage, and shall have no application when the negligent act of the Indemnified Party is the sole cause of the resultant injury, death, or damage. Contractor further agrees to defend, at its own expense and on behalf of the Indemnified Parties (and in the name of the Indemnified Parties) any claim or litigation brought against the Indemnified Parties, in connection with any such injury, death, or damage for which this Agreement shall apply, as set forth above.**

3. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

4. This agreement constitutes the entire understanding and agreement of the parties hereto with respect to the transactions described herein, and supersedes all prior agreements or understandings, written or oral, between the parties. This Agreement may not be amended except by written instrument executed by all parties.

5. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

6. This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction.

7. If either party retains an attorney to enforce this Agreement, the party prevailing is entitled to recover reasonable attorney's fees and court and other costs.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 2024.

**OWNER:**

Talley Extension Revitalization Initiative, LLC,

\_\_\_\_\_  
By: Gordon Hartman  
Its: 0

**CONTRACTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

## GOVERNING SPECIFICATIONS AND SPECIAL SPECIFICATION

### Standard Specifications

All standard specifications and special specification applicable to this project are identified as follows:

These documents are included by reference and govern the construction of this project.

#### City of San Antonio Standard Specifications for Construction

June, 2008 (as updated and amended by CoSA through May, 2022)

#### San Antonio Water System Standard Specifications for Construction

October, 2019

### Special Specifications

All special specifications applicable to this project are identified as follows:

ITEM NO.

901            Quality Control – General



## **ITEM 901**

### **QUALITY CONTROL – GENERAL**

#### **PART 1 – GENERAL**

##### **1.0 GENERAL**

Geotechnical and materials testing shall be as reasonably required by the governing authority of the facility being constructed. As a guideline, frequency of testing is defined herein. However, the Owner reserves the right to perform more or less testing at their discretion.

##### **1.1 SCOPE**

- A. Testing, inspection and certifications in the Technical Sections of this Project Manual shall be paid by the Owner, unless otherwise indicated, and shall be by agencies approved by the Engineer.
- B. Materials and workmanship not meeting the required standards or performance obligations shall be removed and replaced at the Contractor's expense, including all subsequent testing.
- C. Where the terms "Inspector" and "Laboratory" are used, they mean and refer respectively to an officially designated and accredited inspector of the testing laboratory and the testing laboratory engaged by the Owner.
- D. Inspection by the laboratory shall not relieve the Contractor or fabricator of his responsibility to furnish material and workmanship in accordance with the Contract Documents.
- E. If Work installed is found to be deficient or defective or constructed over prior to completion of required testing and inspections: the investigation, testing and any subsequent retesting of the Work arising out of such deficiencies or defects shall be performed by the Testing Laboratory. The type and nature of the inspections and tests

shall be as determined by the Engineer. The Contractor shall bear all cost of such investigations, testing and re-testing.

## **1.2 RESPONSIBILITY OF CONTRACTOR**

- A. Deliver to the Laboratory, without cost to Owner, adequate quantities of representative samples of material proposed for use, which are required to be tested.
- B. Advise Laboratory and Engineer sufficiently in advance of construction operations to allow Laboratory to complete any required check-tests and assign personnel for field inspection and testing as specified.
- C. Provide adequate facilities for safe storage of test samples on project site as required by test Specifications
- D. Provide adequate access of items needing testing or inspections to Laboratory, Engineer, or other necessary party.
- E. Furnish such nominal labor as is required to assist Laboratory personnel in obtaining and handling samples at the site.
- F. Furnish Concrete Mix Designs from the concrete supplier or made by an independent testing laboratory agreeable to the Engineer and paid for by the Contractor.

## **1.3 AUTHORITY AND DUTIES OF LABORATORY PERSONNEL**

- A. Laboratory personnel shall inspect and/or test materials, assemblies, specimens, and Work performed utilizing methods and techniques as specified and report to the Engineer the progress thereof.
- B. If the material furnished and/or Work performed fails to meet requirements of Contract Documents, Laboratory Personnel shall promptly notify both the Contractor and the Engineer of such failure.

- C. Laboratory technicians do not act as foremen or perform other duties for Contractor. Work will be checked as it progresses, but failure to detect any defective Work or material shall not, in any way, relieve the Contractor of their obligation to comply with the Contract Documents. Failure to detect any defective Work or material shall not, in any way, prevent later rejection when such defect is discovered, and remedy of such defect shall be performed at the sole cost of the Contractor.
- D. The Laboratory personnel are NOT authorized to revoke, alter, relax, enlarge, or release any requirement of the Contract Documents, or to approve or accept any portion of the Work.
- E. Make all inspections and perform all tests in accordance with the Contract Documents, and the rules and regulations of the building code, Local Authorities, the specifications of ASTM and other respective technical societies, organizations or bodies having relation to the Work or material inspected or tested.

#### **1.4 SUBMITTAL**

- A. Submit two (2) copies each to the Contractor, and to the Engineer, of reports of each and every inspection and test specified or ordered to be made either in addition to or supplementary to inspecting and testing specified herein.
- B. State in report all details of each inspection and test to indicate satisfactory compliance with requirements of the Contract Documents. State in report any and all unsatisfactory conditions or failure to comply with requirements of the Contract Documents. This requirement is in addition to reporting immediately to the Contractor and Engineer all items of unsatisfactory conditions and failures to comply with the requirements of the Contract Documents.
- C. Reports shall be complete and factual, citing the tests performed, methods employed, values obtained, parts of the structure or project area involved, and other pertinent data. Reports shall be signed by a registered professional engineer with expertise in the area for which the reports is made.
- D. At completion of each trace or branch or Work requiring inspecting and testing, submit a final certificate attesting to satisfactory completion of Work inspected and full compliance with requirements for all Work and materials tested.

## **PART 2 – PRODUCTS (omitted)**

## **PART 3 – EXECUTION**

### **3.1 EARTHWORK**

- A. Perform Plasticity Index Test on all fill materials prior to use to determine compliance with the Contract Documents. (ASMT D423 & D424)
- B. Perform one in place nuclear density test on fills for each 5,000 square feet of area or fraction thereof for each lift in place. (ASTM D6938)
- C. Perform one in place nuclear density test on backfill in trenches for each 100 lineal feet of trench or fraction thereof for each lift in place. (ASTM D6938)

### **3.2 STRUCTURAL CONCRETE AND TESTING**

- A. Secure composite samples in accordance ACI 318. Each sample shall be obtained from a different batch of concrete on a random basis in accordance with ASTM D3665.
- B. Concrete shall be tested as follows:
  - a. Obtain samples in accordance with ASTM C172.
  - b. Test samples for temperature in accordance with ASTM C1064
  - c. Test samples for slump in accordance with ASTM C143
  - d. Test samples for air content in accordance with ASTM C231
  - e. Mold and cure four 6"x12" test specimens per sample in accordance with ASTM C31
  - f. Test two specimens at seven days age and two specimens at 28-days age. The average of the two 28-day specimens shall be used for acceptance. Test specimens in accordance with ASTM C39
- C. Any deviations from the requirements of ASTM Specifications shall be recorded in the test report.

- D. Make at least one strength test for each 100 cu. yd., or fraction thereof, of each mix design of concrete placed in any one day. Determine temperature, slump, and air content of each sample taken for strength testing.
- E. In addition to slump testing performed when sampling for strength tests – determine the slump whenever the consistency of the concrete appears to vary.
- F. Inspect each batch of concrete, adjust amounts of mixing water to assure uniform consistency from truck to truck.
- G. Concrete shall be placed within 90 minutes from the time that water makes first contact with cement in the batch.
- H. Comply with ACI 301, ACI 305R, and ACI 306R for any specifications not specifically shown in the Contract Documents.
- I. Should the strength of concrete fall below the minimum required strength at 28-days, then additional tests may be required by the Engineer. These tests, if required, shall be made at the Contractor's expense and shall be in accordance with ACI 318 and ASTM C42. If the results of additional testing and/or inspections are not to the satisfaction of the Engineer, then the structure, or any part of the structure as determined by the Engineer, shall be removed and replaced at the sole expense of the Contractor.
- J. Test reports shall show the time the test was made, truck ticket number, concrete batch weights, time of batching, air temperature, slump, air content, concrete temperature, overall location of each placement, and specific location of each sample.
- K. Report promptly to Engineer all details of reasons for rejection of any and all quantities of concrete. Give all information concerning locations of the concrete pours, quantities, date of pours, and other pertinent facts concerning concrete represented by the specimens.

### **3.3 CONCRETE MIX DESIGNS**

- A. Trial mixtures having proportions and consistencies suitable for the work shall be made based on ACI 211.1, using at least three different water-cement ratios which will produce a range of strengths encompassing those required for this Project.
- B. Trial mixes shall be designed to produce a slump within  $\frac{3}{4}$  in of the maximum permitted, and for air-entrained concrete – within 0.5 percent of the maximum allowable air content. The temperature of the concrete used in trial batches shall be the maximum temperature.
- C. For each water-cement ratio, at least three compression test cylinders for each test age shall be made and cured in accordance with ASTM C192. Cylinders shall be tested at seven and twenty-eight days in accordance with ASTM C39.
- D. From the results of the twenty-eight day tests a curve shall be plotted showing the relationship between the water-cement ratio and compressive strength. From this curve, the water-cement ratio to be used in the concrete shall be selected to produce the average strength required.
- E. The cement content and mixture proportions to be used shall be such that this water-cement ratio is not exceeded when slump is the maximum permitted. Control in the field shall be based upon maintenance of proper cement content, slump, and air content.
- F. Mix designs furnished by the concrete supplier, accompanied by test data showing and acceptable strength history and certified by the testing laboratory will be considered as an acceptable alternative to the procedure described in paragraphs 3.3.A through 3.3.E above, provided the following are met:
  - a. Temperature of concrete in test data shall be within 5 deg. F. of maximum temperature specified or expected for this project.
  - b. Strengths indicated in test data shall be in accordance with ACI 318 paragraph 19.3.2.
  - c. The specified strength of concrete used in supporting test data shall vary no more than 500 psi plus or minus from that specified for this project.
- G. Where fly ash is used in the mix design, fly ash shall comprise of no more than 20% by weight of the total cementitious material in the mix.

### **3.4 PAVEMENTS**

- A. Perform all qualification tests required by the local jurisdiction on all base materials prior to use to determine compliance with the Contract Documents.
- B. Perform one in place density test for each 5,000 square feet of area or fraction thereof for each lift in place of subgrade, subgrade fill, base, and/or asphaltic concrete materials.
- C. Perform designated tests for asphaltic concrete materials as outlined in the Technical Specifications.

END OF SECTION

## ADDITIONAL SPECIFICATIONS FOR MORGAN MEADOWS UNIT 2C

1. Street and Drainage construction work and product must conform to the current Public Works Specifications of the Bexar County. Bexar County formal acceptance is a prerequisite for final payment.
2. Sewer system work and facilities must conform to the current construction and materials specifications of the San Antonio Water System (SAWS). Formal SAWS acceptance of installed facilities is a prerequisite for final payment.
3. Water system work and facilities must conform to the current construction and material specifications of the San Antonio Water System (SAWS). Formal SAWS acceptance of installed facilities is a prerequisite for final payment.
4. The Engineer has attempted to indicate on the plans the location of existing utilities in the construction area, taken from available map information. The Contractor shall assume the responsibility to employ Utility Locator service(s) to verify the existence and location of any existing buried facilities.
5. Colliers Engineering & Design, on the Developer's behalf, may provide "one time each" offset construction staking for street excavation, drainage work, and sanitary sewer installation. Water main installation control will be from street construction hubs, set 15 foot behind face of curb. After utilities are installed, Colliers Engineering & Design will provide a final street construction restake for base and curb laying. All staking requests are to be submitted to [gordon.koenig@colliersengineering.com](mailto:gordon.koenig@colliersengineering.com).
6. Some notes and definitions for this work:
  - a) Street excavation is measured within the limits of the ROW from existing ground to bottom of subgrade.
  - b) "Culvert Excavation" for corrugated metal, HDPE, and/or reinforced concrete pipes shall be incidental to the installation and shall be included in the unit price of each.
  - c) Corrugated Metal, HDPE, and/or Reinforced Concrete Pipes shall include all necessary culvert excavation, trench protection, select backfill, and embedment.
  - d) "Concrete Rip-Rap" is measured as visible surface area, including cost of reinforcing.
  - e) "Structural Concrete" pricing shall include cost of reinforcing per plan details and/or standard sections, and also select backfill and embedment.



- f) Contractor shall account for any shrinkage/swelling of soil material or loss due to clearing and grubbing within bid price for excavation/embankment.
  - g) Street base and subgrade material is measured per square yard **between curbs** of the specified thickness required. The cost of the base and subgrade material under and behind the curb is to be included in the cost of the curb.
- 7. Please note the Owner's bid opening date and construction commencement date, and qualification requirements; also, the Contractor's completion schedule and Liquidated Damages provision (Article 4.04).
  - 8. Please direct questions via email to Gordon Koenig, Project Services Manager at [gordon.koenig@colliersengineering.com](mailto:gordon.koenig@colliersengineering.com)
  - 9. Contractor is responsible for compliance with the Texas Commission on Environmental Quality (TCEQ) Construction General Permit (CGP) TXR150000 requirements. Please review requirements at - <https://www.tceq.texas.gov/permitting/stormwater/construction>.