INVITATION TO BID NO. 17-600-014
WISE COUNTY, TEXAS

Denton Creek Watershed

Site 16 EWP Repair

<u>Sponsored by:</u>

Wise Soil and Water Conservation District

Wise County Commissioners Court

<u>Cooperating with:</u>

Natural Resources Conservation Service

of the

U.S. Department of Agriculture

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BID 17-600-014

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PART I – GENERAL PROVISIONS
SUBPART A

NOTICE TO BIDDERS

Sealed bids for furnishing all labor, material and equipment and performing all work required for repair of Denton Creek Watershed, Site 16 will be received until ***10:00 a.m. central time, Thursday, October 13, 2016***, at the Wise County Asset Control office, 400 W Walnut, Decatur, TX 76234, or P.O. Box 952, Decatur, TX 76234.

Bids will be publicly opened in the Wise County Asset Control office, beginning at 10:00 a.m. central time.

The bid must be submitted in a sealed envelope with the following written on the outside lower left hand corner:

"DENTON CREEK WATERSHED SITE 16 EWP REPAIR"
BID 17-600-014

The bid envelope must also have the bidder's complete return address in the upper left hand corner of the outside envelope.

There will be a ***pre-bid conference*** beginning at 9:00 a.m., Thursday, October 6, 2016, to be held at the Wise County Elections office, 200 S Trinity, Decatur, Texas 76234, North Conference Room. The conference will be followed by a site showing of the project site. Attendance is not mandatory. However, prospective bidders are HIGHLY ENCOURAGED to attend the conference and site showing.

Bonds are required. See Part 1, General Provisions, Subpart B, section 7 for details.

The bids will be considered for award in Wise County Commissioners' Court at the next regularly scheduled Commissioners' Court at the location posted on the agenda. All bidders are encouraged to be present at the bid opening and the bid awarding to defend and answer questions about their bid.

By submitting and signing the attached bid forms, each bidder is indicating that he has read and understood the instructions, terms, conditions, specifications, and invitation to bid and agrees to comply with and be bound by its precepts. Submission of a bid form shall constitute an offer on such terms that shall remain open and irrevocable until such time as a bid submitted on same has been accepted by the Commissioners' Court of Wise County, Texas. Acceptance of same by the Court shall create a contract between the parties based upon the instructions, terms, conditions, specifications, invitation to bid, and the bid forms. **Award notice will include information on form 1295 disclosure that must be completed and returned prior to any bid award being considered final, contract being signed by**

Wise County, any Purchase Order being issued by Wise County, or any notice to proceed with work being issued by Wise County. Wise County cannot advise on the form 1295. As this is a new law and form, if you have questions, the Texas Ethics Commission implemented the law and generated the form so we would suggest calling them at 512-463-5800 or https://www.ethics.state.tx.us.

Continuing non-performance of the vendor in terms of specifications shall be basis for termination of the contract by Wise County. Wise County shall not pay for work, equipment, or supplies that are unsatisfactory. Vendors will be given a reasonable opportunity before termination to correct the deficiencies. However, this shall in no way be construed as negating the basis for non-performance termination.

The bid analysis will include compliance to bid specifications, past performance of vendor, warranty, delivery time, and the overall cost to Wise County.

It should be understood by all bidders that Wise County reserves the right to reject bid submissions that do not meet the requirements of the invitation to bid and that do not contain all of the documentation detailed in Part 1 General Provisions Subpart B item 3.

Wise County reserves the right to accept and/or reject any and all bids or proposals for any reason whatsoever.

Wise County reserves the right to waive any minor technicalities.

By resolution passed on February 23, 2004 the Wise County Commissioners Court reserves the right to refuse to consider any bid submitted by any person or entity that is currently indebted to Wise County.

Wise County Commissioners Court is the Contracting Local Organization (CLO) responsible for soliciting and awarding a local contract for this project. The contract is receiving State funding authorized by the Legal Fund Cite: Senate Bill 1, 83st Legislature RS, Article VI-55, Rider 7 Flood Control Dam Repair Operation, Maintenance, and Structural Repair administered by the Texas State Soil & Water Conservation Board through the Flood Control Structural Repair Grant Program to provide financial assistance for conducting structural repairs on flood control dams as defined by Texas Administrative Code, Title 31, Chapter 529, Subchapter B, as amended.

PART I – GENERAL PROVISIONS
SUBPART B

INSTRUCTIONS TO BIDDERS

1. **Submission of Bids / Bid Opening:** Bids in response to this Invitation for Bids (IFB) must be sealed, marked and addressed as directed in the Notice to Bidders. Failure to do so may result in a premature opening of, or a failure to open, such bid. Bids will be publicly opened at the time set for opening in the Notice to Bidders. Their content will be made public for the information of bidders and others interested, who may be present either in person or by representative.

2. **Conditions Affecting the Work:** Bidders should acquire a bid packet from the Wise County Asset Control office and take such other steps as may be reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Failure to do so will not relieve bidders from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Contracting Local Organization will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to execution of the contract, unless included in the invitation for bids, the specifications, or related documents.

3. **Required Bid Information:** Forms which must be included in a bid are:

(a) Exhibit A: Offer with appropriate Bid Guarantee
(b) Exhibit B: Bid Schedule
(c) Exhibit C: References
(d) Exhibit D: Bid Bond form-If a bid bond is submitted as the required bid guarantee, it must be executed on this form and in conformance with other requirements in these Instructions to Bidders.
(e) Exhibit E: Bidder Certifications-Bidder must complete all applicable certifications and include in his/her bid.

4. **Preparation of Bid:** The bidder must submit his/her offer IN DUPLICATE (original plus one copy) on the forms furnished in this IFB, and the bid must be manually signed by a person or persons with authority to legally bind the individual, firm or corporation. If erasures or other changes appear on the forms, each erasure or change must be initialed by the person signing the bid. Facsimile (Fax) and telegraphic bids, modifications, or withdrawals will not be considered. **NO 3 RING BINDERS.**

No bid will be considered unless all items in the bid schedule are priced. In case of error in the extension of price, the unit price shall govern. For other than bid items with a lump-sum "unit," the quantities listed in the bid schedule on which unit prices are requested are estimates only. Unless called for, alternate bids will not be considered.

Exemption from State, County, and Municipal Sales and Use Taxes. See PART II – General Conditions, Article 29 (Federal, State, and Local Taxes), paragraph (b). ***Bidders are entitled to***

EXCLUDE exempt taxes in their bid prices. Bidder is solely responsible to determine what tangible personal property and taxable services are eligible for exemption from these taxes.
Option Items: there are no option items in this contract.

5. **Submission of Offer in English Language/U.S. Currency:** Offers shall be in the English language and in terms of U. S. dollars or will be rejected.

6. **Explanation to Bidders / Inquiries:** Any explanation desired by a bidder regarding the meaning or interpretation of the invitation for bids, drawings, specifications, etc., must be requested in writing and with sufficient time allowed for a reply to reach bidders before the submission of their bids. Any interpretation made will be in the form of an addendum of the invitation for bids, drawings, specifications, etc., and will be furnished to all prospective bidders. Receipt of all addenda must be acknowledged by the bidder in the space provided on the bid forms or by letter received before the time set for opening of bids. All addenda will be bound with and made a part of the contract documents. Oral explanations or instructions given before the award of the contract will not be binding. Written requests shall be emailed to: Diana Alexander at Diana.alexander@co.wise.tx.us.

7. **Bid Guarantee:** As a good faith deposit to ensure execution of a contract, each offer must be accompanied by a bid guarantee in the form of a certified or cashier's check (on a responsible bank in Texas) or bid bond, in the amount of not less than five percent (5%) of the total bid. Bid guarantee is to be made payable to: Wise County. Bid guarantees, other than bid bonds, will be returned (a) to all bidders (except the three most qualified) within 3 days of the bid opening, and (b) to the three most qualified bidders upon execution by the most qualified bidder of such further contractual documents and bonds as may be required by the bid as accepted. When a bid guarantee is required, failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

   If the successful bidder, upon acceptance of its bid by the Contracting Local Organization within the period specified for acceptance (30 days) fails to execute all contractual documents, if any, or furnish executed performance and payment bonds listed below within 5 (five) days after receipt of the forms by the Contracting Local Organization, the Point of Contact may terminate the contract for default. In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference, or the Contracting Local Organization may pursue any other action allowed by law.

8. **Bid Bond Requirements:** Bond must be executed on the form provided (PART I, Subpart C, Exhibit D) by a surety named in U.S. Department of Treasury's Listing of Approved Sureties, Treasury Department Circular 570, as amended. The surety must be legally authorized to do business in Texas. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. The original and one copy of bid bond shall be submitted with the bid.

9. Late Submissions, Modifications, and Withdrawals of Bids:

The Wise County Asset Control Office will date and time receive stamp all bids upon their receipt.

The County assumes no responsibility for the timely delivery of any bid by anyone or any entity.

Those bids that come in after the above mentioned time will be summarily disqualified and will be left unopened unless it is necessary to open the bid envelope to return a bid bond or check.

No modifications may be made to bids after the time set for the bid opening. Bids may be withdrawn up to, but not after, the time set for bid opening.

Faxed or emailed bids will not be accepted.

If due to inclement weather or any reason beyond our control the Asset Control Office is closed on the scheduled bid opening date or time, the bid opening date and time will be the same time on the first day the office is reopened for business. Should this be after the original Commissioners' Court date set for award, the award will be considered in the next scheduled Commissioners' Court after the opening.

10. Tie Bid: In the event of receipt of two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the Contracting Local Organization shall enter into a contract with only one of those bidders and must reject all other bids. The bidder shall be selected by the casting of lots in a manner prescribed by the Contracting Local Organization. All qualified bidders or their legal representatives may be present at the casting of lots. This provision does not prohibit the Contracting Local Organization from rejecting all bids.

11. Qualification of Low Bidder:

(a) After the low bidder has been determined, the next step is to consider the bidder's qualifications to perform the proposed contract. The award of a contract to a bidder solely on the basis of the lowest price is not the policy of the Contracting Local Organization. The ability to obtain bonds does not necessarily qualify a bidder for award.

(b) A contract may be awarded only after it has been determined that the bidder is qualified to perform the contract. Qualification reviews will be made of all pertinent factors including: financial resources or ability to obtain them; present or impending work commitments; record of past performance on comparable projects; business ethics and integrity; eligibility to receive an award under applicable laws and regulations; the necessary organization, experience, operational controls and technical skills or the ability to obtain them; and the necessary equipment or ability to obtain it, as may be needed to prosecute the work in an expeditious, safe and satisfactory manner.

(c) If the bidder does not have adequate equipment but plans to obtain it after contract award, a firm commitment in writing from the suppliers must be furnished to the Contracting Local Organization. Also, if the bidder proposes to subcontract part of the work, they must provide information needed

for the Contracting Local Organization's evaluation of the subcontractor's capability.

(d) Before disqualifying the low bidder, the Contracting Local Organization will inform the bidder of the reason for the proposed disqualification.

12. **Disqualification of Bidders:** Listed are some of the causes which may be considered as sufficient for the disqualification of a bidder and the rejection of his/her offer:

(a) Failure to conform to the essential requirements of the invitation for bids (e.g., incomplete offer; bid not signed) will result in rejection of the bid.
(b) Bids from parties who are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency will be rejected.
(c) More than one offer for the same work from the same individual, firm, partnership or corporation.
(d) Qualifying statements or accompanying qualifying letters that modify requirements or limit the bidder's liability will be cause for rejection of bid.
(e) Evidence of collusion among bidders.
(f) Poor performance in the execution of work under previous contracts, as determined by the Contracting Local Organization.
(g) Being in arrears on existing contracts, in litigation with the Contracting Local Organization, or having defaulted on a previous contract.
(h) Lack of comparable project experience.
(i) The bid is materially unbalanced. i.e., a bid based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and there is reasonable doubt that the bid will result in the lowest overall cost to the Contracting Local Organization even though it may be the low evaluated bid.

13. **Submission of Post-bid Information:** Within five (5) workdays after receipt of Notice of Award, Contractor will be required to submit post-bid information as specified in PART III, Supplemental Conditions, Article 4.

14. **Award of Contract:** Award of contract will be made to that responsible bidder whose bid, conforming to the invitation for bids (IFB), is most advantageous to the Contracting Local Organization, price and other factors considered. The Contracting Local Organization may, when in its interest, reject any or all bids or waive informalities or minor irregularities in bids received. Only one contract will be awarded and the award will be based on the total bid, corrected if necessary, for errors in price extensions and/or addition.

    A response to an IFB is an offer to contract with the Contracting Local Organization based upon the terms, conditions and specifications contained in the IFB. Bids do not become contracts until a signed Notice of Award (NOA) is issued by the Contracting Local Organization.

15. **Project Funding:** The funding for the project which is the subject of this bid is conditioned upon a grant from the Texas State Soil & Water Conservation Board to Wise County. Wise County reserves

the right to terminate the contract which is the subject of this bid at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice (delivered by certified mail, return receipt requested) of intent to terminate. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. The Texas State Soil & Water Conservation Board shall be liable for payments limited only to the portion of work authorized by Wise County in writing and completed prior to the effective date of cancellation, provided that the Texas State Soil & Water Conservation Board shall not be liable for any work performed that is not acceptable to Wise County and/or does not meet contract requirements. All work products produced by the Contractor and paid for by Wise County shall become the property of Wise County and shall be tendered upon request.

16. Officials Not to Benefit: Any contract to be awarded as a result of this solicitation will not be awarded to any official of Wise County or Wise Soil and Water Conservation District, or to any firm in which any official or any member of such official's immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of such firms. A Conflict of Interest Questionnaire and explanation has been included with this bid packet. If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of each individual, business, or agent who is subject to the laws filing requirements. If you are required to file a Conflict of Interest Questionnaire, the original signed questionnaire should be filed with the County Clerk's Office. **DO NOT INCLUDE THIS FORM WITH THE BID PACKET. IT WILL NOT BE FILED BY ASSET CONTROL.**

Wise County Clerk, P.O. Box 359, 200 N Trinity, Decatur, TX 76234

17. Execution of Contract and Submission of Post-bid Information: The contract will include items outlined in PART I, Subpart D, Contract Agreement, Article IV. Within five (5) workdays after receipt of Notice of Award of the contract, the successful bidder shall execute the contract agreement and furnish the Contracting Local Organization with required post-bid information as outlined in PART III, Supplemental Conditions, Article 4.

18. Approval of Contract: This Contract will not be binding upon the CLO until it has been approved by the Wise County Commissioners Court, signed by the Wise County Judge and delivered to the contractor.

19. Specifications: Specifications referred to but not included shall include all revisions and amendments in effect on the date of issuance of the IFB.

20. Beginning of Work: The Contractor shall commence work within ten (10) days after receipt of a written Notice to Proceed as issued by the Point of Contact and shall complete the work within 51 (fifty one) calendar days after receipt of the notice. Contractor shall not commence any work prior to issuance of the Notice to Proceed.

21. **Full-Sized Drawings:** One set of Drawings No. TX-EN-0684(letter size) is provided with this IFB package (Part V). The awarded contractor will be provided a set of full-sized drawings ("22 x 34")

PART I – GENERAL PROVISIONS

SUBPART C

BID FORMS

Exhibits A through E

EXHIBIT A

OFFER

Enclosed with this offer (Exhibits A through E) is a bid guarantee (bid bond or cashier's or certified check payable to Wise County in the amount of _____ _____(Dollars) $_____. It is agreed that in the event this offer is accepted by the Contracting Local Organization and the undersigned bidder fails to execute a contract and submit required post-bid information within five (5) workdays after receipt of Notice of Award of contract to him/her, the Point of Contact may terminate the contract for default and the bid guarantee is available to offset the difference of any cost of acquiring the work that exceeds the amount of its bid. If this offer is accepted, the undersigned bidder agrees to execute a contract and submit required post-bid information per contract terms, and also agrees to commence work within ten (10) calendar days after the date of receipt of written Notice to Proceed and to complete the entire works under Bid 17-600-013, within 51 (fifty one) calendar days after Contractor receives written Notice to Proceed.

The undersigned acknowledges receipt of the following addenda:

Addendum No. 1 dated _____ Received _____
Addendum No. 2 dated _____ Received _____
Addendum No. 3 dated _____ Received _____
Addendum No. 4 dated _____ Received _____

CONTRACTOR

By_____

Print name:_____

Title:_____

Address:_____

_____

_____

_____

_____
Secretary,
If Contractor is a Corporation

(SEAL)

EXHIBIT B

BID SCHEDULE

The undersigned, in compliance with Bid 17-600-014 for repair of Denton Creek Watershed, Site 16 EWP Repair, having examined the plans, specifications and bidding documents, the site of the proposed work, and being familiar with all the conditions surrounding performance of the proposed project; agrees to furnish all labor, material and equipment and perform all work required in accordance with the plans, specifications and contract documents for the prices below, if this offer is accepted by the Contracting Local Organization within _____ calendar days after the date bids are due. *[Note: Failure to insert a number means the bidder accepts the minimum thirty (30) calendar days as required in Notice to Bidders.]*

-- Bidders are entitled to EXCLUDE exempt taxes in their bid prices --

[See Subpart B, Instructions to Bidders #4]

Bidder's Name/Title (type or print): _____

Bidder's Signature: _____

Company Name: _____

Email: _____

Phone: _____

Date: _____

5/31/2016

BID SCHEDULE
DENTON CREEK WATERSHED
SITE 16 EWP REPAIR

Base Item No.	Work or Material	Spec. No.	Quantity	Unit	Unit Price	Amount
1	Pollution Control	5	1-Job	Lump Sum	$ XXXX	$_____
2	Sediment Filters	5	1,920	Lin. Ft.	$_____	$_____
3	Vegetation Establishment	6	6.4	Acre	$_____	$_____
4	Construction Surveys	7	1-Job	Lump Sum	$ XXXX	$_____
5	Mobilization & Demobilization	8	1-Job	Lump Sum	$ XXXX	$_____
6	Excavation, Common, Auxiliary Spillway	21	6,175	Cu. Yd.	$_____	$_____
7	Earthfill, Class A Compaction, Auxiliary Spillway	23	7,650	Cu. Yd.	$_____	$_____
8	Rock Riprap	61	568	Tons	$_____	$_____
9	Contractor Quality Control	94	1-Job	Lump Sum	$ XXXX	$_____
10	Geotextile	95	3,602	Sq. Yd.	$_____	$_____
11	Site Preparation	420	1-Job	Lump Sum	$ XXXX	$_____
12	Shaping and Smoothing	446	0.3	Acre	$_____	$_____

BASE ITEM TOTAL $_____

EXHIBIT C

REFERENCES

Bidder in accordance with the "Instruction to Bidders," Section 3(c) "References," shall list below up to five (5) recent projects upon which he/she has performed work similar to that specified herein. All lines for each reference shall be filled in completely with up-to-date information. Any omissions to this form, discrepancies in reference, or unverifiable information may be grounds for disqualification of the bidder.

1. Project Name:_____

Owner:_____ Total Contract Cost: $_____

Location:_____ Completion Date:_____

Description of Work: _____

_____

Contact:_____ Phone Number:(____)_____

2. Project Name:_____

Owner:_____ Total Contract Cost: $_____

Location:_____ Completion Date:_____

Description of Work: _____

_____

Contact:_____ Phone Number:(____)_____

EXHIBIT C (continued)

3. Project Name:_____

Owner:_____ Total Contract Cost: $_____

Location:_____ Completion Date:_____

Description of Work: _____

_____

Contact:_____ Phone Number:(____)_____

4. Project Name:_____

Owner:_____ Total Contract Cost: $_____

Location:_____ Completion Date:_____

Description of Work: _____

_____

Contact:_____ Phone Number:(____)_____

5. Project Name:_____

Owner:_____ Total Contract Cost: $_____

Location:_____ Completion Date:_____

Description of Work: _____

_____

Contact:_____ Phone Number:(____)_____

EXHIBIT D

BID BOND

**A BLANK BID BOND FORM
IS INSERTED AFTER THIS PAGE
FOR USE OF BIDDERS
IN PREPARATION OF BID
AND CAN BE FOUND AT:**

http://www.gsa.gov/portal/forms/download/115982

BID BOND *(See instructions on reverse)*	DATE BOND EXECUTED *(Must not be later than bid opening date)*	**OMB Control Number: 9000-0045** **Expiration Date: 7/31/2019**

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0045. We estimate that it will take 25 minutes to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

PRINCIPAL *(Legal name and business address)*	TYPE OF ORGANIZATION *("X" one)* ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ CORPORATION ☐ OTHER *(Specify)* STATE OF INCORPORATION

SURETY(IES) *(Name and business address)*

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NUMBER
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR *(Construction, Supplies or Services)*	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) is waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

SIGNATURE(S)	1. (Seal)	2. (Seal)	3. (Seal)	Corporate Seal
NAME(S) & TITLE(S) *(Typed)*	1.	2.	3.	

INDIVIDUAL SURETY(IES)

SIGNATURE(S)	1. (Seal)	2. (Seal)
NAME(S) *(Typed)*	1.	2.

CORPORATE SURETY(IES)

SURETY A	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		

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Previous edition is NOT usable

STANDARD FORM 24 (REV. 8/2016)
Prescribed by GSA - FAR (48 CFR) 53.228(a)

SURETY B	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____ dollars).

4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitations listed therein. The value put into the LIABILITY LIMIT block is the penal sum (i.e., the face value) of the bond, unless a co-surety arrangement is proposed.

(b) When multiple corporate sureties are involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identifier corresponding to each of the sureties. Moreover, when co-surety arrangements exist, the parties may allocate their respective limitations of liability under the bond, provided that the sum total of their liability equals 100% of the bond penal sum.

(c) When individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.

5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

6. Type the name and title of each person signing this bond in the space provided.

7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."

EXHIBIT E
BIDDER CERTIFICATIONS

By submission of this bid, bidder certifies to all Sections in this Exhibit E.
Bidder should circle appropriate answers in Sections A, B and C.
NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

SECTION A: Texas Franchise Tax Certification
Bidder **[IS / IS NOT]** currently delinquent in the payment of any franchise tax owed to the State of Texas, or is exempt from, or not subject to, such tax.

SECTION B: Texas Resident/Nonresident Bidder Certification
Bidder **[IS / IS NOT]** a Texas resident bidder as defined below.

DEFINITIONS: Per State of Texas House Bill 620.

"Nonresident bidder" means a bidder whose principal place of business is not in this state, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

"Texas resident bidder" means a bidder whose principal place of business is in this state, and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

SECTION C: Authority to Transact Business in Texas Certificate
Complete ONLY if you are a Texas nonresident bidder.

(1) Texas nonresident bidder **[IS / IS NOT]** a corporation, limited partnership, or limited liability company. *If answer is "IS NOT", do not complete C(2) and C(3) below.*

(2) Bidder **[HAS / HAS NOT]** obtained a Certificate of Authority through the Texas Secretary of State to transact business in Texas. ***Attach a copy of Certificate to bid if available.***

(3) If response to C(2) is 'HAS NOT', bidder agrees to present a current Certificate of Authority to the Contracting Local Organization by the time post-bid information is due: **[YES / NO]**

SECTION D: Officials Not to Benefit: Bidder certifies that its firm is not an official of Wise County,(all in the State of Texas), or a firm in which any official or any member of such official's immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of its firm.

SECTION E: Applicable Statutes
Contractor shall certify that all Local, State and Federal laws that apply to this scope of work and shall be adhered to.

[end of Bidder Certifications]

PART I – GENERAL PROVISIONS

SUBPART D

CONTRACT AGREEMENT

THIS AGREEMENT, made the _____ day of _____, 2016, by and between Wise County, Decatur, Texas (hereinafter called County) and _____ (hereinafter called Contractor).

WITNESSETH:

THAT WHEREAS: in accordance with law, the County had contract documents prepared and an Invitation for Bids published, for and in connection with the repair of Denton Creek Watershed, Site 16 EWP Repair.

WHEREAS, Contractor, in response to the Invitation for Bids, has submitted to the County, in the manner and at the time specified, a sealed bid in accordance with Instructions to Bidders; and

WHEREAS, the County, in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted, and has determined Contractor to be the lowest responsible bidder for the work and duly awarded to Contractor a contract therefore, for the sum or sums named in Contractor's bid.

NOW, THEREFORE, in consideration of the compensation to be paid to Contractor and of the mutual agreements herein contained, the parties have agreed and hereby agree, the County for itself and its successors and assigns, and its, his/her, or their executors and administrators, as follows:

ARTICLE I. Contractor shall perform all work, including the assumption of all obligations, duties and responsibilities necessary to the successful completion of the contract and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work; tools, equipment, supplies, transportation, facilities, labor, superintendence and services required to perform the work; and bonds, insurance and submittals; all as indicated or specified in the contract documents to be performed or furnished by Contractor for the work included in and covered by the County's official award of this contract to Contractor, such award being based on the acceptance by the County of Contractor's bid.

ARTICLE II. the County shall pay to Contractor for performance of the work embraced in this contract, and Contractor shall accept as full compensation therefore, the sum (subject to adjustment as provided in the contract documents) of _____ Dollars ($ _____) for all work covered by and included in the contract award and designated in the foregoing Article I; payment thereof to be made in current funds in the manner provided in the contract documents.

ARTICLE III. The Contractor shall complete all work within 51 (fifty one) calendar days from the date Contractor receives written Notice to Proceed.

ARTICLE IV. The contract documents that comprise the Contract between the County and Contractor, attached hereto and made a part hereof, consist of the following:

(1) This Contract Agreement.
(2) Contractor's Bid: Exhibits A - E.
(3) Addenda Numbers _____
(4) Post-bid information and supplementary information submitted by Contractor prior to execution of this Contract Agreement.
(5) Notice of Award
(6) PART II – General Conditions.
(7) PART III – Supplemental Conditions.
(8) PART IV – Construction Specifications and Material Specifications and Storm Water Pollution Prevention Plans - Contractor and subcontractor Certifications.
(9) PART V – Drawings, No. TX-EN-0684 (cover plus 7 sheets).
(10) PART VI – Prevailing Wage Rates Determination.
(11) Notice to Proceed.
(12) Any modifications (change orders) duly delivered or supplemental agreements duly entered into after execution of this Contract Agreement.
(13) Notices of Final Completion and Acceptance.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement the day and year first above written.

OWNER

Wise County

By _____
JD Clark
County Judge

Attest _____

Address for giving notices:
Wise County Asset Control
P.O. Box 952, 400 W Walnut
Decatur, Texas 76234

This action authorized at an official meeting of the Wise County Commissioners Court on _____, 2016, Decatur, State of Texas.

CONTRACTOR

_____

By _____

Title _____

(CORPORATE SEAL)

Attest _____

Address for giving notices
_____
_____
_____

License No. _____

If CONTRACTOR is a corporation, attach evidence of authority to sign.)

PART II - GENERAL CONDITIONS

ARTICLE 1 – DEFINITIONS

Terms used or referred to herein and elsewhere in the contract documents are defined as follows:

(a) Contracting Local Organization (CLO): The organization or agency awarding the contract. CLO is Wise County, Texas. Also referred to as the "District" and "Owner".

(b) Point of Contact (POC): The person who is designated and authorized to enter into and administer this contract on behalf of the Contracting Local Organization or his/her duly appointed successor or alternate. No other person has authority to act for the Point of Contact as stated in these General Conditions or elsewhere in the contract documents unless such person has been delegated authority by the Point of Contact in writing.

(c) Engineer: The person or his/her representative who is responsible for determining that the Contractor's work conforms to the technical requirements as set forth in the drawings and specifications. Also called Project Engineer or Point of Contact's Technical Representative (COTR).

(d) Inspector: The person who performs daily inspection services for the CLO at the construction site and maintains accurate daily records of the work accomplished and the factors affecting its progress and quality. Also called NRCS Construction Inspector.

(e) State Grantor Agency: Texas State Soil and Water Conservation Board (TSSWCB).

(f) Government: United States Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS).

(g) Service: Natural Resources Conservation Service (NRCS)

(h) Government's Representative (GR): NRCS Engineer, COTR.

(i) Quality Assurance (QA): NRCS Construction Inspector (onsite).

(j) Quality Control (QC): Contractor's Construction Inspector (onsite).

ARTICLE 2 – SPECIFICATIONS AND DRAWINGS

The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Point of Contact access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Point of Contact, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at his/her own risk and expense. The Point of Contact shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

ARTICLE 3 – CHANGES

(a) The Point of Contact may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Contracting Local Organization-furnished facilities, equipment, materials, services, or site;

or

(4) Directing acceleration in the performance of the work

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the Point of Contact, which causes any such change, shall be treated as a change order under this article, provided that the Contractor gives the Point of Contact written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Point of Contact shall be treated as a change under this article or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this article causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: *Provided, however,* That except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: *And provided further,* That in the case of defective specifications for which the Contracting Local Organization is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this article, Contractor must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Point of Contact a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Point of Contact. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

ARTICLE 4 – DIFFERING SITE CONDITIONS

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Point of Contact in writing of:

(1) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or

(2) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Point of Contact shall promptly investigate the conditions, and if he/she finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this article shall be allowed unless the Contractor has given the notice required in (a) above; provided, however, the time prescribed therefore may be extended by the Point of Contact.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

ARTICLE 5 – TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, TIME EXTENSIONS

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Contracting Local Organization may, by written notice to the Contractor, terminate Contractor's right to proceed with the work or such part of the work as to which there has been delay. In such event the Contracting Local Organization may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, Contractor and his/her sureties shall be liable for any damage to the Contracting Local Organization resulting from his/her refusal or failure to complete the work within the specified time.

(b) [Reserved.]

(c) [Reserved.]

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the Contracting Local Organization in its contractual capacity, acts of another contractor in the performance of a contract with the Contracting Local Organization, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay (unless the Point of Contact grants a further period of time before the date of final payment under the contract), notifies the Point of Contact in writing of the causes of delay.

The Point of Contact shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his/her judgment, such an extension is justified.

(e) The rights and remedies of the Contracting Local Organization provided in this article are in addition to any other rights and remedies provided by law or under this contract.

(f) As used in paragraph (d)(1) of this article, the term "subcontractors and suppliers" means subcontractors and suppliers at any tier.

ARTICLE 6 – CLAIMS

Any claim by the Contractor arising by virtue of this contract which is not disposed of by agreement shall be submitted in writing, together with any written and oral evidence in support thereof, to the Point of Contact for decision. Before making a decision the Point of Contact shall notify the Contractor that any additional written and/or oral evidence in support of the claim may be presented to the Point of Contact within 30 days from receipt by the Contractor of such notification, or within such further period of time as may be granted by the Point of Contact. The Point of Contact shall make a decision in writing and mail or otherwise furnish a signed copy thereof to the Contractor. Pending the decision of the Point of Contact the Contractor shall proceed diligently with the performance of this contract. *[See Also: PART III, Supplemental Conditions, Article 11 – Disputes/Alternative Dispute Resolution]*

ARTICLE 7 – PAYMENTS TO CONTRACTOR / INVOICING REQUIREMENTS

(a) The funding for the project which is the subject of this Contract is conditioned upon a grant from the State Grantor Agency to the Contracting Local Organization. The State Grantor Agency will pay the contract price as hereinafter provided.

(b) The State Grantor Agency will make regular progress payments as the work proceeds at intervals as determined by the Point of Contact and the State Grantor Agency, on estimates approved by the Point of Contact and the State Grantor Agency. If requested by the Point of Contact, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Point of Contact, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract [NOT authorized for this contract], and (2) if the Contractor furnishes satisfactory evidence that he/she has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 5 percent of the estimated amount until final completion and acceptance of the contract work. However, if the Point of Contact finds that satisfactory progress was achieved for any period for which a progress payment is to be made, he and the State Grantor Agency may authorize such payment to be made in full without retention of a percentage. Also, whenever the work is substantially complete, the Point of Contact shall retain an amount he considers adequate for protection of the State Grantor Agency and the Contracting Local Organization, at his discretion, may release to the Contractor all or a portion of any excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefore without retention of a percentage. In accordance with Texas Government Code §2252.032, neither the State Grantor Agency nor the Contracting Local Organization will be obligated to pay interest on amounts retained in the manner provided herein.

(d) [Reserved.]

(e) "Properly Executed Invoice" Requirements

(1) The original and one copy of each invoice are to be delivered to the Point of Contact at the designated payment office. **Bid number must be on the invoice.**

(2) One copy of each invoice and complete documentation of computations and supporting data as required by part iv below, Construction Specification 7 are to be submitted to the Engineer.

(3) The following must be attached to the original invoice submitted to the Point of Contact and to the copy submitted to the Engineer:

(i) A complete remittance address along with vendor's tax identification number.

(ii) Billing period.

(iii) If requesting payment for materials delivered but not installed, Contractor will provide evidence of title to the materials.

(iv) Itemization of payment requests by Contract Item Number (CIN) as shown in PART I, Subpart C, Exhibit B—Bid Schedule, of the contract. Invoice will include the quantity performed that is being invoiced, the unit price (if applicable) and the CIN total price, and a sum total of amount of payment requested. Invoice will also include the cumulative quantities and amount by CIN.

(f) Designated Payment Office Contact Point. The contact point described below coordinates the issuance of payments under this contract:

Name: Ann McCuiston
Title: Point of Contact
Address: P.O. Box 899, 207 N Church St, Decatur, Texas 76234
Telephone: (940) 627-5744 Email: auditor@co.wise.tx.us

(g) Final Payment Request

(1) The State Grantor Agency shall pay the amount due the Contractor under this contract after--

(i) Completion and acceptance of all work;

(ii) Presentation of a properly executed invoice; and

(iii) Presentation of all releases indicated in (g)(2)(iii) and (g)(3) below.

(2) The **FINAL** invoice billing shall include the following information:

(i) All documentation called for in the contract documents,

(ii) Consent of the surety, if any, to final payment, and

(iii) Complete and legally effective releases or waivers (satisfactory to the Contracting Local Organization and/or the State Grantor Agency) of all liens arising out of or filed in connection with the work. In lieu of such releases or waivers of liens and as approved by the Contracting Local Organization and/or the State Grantor Agency, Contractor may furnish receipts or releases in full and an affidavit of Contractor that:

(A) The releases and receipts include all labor, services, material and equipment for which a lien could be filed, and

(B) All payrolls, material and equipment bills and other indebtedness connected with the work for which Contracting Local Organization or Contracting Local Organization's property might in any way be responsible have been paid or otherwise satisfied. If any subcontractor or supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Contracting Local Organization to indemnify Contracting Local Organization against any lien.

(3) The **FINAL** invoice shall also contain the following **RELEASE OF CLAIMS** statement:
"I, [*Name of Contractor*], do hereby release Wise County, Texas, from any and all claims of any character whatsoever arising under and by virtue of contract number [*Identify Contract*] dated [*Date*] as amended, except as herein stated [*LIST any Exceptions*].

_____ _____
(*Date of Release*) (*Signature of Contractor*)

(4) Releases may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under Article 25 of these General Conditions – Assignment, of this contract.

(h) This contract is subject to regulations incorporated in Texas Government Code, Subtitle F, Chapter 2251 – Payment for Goods and Services, regarding payment due dates, late payment interest, and claims and disputes. These regulations include, but are not limited to, payments made by Contracting Local Organization, Contractor, and subcontractors for any work, goods, services, etc. provided under this contract.

ARTICLE 8 – MATERIAL AND WORKMANSHIP

(a) Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his/her option, use any equipment, material, article, or process which in the judgment of the Point of Contact, is equal to that named. The Contractor shall furnish to the Point of Contact for his/her approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Point of Contact, the Contractor shall furnish the Point of Contact for approval full information concerning the material or articles which Contractor contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

(b) All work under this contract shall be performed in a skillful and workmanlike manner. The Point of Contact may, in writing, require the Contractor to remove from the work any employee the Point of Contact deems incompetent, careless, or otherwise objectionable.

ARTICLE 9 – INSPECTION, ACCEPTANCE AND LIQUIDATED DAMAGES.

(a) All work (which term includes but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Contracting Local Organization at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Contracting Local Organization and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirements. No inspection or test by the Contracting Local Organization shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Contracting Local Organization after acceptance of the completed work under the terms of paragraph (f) of this article, except as herein above provided.

(b) The Contractor shall, without charge, replace any material or correct any workmanship found by the Contracting Local Organization not to conform to the contract requirements, unless in the public interest the Contracting Local Organization consents to accept such material or workmanship with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Contracting Local Organization (1) may, by contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor, or (2) may terminate the Contractor's right to proceed in accordance with the article of this contract entitled "Termination for Default - Damages for Delay – Time Extensions."

(d) The Contractor shall furnish promptly, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by

the Point of Contact. All inspection and test by the Contracting Local Organization shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract. The Contracting Local Organization reserves the right to charge to the Contractor any additional cost of inspection or test when material or workmanship is not ready at the time specified by the Contractor for inspection or test or when reinspection or retest is necessitated by prior rejection.

(e) Should it be considered necessary or advisable by the Contracting Local Organization at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his/her subcontractors, Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, an equitable adjustment shall be made in the contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, Contractor shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Contracting Local Organization shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Point of Contact determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Contracting Local Organization's rights under any warranty or guarantee.

(g) If the work is not completed within the time stipulated in the provided contract, the Contractor shall pay to the Locality as fixed, agreed and liquidated damages the amount of $750.00 for each calendar day of delay, until work is completed. The Contractor and his sureties shall be liable to the Locality for the amount thereof.

(h) Any amount due to the Locality as a result of Liquidated Damages shall be deducted from the final payment due to the contractor.

ARTICLE 10 – SUPERINTENDENCE BY CONTRACTOR

The Contractor, at all times during performance and until the work is completed and accepted, shall give his/her personal superintendence to the work or have on the work a competent superintendent, satisfactory to the Point of Contact and with authority to act for the Contractor.

ARTICLE 11 – PERMITS AND RESPONSIBILITIES

The Contractor shall, without additional expense to the Contracting Local Organization, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. Contractor shall be similarly responsible for all damages to persons or property that occur as a result of his fault or negligence. He/she shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. He/she shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which theretofore may have been accepted.

ARTICLE 12 – CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional expense to the Contracting Local Organization. The Contracting Local Organization assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this contract, unless such understanding or representations by the Contracting Local Organization are expressly stated in the contract.

ARTICLE 13 – OTHER CONTRACTS

The Contracting Local Organization may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and Contracting Local Organization employees and carefully fit his/her own work to such additional work as may be directed by the Point of Contact. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Contracting Local Organization employees.

ARTICLE 14 – PATENT INDEMNITY

Except as otherwise provided, the Contractor agrees to indemnify the Contracting Local Organization and its officers, agents and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Government to be kept secret or otherwise withheld from issue) arising out of the performance of this contract or out of the use or disposal by or for the account of the Contracting Local Organization of supplies furnished or work performed hereunder.

ARTICLE 15 – ADDITIONAL BOND SECURITY

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Contracting Local Organization, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the Contracting Local Organization, or if the contract price is increased to such an extent that the penal sum of any bond becomes inadequate in the opinion of the Point of Contact, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Contracting Local Organization and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

ARTICLE 16 – REAL PROPERTY RIGHTS

(a) Adequate real property rights needed in order to perform the work under this contract have been acquired by or on behalf of the Contracting Local Organization. The right to enter, remove, or otherwise make use of adjacent property, roads, utility lines, fences, and other improvements not included within the real property rights provided shall be the sole responsibility of the Contractor.

(b) Where ingress and egress is not defined on the drawings, the Point of Contact shall designate the right-of-way to be used.

ARTICLE 17 – RECORDS OF TEST PITS AND BORINGS

The Contracting Local Organization does not represent that the available records show completely the

existing conditions and does not guarantee any interpretation of these records. The Contractor assumes all responsibility for deductions and conclusions as to the nature of rock and other materials to be excavated, the difficulties of making and maintaining the required excavations and of doing other work affected by the geology of the site of the work, and for the final preparation of the foundations for the embankments and other structures.

ARTICLE 18 – MATERIALS TO BE FURNISHED BY THE CONTRACTOR

(a) Unless otherwise specified in this contract, the Contractor shall furnish all materials required for the completion of the contract.

(b) Unless otherwise waived in writing by the Point of Contact, the Contractor shall furnish the Contracting Local Organization with certifications dated and signed by the manufacturer and/or supplier to the effect that the items listed therein meet the requirements of this contract. Such certifications shall be furnished prior to the use of the material in any part of the construction and shall identify the project on which the material is to be used.

ARTICLE 19 – WATER

Unless otherwise specified in this contract, the Contractor shall provide and maintain at his/her own expense an adequate supply of water suitable for purposes of performing the work.

ARTICLE 20 – WORKWEEK—CONSTRUCTION SCHEDULE

(a) Unless furnished prior to contract award, the Contractor shall, prior to commencement of work, submit to the Point of Contact for approval: (1) a construction schedule showing the order in which he/she proposes to carry on the work indicating the periods during which he/she will perform work on each item listed in the bid schedule; and (2) the hours and days in which he/she proposes to carry on the work.

(b) If, in the opinion of the Point of Contact, the Contractor falls behind the approved construction schedule, the Contractor shall take such steps as may be necessary to improve his/her process and the Point of Contact may require him/her to either increase the number of shifts, days or hours of work, or the amount of construction plant, or all of them, and to submit for approval such revised construction schedule as may be deemed necessary to show the manner in which the agreed rate of progress will be regained, all without additional cost to the Contracting Local Organization. If the Contractor fails to submit a revised construction schedule within the time specified by the Point of Contact, the Point of Contact may withhold approval of progress payments and/or take such other actions as provided in this contract until such time as the Contractor submits the required construction schedule.

(c) Failure of the Contractor to comply with the requirements of the Point of Contact under this article shall be grounds for determination by the Point of Contact that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination, the Point of Contact may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with Article 5 of the General Conditions.

(d) The maximum workweek that will be approved is:
- Monday through Saturday, 11 hours per day
- Work is permitted during "daylight" hours only.

(e) All work under this contract except minor items of work of an emergency, protective, or maintenance nature <u>will be suspended</u> for the periods listed below. These days are included in the original contract performance time:

November 23-25, 2016
January 1-2, 2017
February 20, 2017

December 24-26, 2016
January 16, 2017

ARTICLE 21 – SUBCONTRACTORS

(a) Work shall not be subcontracted in whole or in part without the prior written approval of the Point of Contact. The request shall be in writing with the name of the proposed subcontractor and a description of the work to be done.

(b) If at any time the Point of Contact determines that any subcontractor is incompetent or undesirable, he/she shall notify the Contractor accordingly and the Contractor shall take immediate steps for cancellation of the subcontract.

(c) Subcontracting by subcontractors shall be subject to the above requirements.

(d) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Contracting Local Organization.

(e) Any subcontract awarded under this contract will not be awarded to any official of Wise County (all in the State of Texas), or to any firm in which any official or any member of such official's immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of such firms.

ARTICLE 22 – SURVEYS

See PART IV, Construction Specification 7 – Construction Surveys.

ARTICLE 23 – SUSPENSION OF WORK

(a) The Point of Contact may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he/she may determine to be appropriate for the convenience of the Contracting Local Organization.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Point of Contact in the administration of this contract, or by his/her failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this article for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this article shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Point of Contact in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

ARTICLE 24 – CLEANUP WORK

(a) During performance of the work the Contractor shall keep the work site, areas adjacent to the work

site and access roads in an orderly condition, free and clear from debris and discarded materials. Care shall be taken to prevent spillage when hauling is being done. Any spillage or debris resulting from the Contractor's operations shall be immediately removed.

(b) Upon completion of the work the Contractor shall remove from the work site, areas adjacent to the work site and access roads: all plant, buildings, debris, unused materials, concrete forms and other like material belonging to Contractor or used under his/her direction during the construction. Contractor shall grade all access roads, other than public, removing wheel tracks and smoothing up such roads.

ARTICLE 25 – ASSIGNMENT

The Contractor shall not assign in whole or in part this contract without the prior written consent of the Contracting Local Organization. The Contractor shall not assign any moneys due or to become due to him/her under this contract without the prior written consent of the Contracting Local Organization.

ARTICLE 26 – WEATHER

(a) The Point of Contact may order suspension of the work in whole or in part, commencing with the day after receipt of the Notice to Proceed by the Contractor, due to weather or the effects of weather at the site, for such time as he/she considers it unfavorable for satisfactory prosecution of the work.

(b) When the Point of Contact orders suspension under (a) of this article, the contract completion date shall be extended a full calendar day for each calendar day during suspension of the work if:

(1) All work is suspended except minor items as may be designated in this contract (work of an emergency, protective or maintenance nature may be performed at any time); and

(2) The hours lost in any one workday of the authorized workweek through suspension equal one-half or more of the hours of an authorized workday.

(c) If the Point of Contact orders suspension of work as provided in (b) of this article and the hours lost in the workday immediately preceding a nonworkday equal one-half or more of the hours in an authorized workday, the contract completion date shall be extended a full calendar day for each nonworkday during suspension of the work.

(d) When the Point of Contact orders any suspension of the work under this article, the Contractor shall not be entitled to any cost or damages resulting from such suspension.

(e) When the contract completion date is extended under this article, the contract shall be modified in writing accordingly.

ARTICLE 27 – NONCOMPLIANCE WITH CONTRACT REQUIREMENTS

(a) The Point of Contact may order suspension of the work in whole or in part for such time as he/she deems necessary because of the failure of the Contractor to comply with any of the requirements of this contract, and the contract completion date shall not be extended on account of any such suspension of the work.

(b) When the Point of Contact orders any suspension of the work under (a) of this article, the Contractor shall not be entitled to any costs or damages resulting from such suspension.

(c) The rights and remedies of the Contracting Local Organization provided in this article are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 28 – QUANTITY VARIATIONS

(a) Where the quantity of work shown for an item in the bid schedule, including any modification

thereof, is estimated, no adjustment of the contract price nor of the performance time shall be made for overruns or underruns which are within 25 percent of the estimated quantity of any such item.

(b) For overruns of more than 25 percent, the Point of Contact shall re-estimate the quantity for the item, establish an equitable contract price for the overrun of more than 25 percent, adjust contract performance time equitably, and modify the contract in writing accordingly; this article to thereafter be applicable to the total re-estimated item quantity.

(c) For underruns of more than 25 percent, the Point of Contact shall determine the quantity for the item, establish an equitable contract price therefore, adjust contract performance time equitably, and modify the contract in writing accordingly.

ARTICLE 29 – FEDERAL, STATE, AND LOCAL TAXES

(a) Except as otherwise provided, contract unit prices shall include all applicable Federal, State, and local taxes.

(b) Texas State, County, and Municipal Sales and Use Tax.

(i) The Contracting Local Organization is an exempt entity per §151.309(5) of the Limited Sales, Excise, and Use Tax Act (Texas Tax Code Chapter 151 – Limited Sales, Excise, and Use Tax) and will issue the Contractor an affidavit as proof of this exemption. This contract is a "lump-sum contract" as defined by Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter O – State Sales and Use Tax, Rule §3.291 (Contractors).

(ii) When purchased by the Contractor for use in performance of this contract, certain tangible personal property and taxable services are exempt from State Sales and Use Tax under Texas Tax Code §151.311, and in most cases are also exempt from County and Municipal Sales and Use Tax. Contractor is subject to tax responsibilities in Texas Administrative Code Rule §3.291, section (c), and is responsible to issue a properly completed exemption certificate to a supplier in accordance with section (c)(5).

(iii) Contractor is solely responsible to be adequately familiar with and comply with all requirements of Texas Tax Code, Texas Administrative Codes, and any other State/local regulations when claiming tax exemption for purchase of items for use in the performance of this contract.

(iv) "Contractor" as used in this paragraph (b) includes subcontractors as defined in Texas Administrative Code Rule §3.291, section (a)(3).

ARTICLE 30 – SHOP DRAWINGS

(a) The term "shop drawings" includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract.

(b) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate his/her approval thereon as evidence of such coordination and review. Shop drawings submitted to the Point of Contact without evidence of the Contractor's approval may be returned for resubmission. The Point of Contact will indicate his/her approval or disapproval of the shop drawings and if not approved as submitted shall indicate his/her reasons therefore. Any work done prior to such approval shall be at the Contractor's risk. Approval by the Point of Contact shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (c) below.

(c) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Point of Contact approves any such variation(s), he/she shall issue an appropriate contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

ARTICLE 31 – TERMINATION FOR THE CONVENIENCE OF THE CONTRACTING LOCAL ORGANIZATION

The Contracting Local Organization reserves the right to terminate the contract which is the subject of this bid at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice (delivered by certified mail, return receipt requested) of intent to terminate. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. The State Grantor Agency shall be liable for payments limited only to the portion of work authorized by the Contracting Local Organization in writing and completed prior to the effective date of cancellation, provided that the State Grantor Agency shall not be liable for any work performed that is not acceptable to the Contracting Local Organization and/or does not meet contract requirements. All work products produced by the Contractor and paid for by Wise County become the property of Wise County and shall be tendered upon request. This provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Contracting Local Organization to require the fulfillment of all of the terms of the contract.

ARTICLE 32 – PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Point of Contact.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Point of Contact may have the necessary work performed and charge the cost to the Contractor.

ARTICLE 33 – OPERATIONS AND STORAGE AREAS

(a) The Contractor shall confine all operations (including storage of materials) on Contracting Local Organization premises to areas authorized or approved by the Point of Contact. The Contractor shall hold and save the Contracting Local Organization, its officers and agents, free and harmless from

liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Point of Contact and shall be built with labor and materials furnished by the Contractor without expense to the Contracting Local Organization. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Point of Contact, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Point of Contact, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Point of Contact. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads if contractor is found negligent by Point of Contact.

ARTICLE 34 – USE AND POSSESSION PRIOR TO COMPLETION

(a) The Contracting Local Organization shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Point of Contact shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Contracting Local Organization intends to take possession of or use. However, failure of the Point of Contact to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Contracting Local Organization's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Contracting Local Organization has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Contracting Local Organization's possession or use, notwithstanding the terms of Article 11 (Permits and Responsibilities) of these General Conditions. If prior possession or use by the Contracting Local Organization delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

ARTICLE 35 – LAYOUT OF WORK

See PART IV, Construction Specification 7 – Construction Surveys.

ARTICLE 36 – PRECONSTRUCTION CONFERENCE

Point of Contact will conduct a preconstruction conference, the successful offer or will be notified and will be required to attend. The Point of Contact's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

ARTICLE 37 – CONTRACTOR RECORDS

(a) Access to Records. Contractor shall provide access by Contracting Local Organization, State Grantor Agency, or any of their duly authorized representatives, to any books, documents, papers, and records of the Contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) Retention of Records. Contractor shall retain all records requiring access per paragraph (a) above for three (3) years after the Contracting Local Organization makes final payment under the contract and all other pending matters between the Contracting Local Organization and the Contractor under the contract are closed.

ARTICLE 38 – ARCHEOLOGICAL OR HISTORIC SITES

If a previously unidentified archeological or historic site(s) is encountered, the Contractor shall discontinue work in the general area of the site(s) and notify the Point of Contact immediately.

ARTICLE 39 – CONTROL OF EROSION, SEDIMENTATION, AND POLLUTION

(a) Operations shall be scheduled and conducted to minimize erosion of soils and to prevent silting and muddying of streams, rivers, irrigation systems, and impoundments (lakes, reservoirs, etc.).

(b) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged on the ground; into or nearby rivers, streams, or impoundments; or into natural or man-made channels. Wash water or waste from concrete or aggregate operations shall not be allowed to enter live streams prior to treatment by filtration, settling, or other means sufficient to reduce the sediment content to not more than that of the stream into which it is discharged.

(c) Mechanized equipment shall not be operated in flowing streams without written approval by the Point of Contact.

ARTICLE 40 – VALUE ENGINEERING

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) of this article.

(b) Definitions.

"CLO," as used in this article, means Contracting Local Organization.

"Collateral costs," as used in this article, means CLO costs of operation, maintenance, logistic support, or CLO-furnished property.

"Contractor's development and implementation costs," as used in this article, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by CLO acceptance of a VECP.

"CLO costs," as used in this article, means those CLO and State Grantor Agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this article, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (g) of this article).

"Value engineering change proposal (VECP)" means a proposal that-

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change-

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in paragraphs (c)(1) through (7) of this article. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (g) of this article.

(4) A description and estimate of costs the CLO and State Grantor Agency may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the CLO.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous CLO actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Point of Contact.

(e) CLO action.

(1) The Point of Contact will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Point of Contact will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The CLO will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Point of Contact will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the CLO. The Point of Contact may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Point of Contact's award of a modification to this contract citing this article. The Point of Contact may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Point of Contact.

(f) Sharing.

(1) *Rates.* The CLO's share of savings is determined by subtracting CLO costs from instant contract savings and multiplying the result by-

(i) 45 percent for fixed-price contracts; or
(ii) 75 percent for cost-reimbursement contracts.

(2) *Payment*. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to-
(i) Accept the VECP;
(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and
(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Subcontracts. The Contractor shall include an appropriate value engineering clause, subject to Point of Contact's approval, in any subcontract of $50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) of this article, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the CLO under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the CLO and State Grantor Agency's share of the savings resulting from the VECP.

(h) Data. The Contractor may restrict the CLO and State Grantor Agency's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under PART II – General Conditions, Article 40 (Value Engineering) of bid 17-600-014, shall not be disclosed outside the CLO and State Grantor Agency or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the article. This restriction does not limit the CLO and State Grantor Agency's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations. If a VECP is accepted, the Contractor hereby grants the CLO and State Grantor Agency unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the CLO and State Grantor Agency shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data." "Unlimited rights" means the rights of the CLO and State Grantor Agency to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so. "Limited rights" means the rights of the CLO and State Grantor Agency in limited rights data, as set forth in a Limited Rights Notice if included in a data rights clause of the contract.

ARTICLE 41 – ACCIDENT PREVENTION AND SAFETY

(a) The Contractor shall provide and maintain work environments and procedures which will:
(1) Safeguard the public and Contracting Local Organization personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;
(2) Avoid interruptions of Contracting Local Organization operations and delays in project completion dates; and
(3) Control costs in the performance of this contract.

(b) Whenever the Point of Contact becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or

Contracting Local Organization personnel, the Point of Contact shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Point of Contact may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this article.

(c) The Contractor shall insert this article, including this paragraph (c), with appropriate changes in the designation of the parties, in subcontracts.

(d) Before commencing the work, the Contractor shall--

(1) Submit a written proposed plan for implementing this article. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Point of Contact to discuss and develop a mutual understanding relative to administration of the overall safety program.

(e) In the event there is a conflict between the requirements contained in the specifications, Contractor's safety program, and U.S. Department of Labor construction safety and health standards, the more stringent requirement will prevail.

(f) Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926 Construction Industry Standards and Interpretations, and with the supplement below:

Supplement to OSHA Parts 1910 and 1926 Construction Industry Standards and Interpretations

Requests for variances or waiver from this supplement are to be made to the Point of Contact in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for a waiver or a variance shall include—

(1) Specific reference to the provision or standard in question;
(2) An explanation as to why the waiver is considered justified; and
(3) The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable Point of Contact to render a decision.

No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of a provision until the Point of Contact has given written approval. The Contractor is to hold and save harmless the United States Department of Agriculture, Natural Resources Conservation Service, the State of Texas, Texas State Soil and Water Conservation Board, and the Contracting Local Organization free from any claims or causes of action whatsoever resulting from the Contractor or Subcontractors proceeding under a waiver or approved variance.

The Contractor shall ensure that any additional safety and accident prevention measures the Point of Contact determines to be reasonably necessary for the purposes of the work are taken.
Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be

obtained from:

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

A. GENERAL CONTRACTOR REQUIREMENTS

(1) SAFETY PROGRAM. Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Point of Contact for approval before the start of operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including subcontractors and rental equipment operators. The program shall be site specific and provide details relevant to the work to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

(2) PRECONSTRUCTION SAFETY MEETING. Representatives for the Contractor are to meet with the Point of Contact before commencing work to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

(3) JOINT SAFETY POLICY COMMITTEE. The Contractor or designated on-site representative is to participate in monthly meetings of a joint Safety Policy Committee, composed of Point of Contact, Project Engineer and/or Inspector, and Contractor supervisory personnel. At these meetings the Contractor's project manager and the Point of Contact will review the effectiveness of the Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

(4) SAFETY PERSONNEL. Each Contractor is to designate a competent supervisory employee satisfactory to Point of Contact to administer the safety program.

(5) SAFETY MEETINGS. A minimum of one "on-the-job" or "toolbox" safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all personnel at the jobsite. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

(6) SAFETY INSPECTION. The Contractor shall perform frequent and regular safety inspections of the jobsite, materials, and equipment, and shall correct deficiencies.

(7) FIRST AID TRAINING. Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

(8) REPORTS. Contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved by the Point of Contact. A copy of all reports is to be provided to the Point of Contact. All fatal or serious injuries are to be reported immediately to the Point of Contact, and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Point of Contact. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Point of Contact in conducting accident investigations. The Point of Contact is to be furnished all information and data pertinent to investigation of an accident.

(9) CERTIFICATION OF INSURANCE. Contractor is to provide the Point of Contact with certificates of insurance before the start of operations indicating full compliance with State Worker's

Compensation statutes, as well as other certificates of insurance required under the contract. *[See PART III – Supplemental Conditions, Articles 1, 2, and 3.]*

B. FIRST AID AND MEDICAL FACILITIES

(1) FIRST AID KITS. A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least 1 kit for each 25 employees. The first aid kits are to be moisture proof and dust tight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

(2) EMERGENCY FIRST AID. At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the jobsite.

(3) COMMUNICATION AND TRANSPORTATION. Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

(4) FIRST AID AND MEDICAL REPORTS. The Contractor is to maintain a record system for first aid and medical treatment on the jobsite. Such records are to be readily available to the Point of Contact and are to include--

(a) A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;

(b) Cumulative record of injury for each individual;

(c) Monthly statistical records of occupational injuries, classified by type and nature of injury; and

(d) Required records for worker's compensation.

(5) SIGNS AND DIRECTIONAL MARKINGS. Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

(6) EMERGENCY LISTING. A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

C. PHYSICAL QUALIFICATIONS OF EMPLOYEES

(1) GENERAL REQUIREMENTS. Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

(2) HOIST OPERATORS. Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Point of Contact.

(3) HEAVY EQUIPMENT OPERATORS. It is recommended that operators of trucks and heavy equipment be given physical examinations to determine if they are physically qualified to perform their assigned work without endangering themselves or others.

(4) MOTOR VEHICLE OPERATORS. Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated.

D. PERSONAL PROTECTIVE EQUIPMENT

(1) HARD HAT AREAS. The entire jobsite, with the exception of offices, shall be considered a hard hat area. All persons entering the area are, without exception, required to wear hard hats. The

Contractor shall provide hard hats for visitors entering hard hat areas.
(2) LABELS. Hard hats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.
(3) POSTING.
(a) Signs at least 3 by 4 feet worded as follows with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hard hat areas:

CONSTRUCTION AREA - HARD HATS
REQUIRED BEYOND THIS POINT

(b) These signs are to be furnished and installed by the Contractor at entries to shops, service yards, and job access points.
(4) SAFETY GOGGLES (DRILLERS). DRILLERS AND HELPERS. Drillers and helpers operating pneumatic rock drills must wear protective safety goggles.

E. MACHINERY AND MECHANIZED EQUIPMENT

(1) SAFE CONDITION. Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery is to be used by equipment operators.
(2) TAGGING AND LOCKING. The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work. Mixer barrels are to be securely locked out before permitting employees to enter them for cleaning or repair.
(3) HAUL ROADS FOR EQUIPMENT
(a) ROAD MAINTENANCE. The Contractor shall maintain all roadways, including haul roads and access roads, in a safe condition so as to eliminate or control dust and ice hazards. Wherever dust is a hazard, adequate dust-laying equipment shall be available at the jobsite and utilized to control the dust.
(b) SINGLE-LANE HAUL ROADS. Single-lane haul roads with two-way traffic shall have adequate turnouts. Where turnouts are not practical, a traffic control system shall be provided to prevent accidents.
(c) TWO-WAY HAUL ROADS. On two-way haul roads, arrangements are to be such that vehicles travel on the right side wherever possible. Signs and traffic control devices are to be employed to indicate clearly any variations from a right-hand traffic pattern. The road shall be wide enough to permit safe passage of opposing traffic, considering the type of hauling equipment used.
(d) DESIGN AND CONSTRUCTION OF HAUL ROADS. Haul road design criteria and drawings, if requested by the Point of Contact, are to be submitted for approval prior to road construction. Sustained grades shall not exceed 12 percent and all curves shall have open-sight line with as great a radius as practical. All roads shall be posted with curve signs and maximum speed limits that will permit the equipment to be stopped within one-half the minimum sight distance.
(e) OPERATORS. Machinery and mechanized equipment shall be operated only by authorized qualified persons.

(f) RIDING ON EQUIPMENT. Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

(g) GETTING ON OR OFF EQUIPMENT. Getting on or off equipment while the equipment is in motion is prohibited.

(h) HOURS OF OPERATION. Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

(4) POWER CRANES AND HOISTS (TRUCK CRANES, CRAWLER CRANES, TOWER CRANES, GANTRY CRANES, HAMMERHEAD CRANES, DERRICKS, CABLEWAYS, AND HOISTS)

(a) PERFORMANCE TEST. Before initial on-site operation, at 12-month intervals, and after major repairs or modification, power cranes, derricks, cableways, and hoists must satisfactorily complete a performance test to demonstrate the equipment's ability to safely handle and maneuver the rated loads. The tests shall be conducted in the presence of the Engineer and/or Inspector. Test data shall be recorded and a copy furnished to the Point of Contact.

(b) PERFORMANCE TEST--POWER CRANES (CRAWLER MOUNTED, TRUCK MOUNTED, AND WHEEL MOUNTED). The performance test is to be carried out with outriggers set and with a test load weighing 110 percent of the rated capacity when the boom angle is from 30° to 60° above the horizontal. The test is to consist of raising, lowering and braking the load and rotating the test load through 360° at the specified boom angle or radius. Cranes equipped with jibs or boom tip extensions are to be tested using both the main boom and the jib, with an appropriate test load in each case.

(c) PERFORMANCE TEST--DERRICKS, GANTRY CRANES, TOWER CRANES, CABLEWAYS, AND HOISTS, INCLUDING OVERHEAD CRANES. This equipment is to be performance tested with a test load weighing 110 percent of the rated load. In testing cableways, the test load is to be traveled to the upstream and downstream limits of travel and thoroughly performance tested in at least three travel positions, including both limits of travel.

(d) BOOM ANGLE INDICATOR. Power cranes (including draglines) with booms capable of moving in the vertical plane shall be provided with a boom angle indicator in good working order.

(e) CRANE TEST CERTIFICATION. The performance test required by (4)(b) and (c) is fulfilled if the Contractor provides the Point of Contact a copy of the certificate of inspection made within the past 12 months by a qualified person or by a government or private agency satisfactory to the Point of Contact.

(f) POSTING FOR HIGH VOLTAGE LINES. A notice of the 10-foot (or greater) clearance required by OSHA 1926.550, Subpart N, shall be posted in the operator's cab of cranes, shovels, boom-type concrete pumps, backhoes, and related equipment.

(g) BOOM STOPS. Cranes or derricks with cable-supported booms, except draglines, shall have a device attached between the gantry of the A-frame and the boom chords to limit the elevation of the boom. The device shall control the vertical motions of the boom with increasing resistance from 83° or less, until completely stopping the boom at not over 87° above horizontal.

(h) SAFETY HOOKS. Hooks used in hoisting personnel or hoisting loads over personnel or in the immediate vicinity of personnel shall be forged steel equipped with safety keepers. When shackles are used under these conditions, they shall be of the locking type or have the pin secured to prohibit turning.

(5) ROLLOVER PROTECTIVE STRUCTURES (ROPS)

(a) ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1001 and 1002 are applicable regardless of the year in which the equipment was manufactured and regardless of the struck capacity of the equipment.

(b) EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting (5)(a) above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, water tankers (excluding trucks with cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

(c) EQUIPMENT REQUIRING SEATBELTS. The requirements for seatbelts as specified in OSHA Subpart 0, Motor Vehicles, Mechanized Equipment, and Marine Operations, Section 1926.602 shall also apply to self-propelled compactors and rollers, and rubber-tired skid-steer equipment.

F. LADDERS AND SCAFFOLDING

(1) LADDERS. OSHA 1926, Subpart L - Section 450. Ladders shall be used as work platforms only when use of small hand tools or handling of light material is involved. No work requiring lifting of heavy materials or substantial exertion shall be done from ladders.

(2) SCAFFOLDING. OSHA 1926, Subpart L - Section 451. Scaffolds, platforms or temporary floors shall be provided for all work except that which can be done safely from the ground or similar footing.

(3) SAFETY BELTS, LIFELINE, AND LANYARDS. OSHA 1926, Subpart E, Section 104. Lifelines, safety belts and lanyards independently attached or attended, shall be used when performing such work as the following when the requirements of F(1) or (2) above cannot be met.

(a) Work on stored material in hoppers, bins, silos, tanks, or other confined spaces.

(b) Work on hazardous slopes, structural steel, or poles; erection or dismantling of safety nets, tying reinforcing bars; and work from Boatswain's chairs, swinging scaffolds, or other unguarded locations at elevations greater than 6 feet.

(c) Work on skips and platforms used in shafts by crews when the skip or cage does not block the opening to within 1 foot of the sides of the shaft, unless cages are provided.

PART III - SUPPLEMENTAL CONDITIONS

ARTICLE 1 – TYPES AND LIMITS OF INSURANCE

Satisfactory certificates of insurance shall be filed with Contracting Local Organization prior to commencement of any work on this contract.

(a) Workmen's Compensation and Employer's Liability

(1) Contractor shall provide workmen's compensation and employee's liability insurance at own expense. This insurance shall protect Contractor against all claims under applicable state workmen's compensation laws. Contractor shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of a workmen's compensation law. This policy shall include an "all states" endorsement.

(2) The liability limits shall be not less than:

Workmen's Compensation	Statutory
Employer's Liability	$100,000 each occurrence

(b) Comprehensive Automobile Liability

(1) Contractor shall provide comprehensive automobile liability insurance at own expense. This insurance shall be written in comprehensive form and shall protect Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

(2) The liability limits shall be not less than:

Bodily injury	$500,000 each person $500,000 each occurrence
Property damage	$500,000 each occurrence $500,000 aggregate

(c) Comprehensive General Liability

(1) Contractor shall provide comprehensive general liability insurance at own expense. This insurance shall be written in comprehensive form and shall protect Contractor against all claims arising from injuries to persons other than his/her employees or damage to property of Contracting Local Organization or others arising out of any act or omission of Contractor or his/her agents, employees, or subcontractors. The policy shall also include protection against claims insured by usual personal injury liability coverage, a "protective liability" endorsement to insure the contractual liability assumed by Contractor.

(2) To the extent that Contractor's work, or work under his/her direction, may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of building, or damage to underground property.

(3) The liability limits shall be not less than:

Bodily injury	$500,000 each person $500,000 each occurrence
Property damage	$500,000 each occurrence $500,000 aggregate

(d) Umbrella Liability Policy. Contractor shall provide umbrella liability policy at its own expense. This insurance shall protect Contractor against all claims in excess of the limits provided under the workmen's compensation and employer's liability, comprehensive automobile liability, and general liability policies. The liability limits of the umbrella liability policy shall not be less than $1,000,000.

(e) Policy Cancellation. Each policy shall contain a provision that the coverage afforded will not be canceled or materially changed until at least 30 days prior written notice has been given to the Contracting Local Organization or Point of Contact.

(f) Additional Named Insured. The Contracting Local Organization shall be listed as an additional named insured on all policies. Contractor shall provide the Point of Contact and Project Engineer: (1) an affidavit from each insurance provider that states the additional cost to Contractor to list the Contracting Local Organization as an additional named insured on each policy, and (2) copy of invoice that shows this additional cost, if any.

ARTICLE 2 – SETTLEMENT OF INSURANCE CLAIMS

(a) Losses insured under policies that include Contracting Local Organization, as a named insured, shall be adjusted with Contracting Local Organization and made payable to Contracting Local Organization as trustee for the insureds, as their interests may appear.

(b) Contracting Local Organization and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance, except such rights as they may have to insurance proceeds held by Contracting Local Organization as trustee. Contractor shall require similar waivers by subcontractors.

ARTICLE 3 – WORKERS' COMPENSATION INSURANCE COVERAGE

Contractor shall provide worker's compensation insurance coverage as specified below at own expense.

(a) Definitions.

(1) Certificate of coverage ("certificate")—A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission (TWCC), or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

(2) 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 Contracting Local Organization.

(3) Persons providing services on the project ("subcontractor" in §406.096, Texas Labor Code) includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project.

"Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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

(c) The Contractor must provide a certificate of coverage to the Contracting Local Organization prior to being awarded the contract.

(d) If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Contracting Local Organization showing that coverage has been extended.

(e) The Contractor shall obtain from each person providing services on a project, and provide to the Contracting Local Organization:

(1) A certificate of coverage, prior to that person beginning work on the project, so the Contracting Local Organization will have on file certificates of coverage showing coverage for all persons providing services on the project, and

(2) No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

(f) The Contractor shall retain all required certificates of coverage for the duration of the project and then in accordance with PART II, General Conditions, Article 37, Contractor Records.

(g) The Contractor shall notify the Contracting Local Organization in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

(h) The Contractor shall post on each project site a notice [see paragraph (l) of this Article], in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

(i) The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;

(2) Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) Obtain from each other person with whom it contracts, and provide to the Contractor:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) Retain all required certificates of coverage on file for the duration of the project and then in accordance with PART II – General Conditions, Article 37 – Contractor Records;

(6) Notify the Contracting Local Organization in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

(j) By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Contracting Local Organization 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 TWCC's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

(k) The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the Contracting Local Organization to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Contracting Local Organization.

(l) Posting of Notice: "REQUIRED WORKER'S COMPENSATION COVERAGE"

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee.

Call the Texas Workers' Compensation Commission at 512/440-3789 to receive information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

ARTICLE 4 – POST-BID INFORMATION

Within five (5) workdays after receipt of Notice of Award, Contractor shall submit to the Point of Contact the following post-bid information:

(a) Two (2) fully executed counterparts of the Contract Agreement including all the contract documents.

(b) Performance and payment bonds as specified in Article 13 of these Supplemental Conditions.

(c) Copy of all insurance certificates and waivers required in Articles 1, 2, and 3 of these Supplemental Conditions.

(d) List of proposed subcontractors required in PART II, General Conditions, Article 21(a).

(e) Major equipment schedule per PART II, General Conditions, Article 8(a). A firm commitment in writing from all suppliers of equipment that will be leased shall be provided. Equipment shall be open to inspection prior to award of the contract or commencement of work to verify soundness and reliability.

(f) Contractor's proposed workweek (days and clock hours) per PART II, General Conditions, Article

20(a).
(g) Contractor Certification for Storm Water Pollution Prevention Plans located in PART IV
(h) For a nonresident bidder who is a corporation, limited partnership, or limited liability company: a current Certificate of Authority from Texas Secretary of State, if not yet provided.

Failure to comply with these conditions within the time specified will entitle the Point of Contact to terminate the contract for default. In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference, or the Contracting Local Organization may pursue any other action allowed by law.

ARTICLE 5 – PERFORMANCE OF WORK BY CONTRACTOR

The Contractor shall perform on the site, and with its own organization, work equivalent to at least twenty (20) percent of the total amount of work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this contract if, during the performance of the work, the Contractor requests a reduction and the Point of Contact determines that the reduction would be to the advantage of the Contracting Local Organization.

ARTICLE 6 – COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK

(a) Contractor shall be required to:
(1) Commence work under this contract within ten (10) calendar days from the date of receipt of written Notice to Proceed [note: performance time commences the day after Notice to Proceed is received];
(2) Prosecute the work diligently; and
(3) Complete the entire work ready for use not later than 51 (fifty one) calendar days from the day after Notice to Proceed is received by Contractor.
(b) The time stated for completion shall include final cleanup of the premises.

ARTICLE 7 – VENUE

This contract shall be governed, construed and interpreted under the laws of the State of Texas. This contract is performable in Wise County, Texas. Any legal action must be filed in Wise County, Texas.

ARTICLE 8 – WAGES / BENEFITS

8.1 General

Contractor shall pay or cause to be paid, without cost or expense to Contracting Local Organization, all Social Security, Unemployment and Federal Income Withholding Taxes of all such employees, and all such employees shall be paid wages and benefits as required by Federal and/or State law (including but not restricted to unemployment compensation coverage) and per wage rates requirements in Article 8.2 below.

8.2 Laborers and Mechanics – Prevailing Wage Rates

(a) This contract requires the Contractor and any of his/her subcontractors at any tier to pay prevailing wage rates as specified in this article and to follow requirements contained in Texas Government Code, Chapter 2258, Prevailing Wage Rates.
(b) A copy of the Prevailing Wage Rates Determination that must be followed is included in PART VI

of the contract.

(c) A worker employed or working upon the site of the work shall be paid the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) computed at rates not less than those contained in the Prevailing Wage Rates Determination for regular work and for legal holiday and overtime work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such workers. "Worker" includes laborers or mechanics.

(d) Workers shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill. Those performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(e) The wage determination shall be posted at all times by the Contractor and subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by workers.

(f) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(g) The Contractor or subcontractor shall insert in any subcontracts this Article 8, and also a clause requiring subcontractors to include Article 8 in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with this article.

(h) Payroll records. A Contractor and subcontractor shall keep a record showing: (i) the name and occupation of each worker (includes a laborer or mechanic) employed by the Contractor or subcontractor in the construction of the public work; and (ii) the actual per diem wages paid to each worker. The record shall be open at all reasonable hours to inspection by the officers and agents of the Contracting Local Organization and others as required by PART II, General Conditions, Article 37 (Contractor Records).

(i) A Contractor or subcontractor who violates this article shall pay to the Contracting Local Organization a penalty of $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated.

ARTICLE 9 – ETHICS / CONFLICTS OF INTEREST

(a) Texas Local Government Code Chapter 171 provisions apply to award of this contract.

(b) A bidder and/or Contractor shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the Contracting Local Organization.

ARTICLE 10 – PROTESTS

10.1 Definitions

(a) "Day," as used in this article, means a calendar day, unless otherwise specified. In the computation of any period--

(1) The day of the act, event, or default from which the designated period of time begins to run is not included; and

(2) The last day after the act, event, or default is included unless--

(i) The last day is a Saturday, Sunday, or legal holiday; or

(ii) In the case of a filing of a document at the Contracting Local Organization main office, the last day is a day on which weather or other conditions cause the closing of the office for all or

part of the day, in which event the next day on which the office is open is included.

(b) "Filed," as used in this article, means the complete receipt of any document by the Contracting Local Organization before its close of business. Documents received after close of business are considered filed as of the next day. Unless otherwise stated, the close of business is presumed to be 4:30 p.m., local time.

(c) "Interested party for the purpose of filing a protest," as used in this article, means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

(d) "Protest," as used in this article, means a written objection by an interested party to any of the following:

(1) A solicitation or other request by the Contracting Local Organization for offers for a contract for the procurement of property or services.

(2) The cancellation of the solicitation or other request.

(3) An award or proposed award of the contract.

(4) A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

10.2 Service of Protest

(a) Protests filed with the Contracting Local Organization shall be served on the Point of Contact by obtaining written and dated acknowledgment of receipt. Location to file a protest is:

Wise County Asset Control
400 W Walnut
Decatur, Texas 76234

(b) An interested party wishing to protest must exhaust all administrative remedies with the Contracting Local Organization before pursuing a protest with the State Grantor Agency. Reviews of protests by the State Grantor Agency will be limited to: (i) Violations of State law or regulations and the standards set forth in U.S. Code of Federal Regulations, 7 CFR 3016.36—Procurement, and (ii) Violations of the Contracting Local Organization's protest procedures for failure to review a complaint or protest. Violations of State or local law are under the jurisdiction of State or local authorities.

(c) Protests shall include information outlined in "Bid Protest Policy and Procedure". Failure to substantially comply with these requirements may be grounds for dismissal of the protest.

(d) Protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed no later than 10 days after the basis of protest is known or should have been known, whichever is earlier. The Contracting Local Organization, for good cause shown, or where it determines that a protest raises issues significant to the Contracting Local Organization's acquisition system, may consider the merits of any protest which is not timely filed.

(e) Ruling on a protest will be made by a written Point of Contact's final decision. Upon receipt of the final decision, protester may pursue any and all legal remedies available to him/her.

10.3 Protests After Award

(a) Upon receipt of a notice of protest or a determination that a protest is likely, the Point of Contact may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this article. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon rendering of the final decision in the protest, the Point of Contact shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default or the Termination for Convenience of the Contracting Local Organization clauses of this contract (PART II, General Conditions, Article 5 and 31).

(b) If a stop-work order issued under this article is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Point of Contact shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; *provided*, that if the Point of Contact decides the facts justify the action, the Point of Contact may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Contracting Local Organization, the Point of Contact shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Point of Contact shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Contracting Local Organization's rights to terminate this contract at any time are not affected by action taken under this article.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Contracting Local Organization pays costs, as provided in "Bid Protest Policy and Procedure". The Contracting Local Organization may require the Contractor to reimburse the Contracting Local Organization the amount of such costs. In addition to any other remedy available, the Contracting Local Organization may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Contracting Local Organization.

ARTICLE 11 – DISPUTES / ALTERNATIVE DISPUTE RESOLUTION (ADR)

This article supplements PART II, General Conditions, Article 6 – Claims.

11.1 Claims

(a) The Contracting Local Organization's policy is to try to resolve all contractual issues in controversy by mutual agreement at the Point of Contact's level. Reasonable efforts should be made to resolve controversies prior to the submission of a claim. Use of ADR procedures to the maximum extent practicable is encouraged.

(b) Initiation of a claim. (1) Contractor claims shall be submitted, in writing, to the Point of Contact for a decision no later than the 180th day after accrual of a claim. The Point of Contact shall document the contract file with evidence of the date of receipt of any submission from the Contractor deemed to be a claim by the Point of Contact.

(2) The Contracting Local Organization shall issue a written decision on any Contracting Local Organization claim initiated against a Contractor no later than the 180th day after accrual of the claim. This time period shall not apply to a Contracting Local Organization claim based on a Contractor claim involving fraud.

(c) Contractor certification. Contractor shall provide the certification specified below when submitting any claim exceeding $100,000, or regardless of the amount claimed when using ADR procedures. The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim. The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim. The certification shall state as follows:

"I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Contracting Local Organization is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(d) The Contracting Local Organization shall pay interest on a Contractor's claim on the amount found due and unpaid from the date that the Point of Contact receives the claim (certified if required by Article 11.1(c) above); or payment otherwise would be due, if that date is later, until the date of payment. If a claim has a defective certification, interest shall be paid from the date that the Contracting Local Organization receives a proper certification. Amount of interest due will be per Texas and local law and regulation.

11.2 Alternative Dispute Resolution (ADR)

(a) The objective of using ADR procedures is to increase the opportunity for relatively inexpensive and expeditious resolution of issues in controversy. Essential elements of ADR include:

(1) Existence of an issue in controversy,

(2) A voluntary election by both parties to participate in the ADR process,

(3) An agreement on alternative procedures and terms to be used in lieu of formal litigation,

(4) Participation in the process by officials of both parties who have the authority to resolve the issue in controversy, and

(5) Certification by the Contractor in accordance with Article 11.1(c) when using ADR procedures to resolve all or part of a claim.

(b) If either party rejects a request for ADR from the other party, the rejecting party shall inform the other party in writing of the specific reasons for rejecting the request, including but not limited to why ADR procedures are inappropriate for the resolution of the dispute.

(c) ADR procedures may be used at any time that the Point of Contact has authority to resolve the issue in controversy. If a claim has been submitted, ADR procedures may be applied to all or a portion of the claim. When ADR procedures are used subsequent to the issuance of a Point of Contact's final decision, their use does not constitute a reconsideration of the final decision.

(d) When appropriate, a neutral person may be used to facilitate resolution of the issue in controversy using the procedures chosen by the parties.

(e) The rights of Contracting Local Organization and Contractor to exercise such rights or remedies as either party may otherwise have under the contract or by laws or regulations in respect of any claims,

disputes, and other issues in controversy are not affected by action taken under this Article.

(f) ADR procedures must be consistent with Chapter 154, Texas Civil Practice and Remedies Code, and Chapter 2009, Texas Government Code, Alternative Dispute Resolution for Use by Governmental Bodies.

11.3 Definitions

(a) Accrual of a claim occurs on the date when all events, which fix the alleged liability of either the Contracting Local Organization or the Contractor and permit assertion of the claim, were known or should have been known. For liability to be fixed, some injury must have occurred. However, monetary damages need not have been incurred.

(b) Alternative dispute resolution (ADR) means any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These procedures may include, but are not limited to, assisted settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini-trials, and arbitration.

(c) Claim as used in this Article means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the contractor seeking the payment of money exceeding $100,000 is not a claim under this Article until certified as required by Article 11.1(c) above. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the Point of Contact within time limits in section 11.1(b) of this Article, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) Defective certification as used in this Article means a certificate which alters or otherwise deviates from the language in this Article or which is not executed by a person duly authorized to bind the Contractor with respect to the claim. Failure to certify shall not be deemed to be a defective certification.

(e) Issue in controversy means a material disagreement between the Contracting Local Organization and the Contractor which:

(1) May result in a claim, or

(2) Is all or part of an existing claim.

(f) Misrepresentation of fact as used in this Article means a false statement of substantive fact, or any conduct which leads to the belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(g) Neutral person as used in this Article means an impartial third party, who serves as a mediator, fact finder, or arbitrator, or otherwise functions to assist the parties to resolve the issues in controversy. A neutral person may be a permanent or temporary officer or employee of the Contracting Local Organization, or the Federal government or any other individual who is acceptable to the parties. A neutral person shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral person may serve. An —impartial third party|| must possess the qualifications required under Section 154.052, Texas Civil Practice and Remedies Code.

ARTICLE 12 – INDEMNIFICATION CLAUSE

The contractor shall defend, indemnify, and hold harmless the Contracting Local Organization, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution of performance of this contract.

ARTICLE 13 – PERFORMANCE AND PAYMENT BONDS

13.1 General

(a) This contract requires performance and payment bonds as outlined in 13.2 below. Such bonds are due within five (5) workdays after receipt of Notice of Award (see Article 4 of these Supplemental Conditions). The Contracting Local Organization will attach to the Notice of Award the bond forms to be used.

(b) Bonds shall be made payable to: Wise County.

(c) Bonds are subject to requirements of Texas Government Code, Chapter 2253, Public Work Performance and Payment Bonds, and must be executed by a corporate surety in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code).

13.2 Performance and Payment Bonds—Construction

(a) *Definitions*. As used in this clause-- "Contract price" means the award price of the contract.

(b) The successful offeror shall be required to furnish performance and payment bonds to the Point of Contact as follows:

(1) *Performance Bonds*: Required when the contract price is over $100,000.

(i) The penal amount of performance bonds shall be 100 percent of the original contract price.

(ii) The Contracting Local Organization (CLO) may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The CLO may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) *Payment Bonds*: Required when the contract price is over $25,000.

(i) The penal amount of payment bonds shall be 100 percent of the original contract price.

(ii) The CLO may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The CLO may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Point of Contact, within the time period specified in 13.1 above.

(d) A bond may be executed only by a surety company that is authorized and admitted to write surety bonds in the State of Texas

(e) If the amount of the bond exceeds $100,000, the surety must

(1) hold a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or

(2) have obtained reinsurance for any liability in excess of $100,000 from a reinsurer that is authorized and admitted as a reinsurer in the State of Texas and is a holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. U.S. Treasury Department Circular 570 is published in the *Federal Register* and lists Treasury approved surety companies and their underwriting limitations.

(f) All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

ARTICLE 14 – APPLICABLE CERTIFICATIONS

During the performance of this contract, the Contractor agrees to and shall certify that all Local, State and Federal rules that apply to this scope of work shall be adhered to.

ARTICLE 15 – SUBCONTRACTOR CERTIFICATION (TPDES)

All subcontractors at any tier who perform work that may impact pollution control measures per PART IV – Construction Specification 5, Pollution Control must complete and submit, prior to performing any work on the project, a "Subcontractor Certification" form regarding Texas Pollutant Discharge Elimination System (TPDES) permit for each site.