



CITY OF COPPERAS COVE

PROJECT MANUAL

for

305 S MAIN ST

UTILITY FACILITY IMPROVEMENTS PROJECT

**BID No. 2020-17-81**

Development Services Department  
914 S. Main Street, Suite G  
Copperas Cove, TX 76522

July 2020

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# CITY OF COPPERAS COVE

## INVITATION TO BID

By order of the City Council of the  
City of Copperas Cove, Texas,

### **BIDS**

Will be received for:

**Bid No. 2020-17-81**

**305 S Main St – Utility Facility Improvements**

Sealed bids will be received until  
July 31, 2020 @ 2:00 p.m.

Return Bid To: Development Services Department  
Attn: Tamara Gast  
914 S. Main Street, Suite G  
Copperas Cove, TX 76522  
(254) 547-4221 Ext 6274

## **INSTRUCTIONS TO BIDDERS**

### **Proposal**

The Proposal (or copies of the proposal) shall be submitted on the bidding forms, which are included herein, and shall be enclosed in a sealed envelope addressed to:

CITY OF COPPERAS COVE  
DEVELOPMENT SERVICES DEPARTMENT  
Attn: Tamara Gast  
914 S. Main Street, Suite G  
Copperas Cove, Texas 76522

and shall be identified as follows:

“**BID 2020-17-81 for 305 S Main St – Utility Facility Improvements, to be opened at 2:15 p.m., July 31, 2020.**”

Any questions or requests for clarification must be submitted to the Development Services Department, prior to **2:00 p.m. July 17, 2020** via email to Tamara Gast, [tgast@copperascovetx.gov](mailto:tgast@copperascovetx.gov), subject line containing bid number and description. There will be no exceptions. All responses to the questions will be sent to all known bidders. Any requests received after this date and time will not be responded to.

### **1. DEFINED TERMS.**

Terms used in these Instructions to BIDDERS which are defined in the General Conditions of the construction contract shall have the same meanings assigned to them in these Instructions to BIDDERS. The term "successful BIDDER" means the lowest, qualified, responsible and responsive BIDDER to whom OWNER (on the basis of OWNER's evaluation as hereinafter provided), makes an award. The term "bidding documents" includes the ADVERTISEMENT FOR BIDS, INSTRUCTIONS TO BIDDERS, the BID FORM and the proposed contract documents (including all addenda issued prior to receipt of bids).

### **2. COPIES OF BIDDING DOCUMENTS.**

2.1. Complete sets of the Bidding Documents may be obtained by emailing [tgast@copperascovetx.gov](mailto:tgast@copperascovetx.gov) Partial sets will not be issued, nor printed out.

2.2 Complete sets of bidding documents must be used in preparing bids; neither OWNER nor ENGINEER assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.

2.3 OWNER and ENGINEER in making copies of bidding documents available on the above terms do so only for the purpose of obtaining bids on the work and do not confer a license or grant for any other use.

3. **EXPERIENCE RECORD AND FINANCIAL STATEMENT.**

3.1 The Experience Record, included herein, shall be filled in showing completed jobs of a similar nature to the one covered by the bid and the work in progress with contract and bond amounts and percent of completion.

3.2 A sworn statement of the current financial condition of the BIDDER shall be included in order to provide the OWNER with information relative to the responsibility of BIDDERS and their ability to finance and construct the work. The sworn financial statement shall include, but not be limited to the following:

- A. List of all previous bankruptcies by the BIDDER or BIDDERS;
- B. List all liens on the BIDDER or BIDDERS within the last twelve (12) months;
- C. An indication of outstanding debt and the ability to finance the project;
- D. A summary of liabilities and assets of the company.

This statement shall be enclosed with the Bid in a separate envelope labeled "Financial Statement". All but two (2) apparent low BIDDERS' financial statements will be returned to the BIDDER unopened with the return of his bid security. Other BIDDERS' financial statements will be returned to the BIDDER upon return of the bid security after execution of the Agreement.

4. **EXAMINATION OF CONTRACT DOCUMENTS AND SITE.**

4.1 It is the responsibility of each BIDDER before submitting a bid to (a) examine the contract documents thoroughly; (b) visit the site to become familiar with local conditions that may in any manner affect cost, progress or performance, or furnishing of the work; (c) consider federal, state, and local laws and regulations that may in any manner affect cost, progress or performance of the work; (d) study and carefully correlate BIDDER's observations with the contract documents; and (e) notify the ENGINEER of all conflicts, errors or discrepancies in the contract documents.

4.2 Information and data reflected in the contract documents with respect to underground facilities at or contiguous to the site is based upon information and data furnished to OWNER and ENGINEER by owners of such underground facilities or others, and OWNER does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

- 4.3 Provisions concerning responsibilities for the adequacy of data furnished to prospective BIDDERS on subsurface conditions, underground facilities and other physical conditions, and possible changes in the contract documents due to differing conditions appear in Paragraphs 4.07 of the General Conditions.
- 4.4 Before submitting a bid, each BIDDER will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the work and which BIDDER deems necessary to determine its bid for performing and furnishing the work in accordance with the time, price and other terms and conditions of the contract documents.
- 4.5 On request in advance, OWNER will provide each BIDDER access to the site to conduct such explorations and tests as each BIDDER deems necessary for submission of a bid. BIDDER shall fill in all holes, clean up and restore the site to its former condition upon completion of such explorations. Explorations and tests are the financial responsibility of BIDDER.
- 4.6 The lands upon which the work is to be performed, rights-of-way for access thereto and other lands designated for use by CONTRACTOR in performing the work are identified in the contract documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by CONTRACTOR. He shall use barricades, lights, etc. and sufficient protection to assure the safety of the public.
- 4.7 The submission of a bid will constitute an incontrovertible representation by the BIDDER that BIDDER has complied with every requirement of this Article, that without exception the bid is premised upon performing and furnishing the work required by the contract documents, and such means, methods, techniques, sequences or procedure of construction as may be indicated in or required by the contract documents, and that the contract documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the work.

## 5. **INTERPRETATIONS AND ADDENDA.**

- 5.1 All questions about the meaning or intent of the contract documents shall be directed to ENGINEER. Interpretations or clarifications considered necessary by ENGINEER in response to such questions will be issued by addenda mailed or delivered to all parties recorded by ENGINEER as having received the bidding documents. Questions received less than seven (7) days prior to the date for opening of bids may not be answered. Only questions answered by formal writing will be binding. Oral and other interpretations or clarifications will be without legal effect.

5.2 Addenda may also be issued to modify the bidding documents as deemed advisable by OWNER or ENGINEER.

**6. BID SECURITY.**

6.1 Each bid must be accompanied by bid security made payable to the OWNER, in an amount of five percent (5%) of the BIDDER's maximum bid price and in the form of a Bid Bond issued by an acceptable surety, cashier's check, or certified check.

6.2 The bid security of the successful BIDDER will be retained until such BIDDER has executed the Agreement and furnished the required contract security, whereupon it will be returned. If the successful BIDDER fails to execute and deliver the Agreement and furnish the required contract security within ten (10) business days of the Notice of Award, OWNER may annul the Notice of Award and the bid security of that BIDDER will be forfeited. The Bid Security of other BIDDERS whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of the seventh (7<sup>th</sup>) day after effective date of the Agreement or the thirtieth (30<sup>th</sup>) day after the bid opening, whereupon bid security furnished by such BIDDERS will be returned. Bid security with bids which are not competitive will be returned within seven (7) days after the bid opening.

**7. CONTRACT TIME.**

The number of days within which, or the date by which, the work is to be substantially completed and also completed and ready for final payment (the contract time) are on the Bid Form.

**8. LIQUIDATED DAMAGES.**

Provisions for liquidated damages, if any, are set forth in the Agreement.

**9. SUBSTITUTE AND "OR EQUAL" ITEMS.**

The Contract, if awarded, will be on the basis of material and equipment described in the drawings or specified in the specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the drawings or specified in the specification that a substitute or "or-equal" item of material or equipment may be furnished or used by CONTRACTOR if acceptable to ENGINEER, application for such acceptance will not be considered by ENGINEER until after the effective date in the Agreement. The procedure for submittal of any such application by CONTRACTOR and consideration by ENGINEER is set forth in paragraphs 2.20 of the General Conditions which may be supplemented in the Supplementary Conditions.

**10. SUBCONTRACTORS, SUPPLIERS AND OTHERS.**

The BIDDER must submit with the bid a list of any and all subcontractors to which it is proposed to subcontract 25% or more of the total bid amount. The identification is to be made in the form contained in these contract documents. For each subcontractor so identified, a separate Experience Record and Financial Statement must be submitted if requested by the ENGINEER.

If OWNER or ENGINEER, after due investigation, has reasonable objection to subcontractors so identified, they may, before the Notice of Award is given, request the apparent successful BIDDER to submit an acceptable substitute without an increase in bid price.

If apparent successful BIDDER declines to make any such substitution, OWNER may award the contract to the next lowest BIDDER that proposes to use acceptable subcontractors, suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the bid security of any BIDDER. Any subcontractor, supplier, other person or organization listed and to whom OWNER or ENGINEER does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to OWNER and ENGINEER subject to revocation of such acceptance after the effective date of the Agreement as provided in Paragraphs 2.15 of the General Conditions.

Other proposed subcontractors and suppliers will be subject to approval by the OWNER and ENGINEER after the effective date of the Agreement.

## 11. **BID FORM.**

11.1 The Bid Form is included with the bidding documents; additional copies may be obtained from Engineer.

11.2 Bid Forms must be completed in ink or by typewriter. The unit price bid for each item on the form must be stated in words and numerals; in each case of a conflict, words will take precedence.

11.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

11.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.5 All names must be typed or printed below the signature.

11.6 The bid shall contain an acknowledgment of receipt of all addenda (the numbers of which shall be filled in on the Bid Form).

11.7 The address and telephone number for communications regarding the bid must be shown.

11.8 Current Texas state law prohibits amendment, alteration or change of bids after opening for the purpose of correcting errors. BE CAREFUL in preparing your bid. If errors occur, your bid may be subject to rejection because of the error, or you may be required to contract based upon the uncorrected error.

**12. SUBMISSION OF BIDS.**

Bids shall be submitted at the time and place indicated in the ADVERTISEMENT FOR BIDS and shall be included in an opaque sealed envelope, marked with the project title and name and address of the BIDDER and accompanied by the bid security and other required documents indicated in these instructions, including without limitation, a completed Conflict of Interest Questionnaire, Non-Collusion Certification, State Sales Tax Compliance form and Non-Resident Bidders Compliance form). If the bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.

Bids received after the deadline shall be considered void and unacceptable and will be returned to the bidder unopened.

**13. MODIFICATION AND WITHDRAWAL OF BIDS.**

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a bid must be executed) and delivered to the place where bids are to be submitted at any time prior to the opening of bids.

**14. OPENING OF BIDS.**

Bids will be read aloud publicly. An abstract of the amounts of the base bids and major alternates (if any) will be made available to BIDDERS after the opening of bids. Unit price amounts shall remain confidential until after award of the bid.

**15. BIDS TO REMAIN OPEN.**

All bids shall remain subject to acceptance for ninety (90) days after the day of the bid opening, but OWNER may, in its sole discretion, release any bid and return the bid security prior to that date.

**16. AWARD OF CONTRACT.**

- 16.1 OWNER reserves the right to reject any and all bids, to waive any and all informalities not involving price, time or changes in the work and to negotiate contract terms with the successful BIDDER, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional bids. Also, OWNER reserves the right to reject the bid of any BIDDER if OWNER believes that it would not be in the best interest of the project to make an award to that BIDDER, whether because the bid is not responsive or the BIDDER is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by OWNER.
- 16.2 In evaluating bids, OWNER will consider the qualifications of the BIDDERS, whether or not the bids comply with the prescribed requirements, and such alternates, unit prices, contract time, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 16.3 OWNER may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the work as to which the identity of subcontractors, suppliers, and other persons or organizations must be submitted as provided in the Supplementary Conditions. OWNER may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the work when such data is required to be submitted prior to the Notice of Award.
- 16.4 OWNER may conduct such investigations as it deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of BIDDERS, proposed subcontractors, suppliers and other persons and organizations to do the work in accordance with the contract documents to OWNER'S satisfaction within the prescribed time.
- 16.5 The OWNER reserves the right to reject the bid of any BIDDER who does not pass any such evaluation to OWNER'S satisfaction.
- 16.6 The OWNER may also reject any bid which is considered irregular. Examples of irregularities include the following:
- A. If the Bid Form provided herein is not used by or is altered by the BIDDER;
  - B. If there are any unauthorized additions or conditional bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite, or ambiguous as to its meaning;
  - C. If the BIDDER adds any provisions reserving the right to accept or reject any award, or to enter into a contract pursuant to an award;

D. If, in the opinion of the ENGINEER, the unit or lump sum prices contained in the bid are obviously unbalanced (where the prices of certain items have been made substantially greater or less than reasonable values);

16.7 BASE BID shall be a Unit Price Bid and shall include all work shown on the Drawing or called out in the Specifications unless specifically noted an alternate or furnished and installed by others.

16.8 The contractor is not required to bid on the Base Bid item(s) if the contractor chooses to bid on the Alternate Bid item(s) only. The Owner reserves the right to award a bid for an Alternate Bid Item to an individual contractor as stated in 16.10.

16.9 The contractor shall provide an equipment list of manufacturers with their bid. Contractors submitting ambiguous and/or incomplete lists will be eliminated. Alternate manufacturers or non-prequalified manufacturers will be eliminated from consideration.

16.10 The Owner reserves the right to award bids on the lump sum or unit price basis, whichever is in the best interest of the Owner. The Owner also reserves the right to award the bid to either the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. Bids shall be valid for a period of ninety (90) days after Owner reserves the right. The Owner reserves the right to award alternate bids items separately from the Base Bid if it is determined to be in the best interest of the City.

## 17. **CONTRACT SECURITIES.**

Paragraph 3.02 of the General Conditions and the Supplementary Conditions set forth OWNER'S requirements as to Performance and Payment Bonds. When the successful BIDDER delivers the executed agreement to OWNER it must be accompanied by the required Performance and Payment Bonds. BIDDER must submit bonds on forms provided in the contract documents.

## 18. **SIGNING OF AGREEMENT.**

When OWNER gives a Notice of Award to the successful BIDDER, it will be accompanied by the required number of unsigned counterparts of the agreement and all other written contract documents attached. Within ten business days thereafter, CONTRACTOR shall sign and deliver the required number of counterparts of the agreement and attached documents to OWNER with the required bonds. Thereafter, OWNER shall deliver one fully signed counterpart to CONTRACTOR.

## ADVERTISEMENT FOR BIDS

### Bids

#### No. 2020-17-81: 305 S Main St – Utility Facility Improvements

Notice is hereby given that the City of Copperas Cove will receive sealed bids for the below referenced item. Bids will be received on behalf of the City Development Services Department, Attn. Tamara Gast, at the City of Copperas Cove Development Services Department, located at 914 S. Main St., Suite G, Copperas Cove, TX 76522, until 2:00 p.m. on **July 31, 2020**. Bid opening will be held in the Technology Center, 508 S. 2<sup>nd</sup> St., Copperas Cove, TX 76522. Bids will be opened publicly and read aloud immediately after closing time at 2:15 p.m.

Digital copies of the Bid Package, including Plans and Specifications can be downloaded from our City Website: [http://www.copperascovetx.gov/finance\\_department/bid\\_requests/](http://www.copperascovetx.gov/finance_department/bid_requests/) or obtained at no cost beginning June 26, 2020 from [tgast@copperascovetx.gov](mailto:tgast@copperascovetx.gov) If bidding on this project, please email [tgast@copperascovetx.gov](mailto:tgast@copperascovetx.gov) and reference bid number 2020-17-81.

The site, 301 S Main St., Copperas Cove, will be made available for accompanied visitation on **July 10, 2020 at 10:00 a.m. This site visit is non-mandatory.** Please RSVP if you are attending to (Reference bid number 2020-17-81 in subject line):

City of Copperas Cove, Tamara Gast -Development Liaison, [tgast@copperascovetx.gov](mailto:tgast@copperascovetx.gov)

All employees directly employed on the work shall be paid not less than the established prevailing wage scale for work of a similar character in this locality. A prevailing wage determination for the work has been included with the contract associated with this project and is incorporated therein for all purposes. The Contractor shall pay not less than the general prevailing wages as established by the U.S. Department of Labor and shall keep accurate wage records accessible in accordance with Chapter 2258, Texas Government Code.

The City reserves the right to award the bid to either the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City, in accordance with the Texas Local Government Code.

Further information may be obtained from the Development Services Department by calling 254-547-4221 Ext 6274. All bids submitted must be plainly marked on the outside indicating the bid number, opening time and date. Award will be made at a later date. Any Bid received after closing time will be returned unopened. The City of Copperas Cove reserves the right to reject any or all bids.

BID FORM

Bidding Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State, Zip: \_\_\_\_\_

PROJECT IDENTIFICATION: 305 S MAIN ST – UTILITY FACILITY IMPROVEMENTS  
BID NO. 2020-17-81  
CITY OF COPPERAS COVE, TEXAS

THIS BID IS SUBMITTED TO: CITY OF COPPERAS COVE-DEVELOPMENT SERVICES DEPT  
ATTN: TAMARA GAST  
914 S. MAIN STREET, SUITE G  
COPPERAS COVE, TEXAS 76522

- A. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER, in the form included in the Contract Documents, to complete all Work as specified or indicated in the Contract Documents for the Contract Price, and within the Contract Time indicated in the Bid and in accordance with the Contract Documents.
- B. BIDDER accepts all of the terms and conditions of the Instruction to Bidders, including without limitation those dealing with the disposition of Bid Security. This Bid will remain open for ninety (90) days after the day of Bid opening. BIDDER will sign the Agreement and submit the Contract Security and other documents required by the Contract Documents within ten business days after the date of OWNER's Notice of Award.
- C. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
  - 1. Bidder has examined copies of all the Contract Documents and of the following addenda, receipt of which is hereby acknowledged, and also copies of the Advertisement for Bids and the Instructions to Bidders.

<u>Number</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____

2. BIDDER has examined the site and locality where the Work is to be performed, the legal requirements (federal, state and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress or performance of the Work and has made such independent investigations as BIDDER deems necessary.
  3. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or a corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for himself any advantage over any other Bidder or over OWNER.
- D. BIDDER hereby agrees to maintain the unit prices shown on the Bid Form should a reduction in the scope of the work be necessary. It is the intent of the OWNER to award a contract for all work items and quantities listed in the Bid Form. In the event that the low bid submitted by a qualified bidder exceeds the funds budgeted for this Project, the OWNER reserves the right to reduce the scope of the work by eliminating alternate bids or reducing base bid items so that the Project can be completed within the budgeted amount. This may be done by eliminating any or all parts of the Project.
- E. BIDDER will complete the work for the following unit prices:

<b>Base Bid Items</b>					
ITEM NO.	ITEM DESCRIPTIONS	EST. QTY.	UNITS	UNIT PRICE	EXTENSION
1.	Mobilization/ Demobilization	1	LS	\$ _____	\$ _____
2.	Electrical	1	EA	\$ _____	\$ _____
3.	Plumbing	1	EA	\$ _____	\$ _____
4.	Mechanical	1	EA	\$ _____	\$ _____
5.	Exterior Work-Site Work	1	EA	\$ _____	\$ _____
6.	Foundation	1	EA	\$ _____	\$ _____

ITEM NO.	ITEM DESCRIPTIONS	EST. QTY.	UNITS	UNIT PRICE	EXTENSION
7.	Interior Work	1	EA	\$ _____	\$ _____

**\*\*All items above shall include the cost of all ancillary work, material and equipment or any other cost associated with completing the Project.**

Total Bid in Words: \_\_\_\_\_

**Total Bid (Sum):** \$ \_\_\_\_\_

F. BIDDER agrees that the Work covered by the Base Bid will be substantially completed within **90** calendar days after the date the Contract Time commences to run and finally completed within **120** calendar days after commencement. Bidder accepts the provisions of the agreement as to liquidated damages in the event of failure to complete the Work on time.

G. The following documents are attached to and made a Condition of this Bid:

1. Required Bid Security in the form of a Bid Bond issued by an acceptable surety, certified check, or cashier's check.
2. Financial Statement enclosed in a separate sealed envelope.
3. A tabulation of Subcontractors and organizations required to be identified in this Bid.
4. Experience record as indicated on this Bid Form.

H. Communications concerning this Bid shall be delivered to the address of bidder indicated below.

I. The terms in this Bid which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

SUBMITTED ON \_\_\_\_\_, 20\_\_.

If BIDDER is:

An Individual

By: \_\_\_\_\_ (SEAL)

(Individual's Name)

Doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No: \_\_\_\_\_

A Partnership

By: \_\_\_\_\_ (SEAL)  
(Firm Name)

\_\_\_\_\_

(General Partner)

Business address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No: \_\_\_\_\_

A Corporation

By: \_\_\_\_\_ (CORPORATE SEAL)  
(Corporation Name)

\_\_\_\_\_

(State of Incorporation)

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

(Name of Person Authorized to Sign)

\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Secretary)

Business address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No.:

\_\_\_\_\_

**TABULATION OF SUBCONTRACTORS**

The BIDDER shall list the subcontractors to be used on this project.

<u>Subcontractor</u>	<u>Address</u>	<u>Type of Work</u>	<u>Percentage of Project</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Dated at \_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BIDDER: \_\_\_\_\_  
BY: \_\_\_\_\_  
(Signature)  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

EXPERIENCE RECORD

List of projects, similar to that covered by proposal, which BIDDER has successfully completed:

<u>Amount of Contract Award</u>	<u>Type of Work</u>	<u>Date Completed</u>	<u>Name and Address of Owner</u>

List of projects BIDDER is now engaged in completing:

<u>Amount of Contract Award</u>	<u>Type of Work</u>	<u>% Complete</u>	<u>Name and Address of Owner</u>

List of surety bonds in force on the above uncompleted work:

<u>Amount of Contract Award</u>	<u>Amount of Bond</u>	<u>Name of Surety Company</u>

---

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BIDDER: \_\_\_\_\_

BY: \_\_\_\_\_  
(Signature)

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_



*Surety and Offeror, intending to be legally bound by this bond, do each cause this bond to be duly executed on its behalf by its authorized officer, agent, or representative. The Offeror and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if Buyer accepts Offeror's Bid/Proposal and Offeror delivers the executed Agreement and the required performance and payment bonds within the time stipulated in the Bidding/Proposal Documents this obligation is null and void. Payment under this bond will be due and payable upon default by Offeror and within 30 calendar days after receipt by Offeror and Surety of written notice of default from Buyer. Venue lies exclusively in Coryell County, Texas for any legal action.*

<p><b>Offeror as Principal</b></p> <p>Signature: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Email: _____</p>	<p><b>Surety</b></p> <p>Signature: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Email: _____</p> <p><i>(Attach Power of Attorney)</i></p>
---	--

**END OF SECTION**

**FORM 06-A CONFLICT OF INTEREST QUESTIONNAIRE**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176 of the Local Government Code by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	<p>Date Received</p>	
<p><b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="padding-left: 20px;"><input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="padding-left: 20px;"><input type="checkbox"/> Yes    <input type="checkbox"/> No</p>		
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1)</p>		
<p><b>7</b> _____</p> <p style="text-align: center;">Signature of vendor doing business with the governmental entity</p>		<p>_____</p> <p style="text-align: center;">Date</p>

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

**END OF SECTION**

**FORM 06-A NON-COLLUSION CERTIFICATION**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Owner:

Contract: **305 S MAIN ST – UTILITY FACILITY IMPROVEMENTS  
PROJECT NO. 2020-17-81**

Bidder certifies that it has not been a party to any collusion among Bidders in the restraint of freedom of competition by agreement to submit a Bid or Proposal at a fixed price or to refrain from submitting a Bid or Proposal; or with any official or employee of the Owner as to quantity, quality, or price in the prospective contract, or any other terms of said prospective contract; or in any discussion between Bidders and any official of the Owner concerning exchange of money or other thing of value for special consideration in the letting of a contract.

Bidder: \_\_\_\_\_  
*(typed or printed name of organization)*

Signature: \_\_\_\_\_  
*(individual's signature)*

Name: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

Business Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*(Attach evidence of authority to sign if Bidder is a corporation, partnership, or a joint venture.)*

**END OF SECTION**

**FORM 06-C COMPLIANCE TO STATE SALES TAX CODE**

Comply with all applicable sales, excise, and use tax requirements of the Texas Tax Code. The Bidder hereby certifies that the Procurement Contract Price is divided as follows:

Tax exempt products, materials, and services (See Notes 1 and 2)   \$ \_\_\_\_\_  
Taxable products, materials, and services (See Note 3)                 \$ \_\_\_\_\_  
Total (See Note 4)   \$ \_\_\_\_\_

Bidder: \_\_\_\_\_  
*(typed or printed name of organization)*

Signature: \_\_\_\_\_  
*(individual's signature)*

Name: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

Business Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
*(Attach evidence of authority to sign if Bidder is a corporation, partnership, or a joint venture.)*

Notes:

1. Exempt products and materials are those items purchased for the Project which are physically incorporated into the facilities constructed for the Owner or are necessary and essential for providing Goods and Special Services and are completely consumed for the Project. For purposes of this definition, products and materials are completely consumed if after being used once for its intended purpose it is used up or destroyed. Products and materials rented or leased for use in providing Goods and Special Services cannot be completely consumed for the purposes of this definition.
2. Exempt services are those services performed at the Site where the Procurement Contract expressly requires the specific service to be provided or purchased by the person performing the service is integral to providing Goods and Special Services.
3. Products, materials, and services are not tax exempt if they are used by the Seller but are not physically incorporated into the Buyer's facilities or are not consumed by construction or installation as defined above. Machinery or equipment and its accessories and repair and replacement parts used in providing Goods and Special Services are not exempt.
4. The total sum of the amount for tax exempt and taxable products, materials, and services must equal the Procurement Contract Price.

**END OF SECTION**

**06-D**

**COMPLIANCE TO STATE LAW ON NONRESIDENT BIDDERS**

Texas Government Code Chapter 2252 applies to the award of government contract to nonresident bidders. This chapter provides that:

“a government entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lower bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident’s principal place of business is located.”

“Nonresident bidder” refers to a person who is not a resident of Texas.

“Resident bidder” refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Check the statement that is correct for Bidder:

- Bidder (includes parent company or majority owner) qualifies as a resident bidder whose principal place of business is in the state of Texas.
  
- Bidder qualifies as a nonresident bidder whose principal place of business or residency is in the state of: \_\_\_\_\_

Any determination of state bidder preference law is based on the Texas Comptroller’s annual summary of other state bidder preference laws.

Bidder: \_\_\_\_\_  
*(typed or printed name of organization)*

Signature: \_\_\_\_\_  
*(individual’s signature)*

Name: \_\_\_\_\_  
*(typed or printed)*

Title: \_\_\_\_\_  
*(typed or printed)*

Business Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*(Attach evidence of authority to sign if Bidder is a corporation, partnership, or a joint venture.)*

**END OF SECTION**

**Capital Improvement Project Construction Agreement Between Owner and Contractor**

THE STATE OF TEXAS           §  
  §  
COUNTY OF CORYELL         §

THIS AGREEMENT (“Contract”) is made by and between the City of Copperas Cove (“Owner”) and \_\_\_\_\_ (“Contractor”) Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

*Rehabilitation of an existing City of Copperas Cove building located at 305 S. Main Street, Copperas Cove, TX.*

**ARTICLE II – THE PROJECT**

2.01 The Project of which the Work under the Contract Documents is generally described as follows:

*Building rehabilitation to include electrical, plumbing, mechanical, exterior site work, foundation repair and interior work, all as more specifically depicted in the Specifications and Drawings (Coyote Design and Build, LLC – March 31, 2020).*

**ARTICLE III – ENGINEER**

3.01 The Project has been designed by Coyote Design and Build, LLC.  
3.02 The Owner, City of Copperas Cove, has designated a Project Manager to act as Owner’s representative, who shall assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE IV – CONTRACT TIMES**

4.01 *Time is of the Essence:* All time limits for Milestones, if any, Substantial Completion and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.  
4.02 *Contract Times: Days:* The work shall be substantially completed **within 90 Calendar days** after the date when the Contract Times commence to run as provided in Paragraph

5.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 9.06 of the General Conditions within **120 Calendar days** after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*: Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) shall be in such amount as stated in Section 5.06 of the General Conditions.

## **ARTICLE V – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. For all Work, at the unit prices stated in Contractor's Bid, attached hereto as an exhibit.

## **ARTICLE VI – PAYMENT PROCEDURES**

6.01 Submittal and Processing Payments. Owner shall make payments and Contractor shall be entitled to receive payments under this Agreement as specified in Sections 9.04, 9.05, 9.06, 9.07, 9.08, 9.09 and 9.10 of the General Conditions.

## **ARTICLE VII – INTEREST**

7.01 All amounts not paid when due shall bear interest at the rate determined in accordance with the Texas Prompt payment Act, Texas Government Code, Chapter 2251.025.

## **ARTICLE VIII – CONTRACTOR'S REPRESENTATIONS**

8.01 In order to Induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified In the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Contract Documents, especially with respect to Technical Data in such reports and drawings.

E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings Identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## **ARTICLE IX – CONTRACT DOCUMENTS**

### **9.01 *Contents***

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 7 inclusive).
2. Performance bond
3. Payment bond
4. General Conditions (pages 1 to 19 inclusive).

5. Supplementary Conditions (pages 1 to 5 inclusive).
  6. Specifications and all other documents as listed in the table of contents of the Project Manual.
  7. The Drawings listed on the table of contents of the Project Manual.
  8. Addenda (numbers \_\_ to \_\_ inclusive).
  9. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages \_\_ to \_\_ inclusive).
    - b. Prevailing Wage Determination
  10. The Governmental Contract Rider.
  11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
    - d. Field Orders.
    - e. Special Supplements
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article IX.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE – X – MISCELLANEOUS**

### *10.01 Terms.*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### *10.02 Assignment of Contract.*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary In any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### *10.03 Successors and Assigns.*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability.*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Jurisdiction and Venue.*

A. This Contract shall be governed by, and construed in accordance with, the laws of the state of Texas, without regard to principles or conflict of laws; and shall be fully performable in Coryell County, Texas.

10.06 *No Waiver.*

A. The failure of OWNER or Contractor to enforce any provision of this Contract does not constitute a waiver of that provision, affect the enforceability of that provision, or the enforceability of the remainder of this Contract.

10.07 *Survival of Obligations.*

A. Representations, indemnifications, warranties, guarantees, and continuing obligations required by the Contract Documents survive completion and acceptance of the work or termination of the Contract.

10.08 *No Third-Party Beneficiaries.*

A. Nothing in this Contract can be construed to create rights in any entity other than the OWNER and Contractor. Neither the OWNER nor Contractor intends to create third party beneficiaries by entering into this Contract.

10.09 *No Waiver of Sovereign Immunity.*

A. Except to the extent provided by State law, the OWNER has not waived its sovereign immunity by entering into and performing its obligations under this Contract.

10.10 *Execution.*

A. This Contract may be executed in one or more counterparts and may be exchanged by facsimile or other electronic means. It is stipulated and agreed that any counterpart

containing a signature or facsimile signature of the authorized representatives of OWNER and Contractor will be deemed an original for all purposes.

10.11 *Non-Exclusivity.*

A. Contractor acknowledges and agrees that this Contract constitutes a non-exclusive agreement for the provision of the work to OWNER. Contractor further acknowledges and agrees that OWNER has not made any representations that Contractor will be the sole or exclusive provider of any related work to OWNER during the course of the Project. Due to the extensiveness and complexity of the project, OWNER, in its sole and absolute discretion, reserves the right to award multiple contracts for the provision of the related work, if any.

10.12 *Conflicts of Interest.*

A. Neither Contractor, nor any agent or subcontractor thereof, will have other interests which conflict with the interests of OWNER, specifically including, but not limited to, a connection with the sale or promotion of equipment or material which may be used on the project. Contractor agrees to make reasonable inquiry of all agents or subcontractors concerning the existence of or potential for such conflicts.

10.13 *Due Authorization; Good Standing.*

A. Contractor represents and warrants that Contractor has the power and authority to enter into this Contract. The execution and delivery of this Contract and the performance of the work hereunder has been duly authorized by all necessary corporate action. Upon execution, this Contract will constitute the binding and valid obligations of Contractor enforceable in accordance with its terms. Contractor further warrants that he is in good standing in and qualified to do business in the State of Texas.

10.14 *Conflict.*

A. In the event any document submitted by the Contractor conflicts with the terms of these Contract Documents, it is understood and agreed that the terms of the Contract Documents will prevail.

Executed to be effective on \_\_\_\_\_, 20\_\_ (which is the Effective Date of this Contract).

CITY OF COPPERAS COVE TEXAS:

ATTEST:

\_\_\_\_\_  
Ryan Haverlah, City Manager  
City of Copperas Cove, Texas

\_\_\_\_\_  
Lisa Wilson, City Secretary  
City of Copperas Cove, Texas

CONTRACTOR:

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By:

Title:

**GOVERNMENTAL CONTRACT AND PURCHASING RIDER  
FOR CONTRACTS WITH THE CITY OF COPPERAS COVE, TEXAS**

(Version 09/11/2017)

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the contracting party identified below agrees that the below terms and conditions shall govern all agreements with the City unless otherwise agreed to by a specifically executed provision within the contract and if permissible by law. Absent a specifically executed provision, the below terms are BINDING and SUPERSEDE any and all other terms and/or conditions whether oral or written.

1. **Application.** This Governmental Rider applies to, is part of, and takes precedence over any conflicting provision in or attachment to the 305 S Main St – Utility Facility Improvements (Contract) (attached hereto) of [TBD] (Contractor/Vendor). The Contract involved in this Rider is described as follows:

*Building rehabilitation to include electrical, plumbing, mechanical, exterior site work, foundation repair and interior work, all as more specifically depicted in the Specifications and Drawings (Coyote Design and Build, LLC – March 31, 2020). 305 S MAIN ST – UTILITY FACILITY IMPROVEMENTS BID NO. 2020-17-81*

2. **Payment Provisions.** The City's payments under the Contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code. City reserves the right to modify any amount due to contractor presented by invoice to the city if necessary, to confirm the amount to the terms of the contract.

3. **Non-Appropriations - Multiyear Contracts.** If the City's city council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the contract becomes effective, and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution). It is understood and agreed the City shall have the right to terminate the agreement at the end of any City fiscal year if the governing body of the City does not appropriate funds sufficient to continue the contract, as determined by the City's budget for the fiscal year in question. The City may execute such termination by giving the contractor a written notice of termination at the end of its then current fiscal year.

4. **Best Value Determination.** All competitive bids or proposals received shall be evaluated based on the lowest responsible bidder or best value for the City considerations authorized by the Texas Local Government Code and other applicable law. The best value shall be determined by any relevant criteria specifically listed in the solicitation and by considering all or part of the criteria listed below:

- a. Bid price.
- b. Reputation of the bidder and of bidder's goods and services.
- c. The quality of the bidder's goods or services.
- d. The extent to which the goods or services meet the City's needs.
- e. Bidder's past relationship with the City. All contractors/vendors shall be evaluated on their past performance and prior dealings with the City to include, but not limited to, failure to meet specifications, poor quality, poor workmanship, and late delivery.

5. **Local Preference.** The City Council supports the local preference option for purchasing. In accordance with Chapter 271, Sections 271.905 and 271.9051 of the State of Texas Local Government Code, the City Council may choose to award a competitive bid to a bidder whose principal place of business is within the City limits, provided that said purchase complies with the requirements of those sections.

6. **No Ex-Parte Communications during Competitive Bidding Period.** To ensure the proper and fair evaluation of a response, the City prohibits ex parte communication (e.g., unsolicited) initiated by the proposed contractor to a City official or employee evaluating or considering the responses prior to the time a formal decision has been made. Questions and other

communication from contractors/vendors will be permissible until 12:00 noon on the day specified as the deadline for questions. Any communication between responder and the City after the deadline for questions will be initiated by the appropriate City official or employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the response. Ex parte communication may be grounds for disqualifying the offending responder from consideration or award of the solicitation in the evaluation or any future solicitation.

**7. Abandonment or Default.** A contractor who abandons or defaults the work on the contract and causes the City to purchase the services elsewhere may be charged for any increased cost of goods, materials and/or services related thereto and shall be considered disqualified in any re-advertisement of the service and may not be considered in future bids for the same type of work, goods or services for a period of three years, at the City's sole discretion.

**8. Disclosure of Litigation.** Each contractor shall include in its proposal a complete disclosure of any civil or criminal litigation or investigation pending involving the respondent or which has occurred in the past in which the respondent has been judged guilty or liable by a competent court regardless of whether the Court Order or Judgment is final or on appeal.

**9. Cancellation.** The City reserves the right to cancel the contract without penalty by providing 30 days prior written notice to the contracting party. Termination under this paragraph shall not relieve the contractor of any obligation or liability that has occurred prior to cancellation. **NOTE: This contract is subject to cancellation, without penalty, at any time the City deems the contractor/vendor to be non-compliant with contractual obligations.**

**10. Annual Contractor/Vendor Performance Review.** The City reserves the right to review the contractor/vendor's performance at the end of each twelve-month contract period and to cancel all or part of the agreement (without penalty) or continue the contract through the next period.

**11. Compliance with other laws and certification of eligibility to contract.** Any offer to contract with the City shall be considered an executed certification that the contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, as amended during the contracting period, and any orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the resulting agreement, including without limitation, immigration laws, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When requested, the contractor shall furnish the City with satisfactory proof of its compliance within 10 days or any contract with the City is void.

**12. Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**13. Contractual Liability.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision. (Section 5, Article XI, Texas Constitution).

**14. Indemnity and Independent Contractor Status of Contractor.** CONTRACTOR SHALL INDEMNIFY, SAVE HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, ATTORNEY'S FEES AND ANY AND ALL OTHER COSTS OR FEES (WHETHER GROUNDED IN CONSTITUTIONAL LAW, TORT, CONTRACT, OR PROPERTY LAW, OR RAISED PURSUANT TO LOCAL, STATE OR FEDERAL STATUTORY PROVISION), ARISING OUT OF THE PERFORMANCE OF THE RESULTING AGREEMENT AND/OR ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, AND EMPLOYEES. It is understood and agreed that the contractor and any employee, subcontractor or agent of the contractor shall not be considered an employee of the City for any purpose. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all of contractor's employees, agents, representatives

or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found to be not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**15. Liens.** CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AGAINST ANY AND ALL LIENS AND ENCUMBRANCES FOR ALL LABOR, GOODS, AND SERVICES WHICH MAY BE PROVIDED UNDER THE RESULTING AGREEMENT. At the City's request, the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens to the City.

**16. Confidentiality.** Any provision in the Contract that attempts to prevent the City's disclosure of information that is subject to public disclosure under federal or Texas law or regulation, or court or administrative decision or ruling, is invalid. (Chapter 552, Texas Government Code).

**17. Tax Exemption.** The City is a tax-exempt entity and will not be liable to Contractor/Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item or work. Texas limited sales tax exemption certificates will be furnished upon request. Contractors/Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**18. Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code).

**19. Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgment of the provision within the contract.

**20. Governing Law and Venue.** Texas law governs this Contract, and any claim, action or lawsuit on this Contract must be filed in a court that has jurisdiction in Coryell County, Texas.

**21. Right to trial by Jury.** Any provision of the Contract that seeks to waive an aggrieved Party's right to trial by jury is void unless agreed to by specific acknowledgment of the provision within the contract.

**22. Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, or any subsequent changes thereto requiring City Council approval, the City may not accept or enter into a contract until it has received from the Consultant a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Consultant understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering into this Agreement. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 must be provided to the City prior to the award of the contract. The City does not have the ability to verify the information included in a TEC Form 1295, and does not have an obligation or undertake responsibility for advising Consultant with respect to the proper completion of the TEC Form 1295.

**23. Texas Government Code Mandatory Provision.** If applicable, the City of Copperas Cove may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; and (ii) will not boycott Israel during the term of the contract. (Texas Government Code, Chapter 2270.002) by accepting this rider, the contractor/vendor hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as that term is defined in the Texas Government Code, Section 808.001, as amended. Further, the contract/vendor hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organization.



# **GENERAL CONDITIONS OF THE AGREEMENT**

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City of Copperas Cove

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# **GENERAL CONDITIONS OF THE AGREEMENT**

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City of Copperas Cove

## 1. DEFINITIONS

1.01 Calendar Day. A calendar day shall be the 24-hour period from one midnight to the next consecutive midnight.

1.01.1 Change Directive. A written directive issued to Contractor on or after the Effective Date of the Contract ordering an addition, deletion, or revision in the work. The work Change Directive serves as a memorandum of understanding regarding the Change Directive until a Change Order can be issued.

1.01.2 Change Order. A document issued on or after the Effective Date of the Contract and signed by OWNER and Contractor which modifies the work, Contract price, Contract times, or terms and conditions of the Contract.

1.02 Contract Documents. The Contract Documents shall consist of the Notice to contractors; the Instructions to Bidders; the proposal and Bidding Sheets; the executed Agreement; the Performance and Payment Bonds; the General Conditions of the Agreement; the Supplemental General Conditions of the Agreement; the Governmental Contract and Purchasing Rider, the Specifications; the Plans; the Standard Drawings; Addenda; duly authorized Change Orders; and executed Special Supplements, if any. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In case of conflict between the contract Documents, unless otherwise specifically provided in the Contract Documents, the most stringent provision shall control.

1.03 Contractor. "Contractor" shall mean the business organization or individual named and designated in the Contract Agreement as the "party of the Second Part," who has entered into this contract for the performance of the work covered thereby, and its, his, or their duly authorized agents and other legal representatives.

1.04 Engineer. "Engineer" shall mean City of Copperas Cove, has designated a Project Manager or such other Engineer, supervisor, or inspector who has been designated, appointed, or otherwise employed or delegated by the OWNER for this work, or their duly authorized agents, such agents acting within the scope of the particular duties entrusted to them in each case.

1.05 Extra Work. The term "extra work" as used in this contract shall be understood to mean and include all work that may be required by the Engineer or OWNER to be done by the Contractor to accomplish any change, alteration, or addition to the work shown on the Plans, or reasonably implied by the Specifications, and not covered by the Contractors Proposal, except as provided under "Changes and Alterations," herein.

1.05.1 Field Order. A document issued by the Engineer requiring changes in the work that do not change the Contract price or the Contract times.

1.06 OWNER. "OWNER" shall mean CITY OF COPPERAS COVE, named and designated in the Agreement as the "Party of the First Part" acting through its duly authorized officers and agents.

1.07 Plans. "Plans" shall mean and include (a) all drawings prepared by the OWNER as a basis for proposal, (b) all supplementary drawings furnished by Engineer as and when required to clarify the intent and meaning of the drawings submitted by the OWNER to the Contractor, and (c) drawings submitted by the Contractor to the OWNER when and as approved by the Engineer.

1.08 Specifications. "Specifications" shall mean (a) all written descriptions, methods and instructions prepared by the OWNER as a basis for proposals, (b) all supplementary written material furnished by the Engineer as and when required to clarify the intent or meaning of all written descriptions, methods and instructions submitted by the OWNER to the contractors, and (c) written descriptions submitted by the Contractor to the OWNER when and

as approved by the Engineer.

1.09 Subcontractor. “Subcontractor” shall mean and refer only to a business organization or individual having a direct contract with the Contractor for (a) performing a portion of the Contract work, of (b) furnishing material worked to a special design according to the Contract plans or specifications; it does not, however, include one who merely furnishes material not so worked.

1.10 Substantially Completed. The term “substantially completed” shall mean that the structure or facility has been made suitable for use and is in condition to serve its intended purpose, but still may require minor miscellaneous work and adjustments. Substantial completion shall be considered the date that the OWNER accepts the work as substantially complete in accordance with this Agreement.

1.11 Work. “Work” shall mean the work to be done and the equipment, supplies, material, and services to be furnished under the Contract unless some other meaning is indicated by the context.

1.12 Working Day. A “working day” is defined as any day not including Sundays or legal holidays, in which weather or other conditions, not under the control of the Contractor, will permit construction of the principal units of the work for a continuous period of not less than seven (7) hours between 7:00 a.m. and 6:00 p.m.

1.13 Written Notice. “Written Notice” shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by certified or registered mail to the last business address known to him who gives the notice.

## 2. GENERAL PROVISIONS

2.01 Engineer’s Status and Authority. It is mutually agreed by and between the parties to this Contract that the Engineer shall have general oversight and direction of the work included herein. In order to prevent delays and disputes and to discourage litigation it is further agreed by and between the parties of this Contract that the Engineer shall in all cases determine the amounts and quantities of the several kinds of work which are to be paid for under the Contract; that he shall determine all questions in relation to said work and the construction thereof, that he shall in all cases decide every question which may arise relative to the execution of the Contract on the part of the contractor, that his decisions and findings shall be the conditions precedent to the right of the parties hereto to proceed with the claim process provided in Section 10.01, including dispute resolution or to any action on the Contract and to the rights of the Contractor to receive any money under this Contract; provided, however, that should the Engineer render any decision or give any direction which in the opinion of either party hereto is not in accordance with the meaning and intent of this Contract, either party may file with the Engineer within 7 days a written objection to the decision or direction so rendered in conformance with Section 10.01. It is the intent of this Agreement that there shall be no delay in the execution of the work, and the decision or directions of the Engineer as rendered shall be promptly carried out.

2.02 Right of Engineer to Modify Methods and Equipment. If at any time the methods or equipment used by the Contractor are found to be unsafe or inadequate to secure the quality of the work or the rate of progress required under this Contract, the Engineer may direct the Contractor in writing to increase their safety or improve their character and efficiency and to cease operations under this Contract until such direction is complied with. No claims shall be made against the OWNER for damages caused by any delay resulting from such order.

### 2.03 Changes and Alterations.

A. The Contractor agrees that the OWNER, through the Engineer and via a Change Order, Change Directive or Field Order, may make such changes and alterations as the OWNER may see fit in the line, grade, form, dimensions, plans, or materials for the work herein contemplated or any part thereof either before or after the beginning of the construction without affecting the validity of this Contract and the accompanying bonds. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for a claim for damages or anticipated profits on the work that may be dispensed with. If they increase the amount of work and the increased work can fairly be classified under the specifications, such increase shall be paid for according to the quantity actually done and at the unit price established for such work under this contract;

otherwise such work shall be paid for as provided under Section 2.12 "Extra Work." In the event the OWNER shall make such changes or alternations which will make useless any work already done or material already furnished or used in said work, then the OWNER shall compensate the Contractor for any materials or labor so used, for any actual loss occasioned by such change, and for the actual expense incurred in preparation for the work as originally planned, unless OWNER has already paid for the work.

B. The Contract Documents may be modified by a Change Order, Change Directive, or Field Order.

1. Change Order: All changes to the Contract Documents that include a change in the Contract price or times for previously authorized work, or changes to the work requiring Engineer's approval must be made by Change Order. A Change Order may also be used to establish modifications of the Contract Documents that do not affect the Contract price or times.

2. Change Directive: A Change Directive authorized by the OWNER does not change the Contract price or times but is evidence that the parties expect that the modifications ordered or documented by a Change Directive are to be incorporated in a subsequently issued Change Order following negotiations on the Contract price and/or times. Contractor must submit a Change Order proposal seeking an adjustment of the Contract price or times no later than 30 days after the completion of the changes set out in the Change Directive if negotiations are unsuccessful under the terms of the Contract Documents.

3. Field Order: The Engineer may authorize minor changes in the work that do not change the Contract price or times using a Field Order. Contractor shall submit a Change Order if Contractor believes that a Field Order justifies an adjustment in the Contract price or times and secure approval from the OWNER before proceeding with the work described in the Field Order.

C. Added or revised work shall be provided by Contractor under the applicable provisions of the Contract Documents for the same or similar work unless different Drawings, Specifications or directions are provided in the Change Order, Change Directive, or Field Order.

2.04 Damages. The right of general oversight by the Engineer or OWNER shall not make the Contractor an agent of the Engineer or OWNER, and the liability of the Contractor for all damages to persons, firms, and corporations arising from the Contractor's execution of the work shall not be lessened because of such general supervision. The Contractor is an independent contractor in regard to work under this Contract, and as such is solely liable for all damages to any persons, firms, corporations, or their property as a result of the execution of the work.

2.05 Losses from Natural Causes. All loss or damage arising out of the nature of the work to be done or from the action of the elements or from any unforeseen circumstances in the prosecution of the work or from unusual obstructions or difficulties which may be encountered in the execution of the work shall be sustained and borne by the Contractor at his own costs and expense.

2.06 Laws and Ordinances. The Contractor shall at all times observe and comply with all Federal, State, and local laws, ordinances, rules and regulations which in any manner affect the Contract or the work and SHALL INDEMNIFY AND SAVE HARMLESS THE OWNER AGAINST ANY CLAIM ARISING FROM THE VIOLATION OF ANY SUCH LAWS AND ORDINANCES WHETHER BY THE CONTRACTOR OR HIS EMPLOYEES OR HIS SUBCONTRACTORS AND THEIR EMPLOYEES.

2.07 Licenses, Permits and Certificates. Except as hereinafter stipulated, all licenses, permits, certificates, etc. required for and in connection with the work to be performed under the provisions of these Contract Documents shall be secured by the Contractor at his own expense. In the event a building permit is required, such permit will be obtained by the OWNER at no cost to the Contractor.

2.08 Royalties and Patents. THE CONTRACTOR SHALL PROTECT, INDEMNIFY AND SAVE HARMLESS THE OWNER FROM ALL AND EVERY DEMAND FOR DAMAGES, ROYALTIES, OR FEES ON ANY PATENTED INVENTION USED BY HIM IN CONNECTION WITH THE WORK DONE OR MATERIAL FURNISHED UNDER THIS CONTRACT; provided, however, that if any patented material, machinery, application, or invention is clearly specified in this Contract, the cost of procuring the rights of use and the legal release or indemnity shall be borne and paid by the OWNER direct unless such cost is determined and directed to be included in the bid price at the time the Proposal is submitted.

2.09 Keeping of Plans and Specifications Accessible. The Engineer shall furnish the Contractor with three (3) sets of executed Plans and Specifications without expense to him, and the Contractor shall keep one (1) copy of the same constantly accessible on the work, with the latest revisions noted thereon.

2.10 Discrepancies and Omissions. It is further agreed that it is the intent of this Contract that all work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the separate contract documents, the priority of interpretation defined under "Contract Documents" shall govern. In the event that there is still any doubt as to the meaning and intent of any portion of the Contract, Specifications or Drawings, the Engineer shall define which is intended to apply to the work.

2.11 Contractor's Understanding. It is understood and agreed, and Contractor warrants that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the execution of the work, the general and local conditions, and all other matters which can in any way affect the work, price or time provided under this Contract, and that no claim shall be advanced by Contractor for any unforeseen conditions or circumstances. No verbal agreement or conversation with any officer, agent, or employee of the OWNER, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

2.12 Extra Work. There term "extra work" as used in this Contract shall be understood to mean and include all work that may be required by the OWNER through the Engineer to be done by the Contractor to accomplish any change, alteration, or addition to the work shown by the Plans or reasonably implied by the Specifications and not covered by the contractor's Proposal, except as provided in Section 2.03 - "Changes and Alterations."

It is agreed that the Contractor shall perform all extra work under the direction of the Engineer when presented with a written Change Order, Change Directive or Field Order signed by the OWNER or Engineer, as applicable.

No claim for extra work or any additional Contract time extension associated with said extra work of any kind will be allowed unless extra work is ordered in writing by the OWNER. In case any orders or instructions, either oral or written, appear to the Contractor to involve extra work for which he should receive compensation and/or an extension of Contract time, he shall make a written request to the OWNER for a written Change Order authorizing such extra work and shall not proceed with such extra work until so authorized by OWNER through a signed Change Order. Should a difference of opinion arise as to what does or does not constitute extra work or concerning the payment thereof and the OWNER insists upon its performance, the Contractor shall proceed with the work after making a written request for a written Change Order and shall keep an accurate account of the "actual field cost" thereof as provided under Method "C" below. Contractor shall also promptly proceed with a claim in accordance with Section 10.01.

2.13 Payment for Extra Work. It is agreed that the compensation to be paid the Contractor for performing extra work shall be determined by one or more of the following methods:

Method "A" - By agreed unit prices;

Method "B" - By agreed lump sum; or

Method "C". If neither Method "A" nor Method "B" can be agreed upon before the extra work is commenced, then the Contractor shall be paid the "actual field cost" of the work plus 15%, subject to the claims process provided in Section 10.01.

Where extra work is performed under Method "C", the term "actual field cost" of such extra work is hereby defined to be and shall include: (a) the payroll cost for all workman, such as foreman, mechanics, craftsmen, and laborers; (b) the cost of all materials and supplies not furnished by the OWNER; (c) rental for all power-driven equipment at agreed-upon rates for the time actually employed or used in the performance of the extra work; (d) transportation charges necessarily incurred in connection with any equipment authorized by the Engineer for use on said extra work and which is not already on the job; (e) all power, fuel, lubricants, water, and similar operating expenses; (f) all incidental expenses incurred as a direct result of such extra work including sales or use taxes on materials, payroll taxes, and the additional premiums for construction bonds, workmen's

compensation, public liability and property damage, and other insurance required by the Contract where the premiums therefore are based on payroll and material costs. The Engineer may direct the form in which accounts of the “actual field costs” shall be kept and may also specify in writing before the work commences the method of doing the work and they type and kind of machinery and equipment to be used; otherwise these matters shall be determined by the Contractor. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be incorporated in the written extra work Change Order. The 15% of the “actual field cost” to be paid the Contractor shall cover and compensate him for his profit, overhead, and general superintendence.

2.14 Assignment and Subletting. The Contractor shall not assign or sublet the work or any part thereof without the previous written consent of the OWNER, nor shall he assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the consent of the OWNER to be signified in like manner. If the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to all prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.

2.15 Subcontractors. The Contractor shall be as fully responsible to the OWNER for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by him. Should any subcontractor fail to perform the work undertaken by him in a satisfactory manner, his subcontract shall be immediately terminated by the Contractor upon written notice from the OWNER.

2.16 OWNER’s Status. Nothing contained in this Contract shall create any contractual relation between any subcontractor and the OWNER.

2.17 Completed Portions of Work. The OWNER shall have the right to take possession of and to use any completed or partially completed portions of the work prior to completion of the entire work, but such use shall not constitute an acceptance of any of the work not completed in accordance with the Contract Documents. If the Engineer determines that taking possession of and using partially completed work substantially increases the cost of or delays construction, the Contractor shall be entitled to extra compensation, extension of time or both as determined by the Engineer.

2.18 Materials. All materials furnished by the contractor shall be a required by the Plans and Specifications or as otherwise stipulated. The Contractor shall not start delivery of materials which he is to furnish until the Engineer has approved the source of supply of such materials.

2.19 Receiving and Storage of Materials. The Contractor shall make arrangements for receiving and storing materials. The OWNER will not sign for or receive shipments of materials consigned to the Contractor. The OWNER will not furnish storage space for materials except where the written permission of the Engineer is given.

2.20 “Or Equal” Clause. Whenever a material, product, or article is specified or shown on the Plans by using the name of the proprietary product or of a particular manufacturer or vendor and is followed by the term “or equal,” the Contractor may submit a written request to the Engineer requesting approval of the use of a material, product, or article he feels is truly equal to the one specified. The Engineer will evaluate the request to determine if the material, product, or article is of equal substance and function and if it will perform identically the duties imposed by the general design. Written approval of an “or equal” material, product, or article must be obtained from the Engineer before it may be incorporated into the work as a substitute for that specified in the contract Documents.

2.21 Completed Work. The Contractor shall maintain continuous adequate safeguards to protect all completed work from damage, loss, or the intrusion of foreign elements and shall be liable for any such damage or loss until the work is finally accepted by OWNER.

2.22 Materials Furnished by the OWNER. The contractor shall assume responsibility for and safeguard against loss or injury, any and all materials supplied by the OWNER. This provision shall extend to the taking of all necessary sanitary precautions to avoid contamination of such materials that must be maintained and

incorporated into the work in a sanitary condition.

2.23 Protection of Property. The Contractor shall give reasonable notice to the OWNER or other owners of public or private property and utilities when such property is subject to injury or damage through the performance of the work and he shall make all necessary arrangements with such OWNER or owners relative to the removal and replacement or protection of such property or utilities.

The Contractor shall satisfactorily shore, support, and protect any and all structures, and all pipes, sewers, drains, conduits, and the facilities belonging to the OWNER, and he shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra pay as a result of any postponement, interference, or delay caused by any such structures and facilities being on the line of the work whether they are shown on the Plans or not.

2.24 Shelters for Workmen and Materials. The building or structures for housing men or the erection of tents or other forms of protection for workmen or materials will be permitted only as the Engineer shall authorize or direct. The sanitary conditions of the grounds in or about such structures shall at all times be maintained in a manner satisfactory to the Engineer.

2.25 Sanitary Facilities. Necessary sanitary toilet facilities for the use of all employees on the work shall be of a type complying with State and local sanitary regulations and shall be constructed and maintained by the Contractor in such manner and at such points as shall be approved by the Engineer. Their use shall be strictly enforced.

### 3. CONTRACTOR'S OBLIGATIONS AND RESPONSIBILITIES

3.01 Labor, Equipment, Materials and Construction Plant. The Contractor shall provide all labor, tools, equipment, machinery, supplies, and materials necessary for the execution and completion of this Contract where it is not specifically provided that the OWNER shall furnish them. The OWNER shall not be held responsible for the care, preservation, conservation, or protection of any material, tools, or machinery on any part of the work until it is finally completed and accepted. The contractor shall maintain on the job at all times sufficient labor, material, and equipment to adequately prosecute the work.

3.02 Performance and Payment Bonds. It is further agreed by the Parties to this Contract that the contractor will execute separate performance and payment bonds, each in the sum of 100% of the total Contract price in standard forms for this purpose, guaranteeing faithful performance of the work and the fulfillment of any guarantees required and further guaranteeing payment to all persons supplying labor and materials of furnishing him any equipment in the execution of the Contract. These bonds shall also be subject to any provisions in the Supplemental General Conditions to this Contract. It is agreed that the Contract shall not be in effect until such performance and payment bonds are furnished and approved by the OWNER. The cost of the premium for the performance and payment bonds shall be included in the price bid by the Contractor for the work under this Contract, and no extra payment for such bonds will be made by the OWNER.

The surety company or companies underwriting the performance and payment bonds shall be acceptable according to the latest list of companies holding certificates of authority from the secretary of the Treasury of the United States, shall be duly authorized to act under the laws of the State of Texas as SURETY, and shall be approved by the OWNER.

3.03 Contractor's Ability to Perform. Upon receipt by the OWNER the Contractor shall furnish sufficient evidence of his ability to perform the work which is outlined in this document. This shall include an equipment inventory and records showing the satisfactory completion of projects of equal magnitude in the past. It shall be the prerogative of the OWNER to terminate the contract as outlined in Section 7 "Termination of contract," if job progress indicates that the contractor lacks either appropriate experience or ability.

3.04 Superintendence and Inspection. The Contractor shall give personal attention to the faithful execution and completion of the contract and shall keep a competent superintendent and any necessary assistants, all of whom are satisfactory to the Engineer, on the work continuously during its progress. The superintendent shall

represent the Contractor in his absence, and all directions given to him by the OWNER'S representative shall be as binding as if given to the Contractor.

In the event that the Contractor and the superintendent are both absent from the site of the work for prolonged periods of time, the Engineer may order any or all work under this Contract to be stopped until the Contractor provides continuous and proper supervision of the work. Such stoppage shall not constitute a basis for any claim against the OWNER for damages caused by delay for such work stoppage.

3.05 Character of Employees. The Contractor agrees to employ only orderly, competent, and skillful persons to do the work, and whenever the Engineer shall inform him that the work being accomplished is of substandard character by reason of carelessness, incompetence, or inexperience on the part of the workers the installation of such work shall be immediately suspended and shall not be resumed until the Engineer is satisfied that the conditions causing such faulty work have been corrected.

3.06 Contractor's Duty to Protect Persons and Property. In the performance of this Contract, the Contractor shall protect the public and the OWNER fully by taking reasonable precaution to safeguard persons from death or bodily injury and to safeguard property of any nature whatsoever from damage. Where any dangerous condition or nuisance exists in and around construction sites, equipment and supply storage areas, and other areas in anyway connected with the performance of this Contract, the Contractor shall not create excavations, obstructions, or any dangerous condition or nuisance of any nature whatsoever in connection with the performance of this Contract unless necessary to its performance, and in that event the contractor shall provide and maintain at all times reasonable means of warning of any danger or nuisance created. The duties of the Contractor in this paragraph shall be non-delegable, and the Contractor's compliance with the specific recommendations and requirements of the OWNER as to the means of warning shall not excuse the Contractor from the faithful performance of these duties should such recommendations and requirements not be adequate or reasonable under the circumstances.

3.07 Safety Codes. The Contractor shall comply with all applicable provisions of any Federal, State, and Municipal safety laws and building and construction codes. All machinery, equipment, and other physical hazards shall be guarded in accordance with Federal, State, or Municipal laws or regulations.

3.08 Barricades. When barricades are used to satisfy safety requirements, such barricades shall be properly identified with the Contractor's name prominently stenciled on both sides of the barricades with letters at least 2 inches high.

3.09 Minimum Wages. All employees directly employed on the work shall be paid not less than the established prevailing wage scale for work of a similar character in this locality. A prevailing wage determination for the work has been included with this contract and is incorporated herein for all purposes. The Contractor shall pay not less than the general prevailing wages as established by the U.S. Department of Labor and shall keep accurate wage records accessible in accordance with Article 5159 of the Revised Civil Statutes of Texas.

3.10 Unsuitable Work or Materials. It is understood and agreed that if the work or any part thereof or any material furnished by the Contractor for use in the work or selected for the same shall be deemed by the Engineer as unsuitable or not in conformity with the specifications, the Contractor shall, after receipt of written notice thereof from the Contracting Officer, forthwith remove such material and replace, rebuild, or otherwise remedy such work so that it shall be in full accordance with this Contract. Should the Contractor fail to initiate compliance with the above provision within 72 hours or should he fail to properly execute and complete correction of such faulty work, the Engineer may direct that the work be done by others and that the cost of the work be deducted from monies due the Contractor.

3.11 No Waiver of Contractor's Obligations. The Engineer, supervisor, or inspector shall have no power to waive the obligations of this contract for the furnishing by the Contractor of good material and of his performing good work as herein described and in full accordance with the plans and specifications. No failure or omission of the Engineer, supervisor, or inspector to condemn any defective work or material shall release the Contractor from the obligation to at once tear out, remove, and properly replace the same at any time prior to final acceptance upon the discovery of said defective work or material; provided, however that

that Engineer, supervisor, or inspector shall upon request of the Contractor inspect and accept or reject any material furnished, and once the material has been accepted by the Engineer, supervisor, or inspector such acceptance shall be binding on the OWNER unless it can be clearly shown that such material furnished was not as represented and does not meet the specifications for the work. Any questioned work may be ordered taken up or removed for re-examination by the Engineer prior to final acceptance, and if found not in accordance with the specifications for the work. Any questioned work may be ordered taken up or removed for re-examination by the Engineer prior to final acceptance, and if found not in accordance with the specifications for said work, all expense of removing, re-examination, and replacement shall be borne by the Contractor; otherwise the expense thus incurred shall be allowed as "Extra Work" and shall be paid for by the OWNER.

3.12 Site Clean-Up. The Contractor shall not allow the site of the work to become littered with trash and waste material but shall maintain the site in a neat and orderly condition throughout the construction period. The Engineer shall have the right to determine what is waste material or rubbish and the manner and place of disposal. On or before the completion of the work the Contractor shall, without charge therefore, carefully clean out all pits, pipes, chambers, or conduits, shall tear down and remove all temporary structures built by him, shall remove all rubbish of every kind from the tracts or grounds which he has occupied, and shall leave them in a condition satisfactory to the Engineer.

3.13 Guarantee/Warranty Bond. During a period of 12 months from and after the date of the final acceptance by the OWNER of the work embraced by this Contract, the Contractor shall make all needed repairs arising out of defective workmanship, materials, or both, which in the judgment of the OWNER shall become necessary during such period. As a condition to final acceptance and payment, Contractor shall provide OWNER with a warranty bond for said 12-month period in the penal sum of thirty-five (35%) percent of the total work project cost. If within 10 days after the mailing of a notice in writing to the Contractor or his agent the said Contractor shall neglect to make or to undertake with due diligence the aforesaid repairs, the OWNER is hereby authorized to make such repairs at the Contractor's expense; provided, however, that in case of an emergency where, in the sole judgment of the OWNER, delay would cause serious loss or damage, repairs may be made without notice being sent to the Contractor, and the contractor shall pay the cost thereof.

#### 4. OWNER'S OBLIGATIONS AND RESPONSIBILITIES

4.01 Lines and Grades. All necessary lines and grade shall be furnished by the Engineer. Whenever necessary, work shall be suspended to permit performance of this work, but such suspension will be as brief as practicable, and the Contractor shall be allowed no extra compensation therefore. The Contractor shall give the Engineer ample notice of the time and place where lines and grades will be needed. All stakes, marks, etc. shall be carefully preserved by the Contractor, and in case of destruction or removal by him or his employees, or any third party, such stakes, marks, etc. shall be replaced by the Engineer at the Contractor's expense.

4.02 Right of Entry. The OWNER reserves the right for its personnel or its agents to enter the property or location on which the work herein contracted is being constructed on installed for the purpose of supervising and inspection the work for the purpose of construction or installing such collateral work as the OWNER may desire.

4.03 OWNER's Inspectors. It is agreed by the Contractor that the OWNER shall appoint such Engineer, supervisors, or inspectors as the said OWNER may deem necessary to inspect the material furnished and the work done under this Contract, to see that the said material is furnished, and to see that said work is done in accordance with the plans and specifications therefore. The Contractor shall furnish all reasonable aid and assistance required by the Engineer, supervisors, or inspectors for the proper inspection and examination of the work and all parts thereof. The Contractor shall regard and comply with the directions and instructions of the Engineer, supervisors, or inspectors so appointed when such directions and instructions are consistent with the obligations of this Contract.

4.04 Collateral Work. The OWNER reserves the right to provide all labor and material essential to the completion of work that is not included in this Contract either by a separate contract or otherwise. Any collateral work shall be executed in such a manner that it will not unreasonably damage the Contractor nor unreasonably delay the progress of the work being accomplished under this Contract. The respective rights

of and operations of the various interests involved shall be established and coordinated by the Engineer.

4.05 Environmental Assessment. The OWNER will provide completed and approved Environmental Information Documents, if any, to the Contractor for each job site concurrent with the issuance of the Notice To Proceed. The Contractor may proceed with the preparation of submittal and site design upon receipt of the Notice of Award.

4.06 Right-of-Way. Easements across private property and lands needed for construction under this Contract will be provided by the OWNER.

4.07 Adequacy of Design. It is agreed that the OWNER shall be responsible for the adequacy of the design, sufficiency of the Contract Documents, the safety of the structure and practicability of the operations of the completed project; provided the Contractor has complied with the requirements of the said Contract Documents, all approved modifications thereof, and additions and alterations thereto approved in writing by the OWNER. The burden of proof of such compliance shall be upon the Contractor to show that he has complied with said requirements of the Contract Documents, approved modifications thereof and all approved additions and alterations thereto.

## 5. SCHEDULING AND PROGRESS OF WORK

5.01 Commencement of Contract Time, Order and Execution of the Work. Contract time shall commence in accordance with the terms of a Notice to Proceed issued to Contractor following award of this Contract. It is the meaning and intent of this Contract, unless otherwise herein specifically provided, that the Contractor shall be allowed to execute his work at such times and seasons in such order of precedence and in such manner as shall be most conducive to economy of construction; provided however, that the order and time of execution shall be such that the work shall be completed as a whole or in part in accordance with this Contract within the time of completion hereafter designated; provided also that the Engineer may direct the time and manner of constructing any part or parts of the work when in his opinion such should be given priority due to the needs of the OWNER, or to lessen the probability of danger to the public or to anticipate seasonal hazards from the elements or to coordinate with other work being done for or by the OWNER.

5.02 Rate of Progress. The Contractor shall give the Engineer full information in the form of project schedules in advance as to his plans for carrying on any part of the work. If at any time prior to the start or during the progress of the work any part of the Contractor's plant or equipment or any of his methods of executing the work appear to the Engineer to be unsafe, inefficient, or inadequate to insure the required quality or rate of progress of the work, the Engineer may order the contractor to increase or improve his facilities or methods, and the Contractor shall promptly comply with such orders but shall not be eligible for any adjustment to contract time or cost as a result of such acceleration; failure to comply will result in placing Contractor in abandonment per Section 8 "Abandonment of Contract by Contractor," but neither compliance with such orders nor failure of the Engineer to issue such orders shall release the Contractor from his obligation to secure the degree of safety, the quality of work, and the rate of progress required by this Contract. The Contractor alone shall be responsible for the safety, adequacy, and efficiency of his plant, equipment, and methods. Contractor shall be required to submit updated progress schedules with each pay application submitted throughout the duration of the work.

5.03 Sunday, Holiday and Night Work. Except in connection with the care, maintenance, or protection of equipment or of work already done, no work shall be done between the hours of 6:00 p.m. and 7:00 a.m. or on Sundays or legal holidays without the written consent of the Engineer.

5.04 Hindrances and Delays. No claims shall be made by the Contractor for damages, hindrances, cumulative impacts or delays from any cause during the progress of any portion of the work embraced by this Contract except where the work is stopped by formal order of the OWNER. If the OWNER stops the work for just cause because the Contractor is not complying with the plans and specifications or the intent thereof or circumstances arise outside the reasonable control of either party that necessitate such stoppage, the Contractor shall have no claim for damages, hindrances, cumulative impacts or delays. However, if the OWNER stops the work for any other reason, the Contractor shall be entitled to an extension of Contract time incurred which in the judgment of the Engineer occurred as a result of the work stoppage.

Should delays repeatedly occur due to the Contractor's failure to provide adequate plant, equipment, or personnel, or where the Engineer determines that unreasonable inconvenience to the public is due to such failure, the Contractor's operations shall be suspended until he shall have provided adequate plant, equipment, and personnel to properly resume and continually execute the work and no extension of contract time shall be granted Contractor as a result of such suspension.

5.05 Extensions of Time. Should the Contractor be delayed in the final completion of the work by an act or neglect of the OWNER or Engineer, or of any employee of either, or by any other contractor employed by the OWNER, or by strikes, fire or other cause or caused outside of and beyond the control of the Contractor and which the Engineer determines could have been neither anticipated nor avoided, then an extension of time sufficient to compensate for the delay as determined by the Engineer shall be granted by the OWNER; provided, however, that the Contractor shall give the OWNER prompt notice in writing via a Change Order of the cause of delay in each case. Extensions of time will not be granted for delays caused by unfavorable weather, unsuitable ground conditions or inadequate construction force. Said extensions of Contract time shall be the Contractor's exclusive remedy for delay.

5.06 Liquidated Damages for Failure to Complete on Time. The Contractor agrees that time is of the essence on this Contract and that the definite value of damages which would result from delay would be incapable of ascertainment and uncertain, so that for each day of delay beyond the number of days herein agreed upon for the Substantial or Final completion of the work herein specified and contracted for, after due allowance for such extension of time as is provided for under the provisions of the preceding paragraph, the OWNER may withhold permanently from the Contractor's total compensation, not a penalty but as liquidated damages, the sum per day given in the following schedule:

<u>Amount of Contract</u>		<u>Amount of Liquidated Damages per Day</u>
Less than	\$ 5,000.00	\$ 100.00
\$ 5,001.00	to 15,000.00	150.00
15,001.00	to 25,000.00	175.00
25,001.00	to 50,000.00	200.00
50,001.00	to 100,000.00	350.00
100,001.00	to 500,000.00	500.00
500,001.00	to 1,000,000.00	750.00
1,000,001.00	to 2,000,000.00	1000.00
2,000,001.00	to 5,000,000.00	2000.00

6. INDEMNITY

6.01 Contractor's Indemnity Provision. TO PROTECT THE OWNER AND ENGINEER FROM THE CONTRACTOR'S FAILURE TO PERFORM ANY OF THE FOREGOING DUTIES OR ANY OF THE TERMS OF THIS CONTRACT, THE CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE OWNER AND ENGINEER AND THE OWNER'S AND ENGINEER'S RESPECTIVE OFFICERS, ELECTED OFFICIALS, INSURERS, AGENTS AND EMPLOYEES (THE "INDEMNIFIED PARTIES") FROM ALL LOSSES, DAMAGES, JUDGMENTS, DECREES, AND EXPENSES OR COSTS OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIMS OR ACTIONS AT LAW OR IN EQUITY BROUGHT AGAINST THE INDEMNIFIED PARTIES FOR THE DEATH OR INJURY TO PERSONS OR FOR DAMAGE TO PROPERTY CAUSED, OR ALLEGEDLY CAUSED, BY ANY WILLFUL ACTS, NEGLIGENCE, NUISANCE, OR BREACH OF ANY TERM OR CONDITION OF THIS CONTRACT BY THE CONTRACTOR, HIS AGENTS, SERVANTS, SUBCONTRACTORS, OR EMPLOYEES. THE CONTRACTOR SHALL FURTHERMORE INDEMNIFY AND SAVE HARMLESS THE INDEMNIFIED PARTIES FROM ALL DEMANDS OF SUBCONTRACTORS, WORKERS, MATERIAL PERSONS, OR SUPPLIERS OF MACHINERY AND PART THEREOF, EQUIPMENT, POWER TOOLS, AND SUPPLIES INCURRED IN CONNECTION WITH WORK TO BE PERFORMED

UNDER THIS CONTRACT, PROPERTY OF ANY DESCRIPTION, INCLUDING PROPERTY OF THE OWNER, WHICH SHALL BE DAMAGED IN THE PERFORMANCE OF THIS CONTRACT BY THE CONTRACTOR, HIS AGENTS, EMPLOYEES, SUBCONTRACTORS OR THEIR EMPLOYEES AND SUBCONTRACTORS SHALL BE RESTORED TO ITS CONDITION PRIOR TO DAMAGE BY THE CONTRACTOR AT THE CONTRACTOR'S EXPENSE.

6.02 Workmen's Compensation Insurance. The Contractor agrees to comply with the Workmen's Compensation Act of the State of Texas, and to pay or cause to be paid all compensation, medical or other benefits, which may become due or payable thereunder, and to PROTECT, HOLD HARMLESS AND INDEMNIFY THE OWNER AND THE OWNER'S AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITIES BY REASON OF ACCIDENTAL INJURY, DISEASE, OR DEATH SUSTAINED BY SUBCONTRACTOR'S EMPLOYEES. The Contractor shall furnish the OWNER with a certificate from the industrial Accident Board evidencing the contractor's and subcontractor's compliance with said statute.

6.03 Comprehensive General Liability Insurance. The Contractor shall provide and maintain during the life of this Contract and until all work under said Contract has been completed and accepted by the OWNER, a Comprehensive General Liability insurance policy, said policy and the issuing carrier approved by the OWNER, which specifically insures the contractual liability of the contractor assumed under Paragraph 6.01 above entitled "Contractor's Indemnity Provision." The Liability limits for the Comprehensive General Liability insurance coverage under this policy shall be in accordance with and not be less than the limits provided in the Supplemental General Conditions.

6.04 OWNER'S Protective Insurance. The Contractor shall provide and maintain during the life of this Contract and until all work under said Contract has been completed and accepted by the OWNER, and OWNER'S, Engineer's and Contractor's Protective Policy which co-insures the OWNER, Engineer, and the OWNER'S agents and employees with the same comprehensive General Liability coverage as described in Paragraph 6.03 above entitled "Comprehensive General Liability Insurance."

6.05 Comprehensive Automobile Liability Insurance. The Contractor shall provide and maintain during the life of this Contract and until all work under said Contract has been completed and accepted by the OWNER, a Comprehensive Automobile Liability insurance policy, said policy and issuing carrier approved by the OWNER, covering the operation on or off the site of the work of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired by the Contractor, in which shall specifically insure contractual liability of the Contractor assumed under the above Paragraph 6.1 entitled "Contractor's Indemnity Provision." The liability limits for the comprehensive Automobile Liability insurance coverage shall be in accordance with and not be less than the limits provided in the Supplemental General Conditions.

6.06. Insurance Certificate. In connection with the insurance coverage set out in Sections 6.02, 6.03, 6.04, and 6.05 above, the Contractor shall furnish the OWNER with a certificate verifying said insurance. The Owner shall be listed as the Certificate holder, and the Owner and Engineer shall be named as additional insured. Said certificate shall state the OWNER shall be given 10 days advance written notice before any provision of the policies are changed or in the event said policies shall be canceled. This Certificate of Insurance shall be provided the OWNER prior to starting any construction work in connection with this Contract.

## 7. TERMINATION OF CONTRACT

7.01 Right of OWNER to Terminate. If the Contractor should be guilty of material breach or violation of the Contract or any provision thereof, the OWNER, upon certification by the Engineer as to the nature and extent of such violation, may without prejudice to any other resources or remedy give the contractor written notice of termination of the employment of the Contractor 10 days subsequent to such notice. Immediately following such date the OWNER may take possession of the site of the work and all material, equipment, tools, and appliances thereon and may finish the work in accordance with the provisions of Section 8 "Abandonment of Contract by Contractor," of these General Conditions.

- a. The occurrence of one or more of the following events constitutes a default by Contractor and

justifies termination for cause:

1. Failure to provide or progress with the work in accordance with the Contract Documents;
2. Failure to adhere to the progress schedule;
3. Failure to provide a satisfactory replacement bond or insurance in the event either is lost or canceled;

4. Failure to maintain financial solvency to adequately perform the Contract as indicated by one or more of the following:

- a. A petition of bankruptcy is filed by or against Contractor,
  - b. Contractor is adjudged as bankrupt or insolvent,
  - c. Contractor or SURETY makes a general assignment for the benefit of creditors,
  - d. A receiver is appointed for the benefit of Contractor's creditors, or
  - e. A receiver is appointed on account of Contractor's insolvency;
5. Contractor's disregard of Laws or Regulations;
  6. Contractor's repeated disregard of the authority of Engineer;
  7. Wrongful repudiation of the Contract; or
  8. Violation of any provisions of the Contract Documents.

b. Contractor and SURETY must provide adequate assurance of future performance of the Contract in accordance with the Contract Documents that is satisfactory to OWNER if Contractor is believed to be in financial distress due to the existence of one or more of the indicators listed in Section 7.01.a.4. OWNER may terminate this Contract if Contractor and SURETY fail to provide adequate documentation satisfactory to OWNER within 10 days of Engineer's request for this information.

c. OWNER may declare Contractor to be in default, give notice to Contractor and SURETY that the Contract is terminated, and enforce the rights available to OWNER under the performance bond after giving Contractor and SURETY 10 days' notice that one or more of the events identified in Section 7.01.a. has occurred.

d. OWNER may take possession of the work, incorporate the materials stored, and complete the work as OWNER may deem expedient if OWNER has terminated the Contract for cause.

e. OWNER may elect not to proceed with termination of the Contract under this paragraph if Contractor begins to cure the cause for termination within 7 days of receipt of notice of intent to terminate.

f. Contractor is not entitled to receive further payments until the work is provided if OWNER proceeds as provided in this Section. The amount of the Contract Price remaining is to be paid to the Contractor if the unpaid balance exceeds the cost to complete the Contract. This cost to complete the Contract may include related claims, costs, losses, damages, and the fees and charges of design professionals, attorneys, and other professionals retained by OWNER. Contractor, upon written demand from OWNER, shall promptly pay the difference to OWNER if the cost to complete the Contract including related claims, costs, losses, and damages exceeds the unpaid balance of the Contract Price. Claims, costs, losses, and damages incurred by OWNER are to be reviewed as to their reasonableness and incorporated in a Change Order by Engineer. OWNER is not required to obtain the lowest price to complete this Contract when exercising its rights or remedies under this Section.

g. Termination does not affect the rights or remedies of OWNER against Contractor or against SURETY under the payment bond or performance bond. OWNER does not release Contractor or SURETY from liability or waive any rights OWNER may have by paying or retaining money due Contractor.

**7.02 Right of Contractor to Terminate.** If work should be stopped by order of any public authority or court through no act or fault of the Contractor for a period of three (3) months or if the OWNER should materially fail to perform the provisions of the Contract with regard to OWNER'S obligations to the Contractor, then the Contractor may, upon 10 days written notice to the OWNER, terminate this Contract and recover from the OWNER payment for all completed work, subject to the following:

a. Contractor may terminate the Contract or suspend performance after 10 days' notice to OWNER provided that, through no act or fault of Contractor:

1. OWNER suspends performance of the Contract for more than three (3) months;
2. Engineer fails to act on a payment application within 30 days after it is submitted; or
3. OWNER fails to pay Contractor sums determined to be due, other than the final payment, within 30 days after payment is recommended by Engineer; and

4. OWNER does not remedy this suspension or failure within 10 days after receipt of the notice.

7.03 Removal of Equipment. In the event that the Contract should be terminated for any reason whatsoever, the OWNER may request the Contractor in writing to remove any or all of his equipment, tools, and supplies, and the contractor shall comply with the request within 10 days after receipt of the notice. Should he fail to do so within 10 days after receipt of such notice, the OWNER shall have the right to remove such equipment and supplies at the expense of the Contractor and to place such equipment, tools and supplies in storage at the risk and expense of the Contractor.

8. ABANDONMENT OF CONTRACT BY CONTRACTOR

8.01 Notification of Contractor. If the Contractor should abandon and fail or refuse to resume work within 10 days after written notification from the OWNER or the Engineer of if the Contractor fails to comply with the orders of the Engineer when such orders are consistent with this contract or with the specifications hereto attached, then the Contractor shall be deemed as having abandoned the Contract. In such event the SURETY on the bond shall be notified in writing and directed to complete the work, and a copy of said notice shall be delivered to the Contractor.

8.02 Retention of Contractor's Equipment and Materials by OWNER. After receiving said notice of abandonment the contractor shall not remove from the work any machinery, equipment, tools, materials, or supplies then on the job, but the same together with any materials and equipment under contract for the work may be held for use on the work by the OWNER or the SURETY on the performance bond or another contractor in completion of the work; and the Contractor shall not receive any rental or credit therefore except when used in connection with extra work where credit shall be allowed as provided for under Section 2.12 entitled "Extra Work," it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and will be reflected in the final settlement.

8.03 Methods of Completing the Work. If the SURETY should fail to commence in compliance with the notice for completion provided within 10 days after service of such notice, or in accordance with the provisions of the applicable bond, then the OWNER may provide for completion of the work in either of the following elective manners:

a. The OWNER may employ such force of workers and use such machinery, equipment, tools, materials, and supplies as said OWNER may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, material, and supplies to said Contractor, and the expense so charged shall be deducted and paid by the OWNER out of such monies as may be due or that may thereafter at any time become due to the Contractor under and by virtue of this Contract. In case such expense is less than the sum which would have been payable under this Contract if the same had been completed by the Contractor, then said Contractor shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract if the same had been completed by said Contractor, then the Contractor or his SURETY shall pay the amount of such excess to the OWNER.

b. The OWNER under sealed bids, after 14 days' notice published two or more times in a newspaper having a general circulation in the county of location of the work, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this Contract. In case of any increase in cost to the OWNER under the new contract as compared to what would have been the cost under this Contract, such increase shall be charged to the Contractor, and the SURETY shall be and remain bound therefore. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this Contract, the Contractor or his SURETY shall be credited therewith.

8.04 Final Acceptance. When the work has been completed the Contractor and his SURETY shall be so notified and a Final Contract Completion Certificate as hereinafter provided shall be issued. A complete itemized statement of the Contract amounts certified by the Engineer as being correct shall then

be prepared and delivered to the Contractor and his SURETY, whereupon the contractor, his SURETY, or the OWNER, as the case may be, shall pay the balance due as reflected by said statement within 15 days after the date of such Contract Completion certificate.

8.05 Disposition of Contractor's Equipment. In the event the statement of accounts shows that the cost to complete the work is less than that which would have been the cost to the OWNER had the work been completed by the Contractor under the terms of this Contract or when the Contractor or his SURETY pay the balance shown to be due by them to the OWNER, then all machinery, equipment, tools, materials, or supplies left on the site of the work shall be turned over to the Contractor or his SURETY. Should the cost to complete the work exceed the contract price, and the contractor or his SURETY fail to pay the amount due the OWNER within the time designated, and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof together with an itemized list of such equipment and materials shall be mailed to the Contractor and his SURETY as the respective addresses designated in this Contract; provided, however, that actual written notice given in any manner will satisfy this condition. After mailing or other giving of such notice such property shall be held by the OWNER at the risk of the Contractor or his SURETY subject only to the duty of the OWNER to exercise ordinary care to protect such property. After 15 days from the date of said notice the OWNER may sell such machinery, equipment, tools, equipment, or supplies and apply the sum derived from such sale to the credit of the Contractor and his SURETY. Such sale may be made at either public or private sale, with or without notice, as the OWNER may elect. The OWNER shall release any machinery, equipment, tools, materials, or supplies which remain on the work and belong to persons other than the Contractor or his SURETY to their proper OWNERS.

## 9. MEASUREMENT AND PAYMENT

9.01 Character of Measurements. No extra or customary measurements of any kind will be allowed, but the actual length, area, solid contents, number, and weight only shall be considered unless otherwise specifically provided.

9.02 Estimates vs. Actual Quantities. Any and all estimated quantities stipulated in the proposal form under unit price items are approximate and are to be used only (a) as a basis for estimating the probable cost of the work and (b) for the purpose of comparing the proposals submitted for the work. It is understood and agreed that the actual amounts of work done and materials furnished under unit price items may differ from such estimated quantities and that the basis of payment for such work and materials shall be for the actual amount of such work done and the actual quantity of materials furnished.

The Contractor agrees that he will make no claim for damages, anticipated profits, or otherwise on account of any difference between the amounts of work actually performed and materials actually furnished and the amounts estimated therefore in the proposal or other Contract Documents.

9.03 Payment. In consideration of the furnishing of all the necessary labor, equipment, and material and the completion of all work by the Contractor, and on the completion of all work and the delivery of all material embraced in this Contract in full conformity with the specifications and stipulations contained herein, the OWNER agrees to pay the Contractor the amounts set forth in the proposal attached hereto which has been made a part of this Contract. The Contractor hereby agrees to receive such amounts in full payment for furnishing all material and all labor required for the aforesaid work, for all expense incurred by him, and for well and truly performing the same and the whole thereof in the manner and according to this Contract, the attached specifications, and requirements of the Engineer.

9.04 Monthly Estimates and Payments. On or about the fifth day of each month the Contractor will make an approximate estimate of the value of work done in conformity with the plans and specifications during the previous calendar month, said estimate to be subject to the validation of the Engineer. The Contractor shall furnish to the Engineer such detailed information as he may request to aid him as a guide in the preparation of monthly estimates. After each such estimate shall have been approved by the OWNER, the OWNER shall pay to the Contractor 95 percent of the amount of such estimated sum, withholding 5 percent as retainage, in accordance with the Texas Prompt Payment Act. It is understood, however, that in case the whole work is near to completion and some unexpected or unusual delay occurs due to no fault or neglect on the part of the

Contractor, the OWNER upon written recommendation of the Engineer, pay a reasonable and equitable portion of the retained percentage to the Contractor.

9.05 Certificates of Completion. Within 10 days after the Contractor has given the Engineer notice that the work has been substantially or finally completed, the Engineer shall inspect the work and satisfy himself by examination and test that the work has been substantially or finally and fully completed, as the case may be, in accordance with the plans, specifications and contract. If so, the Engineer shall issue a Contract Substantial or Final Completion Certificate, as applicable, to the OWNER and the Contractor. Such Final Contract Completion Certificate when issued shall constitute final acceptance of the work covered under this Contract but shall not be considered a waiver of OWNER'S rights for defective or substandard work subsequently discovered, warranty or indemnity claims, or any other matter previously communicated to Contractor by OWNER.

9.06 Final Estimate and Payment. After the Final Contract Completion Certificate has been issued, the Engineer shall proceed to make final measurements and to prepare a final estimate of the work done and materials furnished under this Contract and the value thereof with the cooperation of the Contractor. The Engineer shall certify the Final Estimate and submit it to the OWNER within five (5) days from the date of the Final Contract Completion Certificate.

The OWNER shall pay the Contractor within 15 days from the date of the Final Contract Completion Certificate the entire sum shown due on the certified Final Estimate prepared by the Engineer after deducting all amounts to be kept and retained under any provision of this Contract. However, it is to be specifically understood that the final payment will not be paid by the OWNER to the Contractor under any circumstances until the Notarized Affidavit required by Section 9.07 entitled "Notarized Affidavit" and "Warranty Bond" have been submitted to the Engineer.

All prior estimates and payments shall be subject to correction in the final estimate and payment; but in the absence of error or manifest mistake, it is agreed that all estimates, when approved by the OWNER, shall be conclusive evidence of the work done and materials furnished.

9.07 Notarized Affidavit/Warranty Bond. Before final payment for the work by the OWNER, the Contractor shall submit to the Engineer a notarized affidavit in duplicate stating under oath that all subcontractors, vendors, and other persons or firms who have furnished or performed labor or furnished materials for the work have been fully paid or satisfactorily secured. Such affidavit shall bear or be accompanied by a statement, signed by the SURETY Company who provided the performance bond for the work, to the effect that said SURETY Company consents to final payment to the contractor being made by the OWNER. Contractor shall also provide OWNER with the one-year Warranty Bond required by Section 3.13 in a form approved by the OWNER prior to said final payment.

9.08 Release of Liability. The acceptance by the Contractor of the last payment shall operate as and shall be a release to the OWNER and every officer and agent thereof from all claims and liability hereunder for anything done or furnished for or relating to the work or for any act or neglect of the OWNER or of any person relating to or affecting the work.

9.09 Contractor's Obligation. Neither the Final Contract Completion Certificate nor the final payment nor any provision in the Contract Documents shall relieve the contractor of the obligation for fulfillment of any warranty, indemnity obligation or any other continuing obligation which may be required in the Contract Documents.

9.10 Payments Withheld. The OWNER may on account of subsequently discovered evidence, withhold or nullify the whole or part of any payment to such extent as may be necessary to protect himself from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.
- c. Failure of the Contractor to make payments properly to subcontractors or for material or labor.
- d. Damage to another contractor or property owner.

When the above grounds are removed or the Contractor provides a SURETY Bond satisfactory to the OWNER, which will protect the OWNER in the amount withheld, payment shall be made for amounts withheld because of them.

#### 10.01 Claims Process

a. For disputes arising under this Contract, parties shall follow the Claims process described in this Section for the following disputes between Contractor and OWNER:

1. A demand or assertion by Contractor to OWNER, submitted in accordance with the requirements of the Contract Documents:

- i. Seeking an adjustment of Contract Price or Contract Times;
- ii. Contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of work under the Contract Documents;
- iii. Contesting Engineer's decision regarding a Change Order or Field Order;
- iv. Seeking resolution of a contractual issue that Engineer has declined to address;

or

v. Seeking other relief with respect to the terms of the Contract;

2. A demand or assertion by OWNER to Contractor, submitted in accordance with the requirements of the Contract Documents:

- i. Contesting Engineer's decision regarding a Change Order or Field Order; or
- ii. Seeking resolution of a contractual issue that Engineer has declined to address.

b. Deliver notice of the Claim to the Engineer no later than 7 days after the start of the event giving rise to the Claim or, in the case of appeals regarding the Engineer's decision, within 7 days of the decision under appeal. The responsibility to substantiate a Claim rests with the entity making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Price or Times, Contractor must certify that the Claim is made in good faith, that the supporting data is accurate and complete, and that to the best of Contractor's knowledge and belief, the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

c. Following the Engineer's receipt of the Claim, the Engineer shall forward such Claim along with Engineer's opinion regarding merits of the same to the entity receiving such Claim, who shall then review the Claim giving full consideration to its merits. The Contractor and OWNER are to seek to resolve the Claim through the exchange of information and direct negotiations. The Contractor and OWNER may extend the time for resolving the Claim by mutual agreement. The parties shall notify the Engineer of actions taken on a Claim.

d. Contractor and OWNER may mutually agree to mediate the underlying dispute at any time after initiation of a Claim.

1. The agreement to mediate suspends the Claim submittal and response process.

2. Contractor or OWNER may unilaterally terminate the mediation process after 60 days from the agreement to mediate and resume the Claim submittal and decision process as of the date of the termination. The Claim process resumes as of the date of the conclusion of the mediation, as determined by the mediator, if the mediation is unsuccessful in resolving the dispute.

3. Contractor and OWNER shall each pay one-half of the mediator's fees and costs.

e. If the entity receiving a Claim approves the Claim in part or denies it in part, this action is final and binding unless the other entity invokes the procedure described in Section 10.01.h. for final resolution of disputes within 30 days of this action.

g. The results of the agreement or action on the Claim is to be incorporated in a Change Order by the Engineer to the extent they affect the Contract Documents, the Contract price, or the Contract times if the Contractor and OWNER reach an agreement regarding a Claim.

h. The Contractor or OWNER may appeal a Claim, approved or denied in part or in full by the other party, by:

1. Electing to invoke the dispute resolution process if one is provided for in the Supplementary Conditions;
2. Agreeing with the other party to submit the dispute to a dispute resolution process; or
3. Notifying the other party of the intent to submit the dispute to a court of competent jurisdiction if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to.

**END OF SECTION**

**CITY OF COPPERAS COVE**  
**SUPPLEMENTAL GENERAL CONDITIONS**

The following items shall be a part of the Contract as Supplemental General Conditions:

**I. Sections 6.02 through 6.06 of the General Conditions shall be modified, supplemented and amended, to the extent of any conflict, with the following provisions:**

A. Insurance

The Contractor shall carry insurance in the following types and amounts for the duration of the Contract, which shall include items owned by the City in care, custody and control of the Contractor prior and during construction and warranty period, and furnish Certificates of Insurance as evidence thereof. Copies of policy declaration pages and all policy endorsements to be furnished upon request.

1. Worker's Compensation Insurance Coverage.

a. Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory worker's compensation insurance coverage for the person's or entity's employees providing services in a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractor" in Section 406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other service related to the 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 401.01(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 City 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 City showing that coverage has been extended.

e. The Contractor shall obtain from each person providing services on a project, and provide to the City:

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

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

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

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

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

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

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

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

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

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

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

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the City, 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;

(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 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 appropriate insurance carrier, or in case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

k. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City to declare the contract void if the Contractor does not remedy the breach within 10 days after receipt of notice of breach from the City.

2. Commercial General Liability Insurance with minimum limits of:

General Aggregate	\$1,000,000
Products & Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$500,000
Each Occurrence	\$500,000
Fire Damage (Any One Fire)	\$50,000
Medical Expense (Any One Person)	\$1,000

3. City and Contractor's protective liability insurance policy naming the City of Copperas Cove as insured. Coverage shall be on an "occurrence" basis, and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Minimum limits of liability shall be as follows:

Per Occurrence	\$500,000
Aggregate	\$1,000,000

4. Automobile Liability Insurance for all owned, non-owned and hired vehicles with minimum limits for Bodily Injury of \$250,000 for each person and \$500,000 for each occurrence and Property Damage limits of \$100,000 or a Combined Single Limit of \$600,000.

5. On all new or remodeling building projects, All Risk Builders Risk Insurance for insurable building projects shall be insured in the amount of the contract price for such improvements. The City and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by Builders Risk Insurance required under this section, except as to such rights as they may have in the proceeds of such insurance. Contractors shall require similar waivers by Subcontractors and Sub-subcontractors.

If insurance policies are not written for amount specified in 2 and 3 above, Contractor is required to carry an Excess Liability Insurance Policy for any difference in amounts specified.

Contractors shall be responsible for deductibles and self-insured retentions, if any, stated in policies. Any self-insured retention shall not exceed ten percent (10%) of minimum required limits. All deductibles or self-insured retentions shall be disclosed on Certificate of Insurance required above.

Contractor shall not commence work at site under this Contract until he has obtained required insurance and until such insurance has been reviewed by the City's Project Manager. Contractor shall not allow any Subcontractor to commence work until insurance required has been obtained and approved. Approval of insurance by the City shall not relieve or decrease liability of Contractor hereunder.

Insurance to be written by a company licensed to do business in the State of Texas at the time policy was issued and acceptable to the City.

Contractor shall produce an endorsement to each affected policy:

1. Naming City of Copperas Cove, P.O. Box 1449, Copperas Cove, TX 76522, as additional insured (except Workers' Compensation and Builders Risk).
2. To provide a waiver of subrogation to the City of Copperas Cove.
3. That obligates the insurance company to notify Finance Department, City of Copperas Cove, P.O. Box 1449, Copperas Cove, TX 76522, that no policies will be canceled or reduced, restricted or limited until thirty (30) days after the City has received written notice as evidenced by return receipt of registered or certified letter.
4. That the "other" insurance clause shall not apply to the City where City of Copperas Cove is an additional insured shown on policy. It is intended that policies required in the agreement, covering both the City and Contractor, shall be considered primary coverage as applicable.

Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during term of this Contract or as required in the Contract

If Contractor is underwritten on a claim-made basis, the retroactive date shall be prior to, or coincident with, the date of this Contract and the Certificate of Insurance shall state that coverage is claims made and also the retroactive date. Contractor shall maintain coverage for duration of this Contract. Contractor shall provide the City annually a Certificate of Insurance as evidenced of such insurance. It is further agreed that Contractor shall provide the City a 30-day notice of aggregate erosion, an advance of the retroactive date, cancellation and/or renewal.

It is also agreed that Contractor will invoke the tail option of the City and that Extended Reporting Period (ERP) premium shall be paid by the Contractor.

The City reserves the right to review and renegotiate the insurance requirements of this section during effective period of the Contract and to make reasonable adjustments to insurance and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions or the claims history of the industry as well as Contractor.

The City shall be entitled, upon request, and without expense, to receive copies of policies and all endorsement thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

Actual losses not covered by insurance as required by this section shall be paid by Contractor.

**II. Section 3.02 of the General Conditions shall be modified, supplemented and amended, to the extent of any conflict, with the following provisions:**

Performance and Payment Bonds

1. In accordance with Texas Government Code, Chapter 2253, in the event the Bid amount is more than \$50,000, the bidder is required to provide a Payment Bond. If the Bid amount is more than \$100,000, the bidder is also required to provide a Performance Bond. Payment for the Project will be made by the City of Copperas Cove only upon completion and acceptance of the work on the Project by the City of Copperas Cove.

2. If the Performance and Payment Bonds are to be provided, the successful bidder must furnish the bonds from a surety company authorized to do business in the State of Texas and appearing on the U.S. Treasury list. Such bonds must be in the amount of one hundred percent (100%) of the contract price, conditioned that the Contractor will faithfully perform the contract executed, in accordance with Article 5160, Revised Civil Statutes.

"General Decision Number: TX20200279 01/03/2020

Superseded General Decision Number: TX20190279

State: Texas

Construction Type: Building

Counties: Coryell and Lampasas Counties in Texas.

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

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/03/2020

BOIL0074-003 01/01/2017

	Rates	Fringes
BOILERMAKER.....	\$ 28.00	22.35

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 ENGI0178-005 06/01/2014

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(1) Tower Crane.....	\$ 29.00	10.60
(2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above.....	\$ 28.75	10.60
(3) Hydraulic cranes 59 Tons and under.....	\$ 27.50	10.60

IRON0084-011 06/01/2019

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 24.42	7.12

\* PLUM0286-011 06/03/2019

	Rates	Fringes
PIPEFITTER (Excludes HVAC Pipe Installation).....	\$ 30.35	13.52

SUTX2014-059 07/21/2014

	Rates	Fringes
BRICKLAYER.....	\$ 19.09	0.00
CARPENTER, Excludes Drywall Hanging, and Metal Stud Installation.....	\$ 17.54	1.80
CEMENT MASON/CONCRETE FINISHER...	\$ 14.00	0.00
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 14.08	0.00
ELECTRICIAN (Low Voltage Wiring Only).....	\$ 28.28	2.44
ELECTRICIAN, Excludes Low Voltage Wiring.....	\$ 20.50	2.71
HVAC MECHANIC (HVAC Pipe Installation Only).....	\$ 15.50	0.00
HVAC MECHANIC (Installation of HVAC Unit Only).....	\$ 16.01	1.56
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 19.77	7.13
IRONWORKER, REINFORCING.....	\$ 13.35	0.00
IRONWORKER, STRUCTURAL.....	\$ 18.35	4.90
LABORER: Common or General.....	\$ 10.53	0.00
LABORER: Mason Tender - Brick...	\$ 9.98	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 9.93	0.00
LABORER: Pipelayer.....	\$ 12.49	2.13
LABORER: Roof Tearoff.....	\$ 11.28	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 13.10	1.24
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 13.93	0.00

OPERATOR: Bulldozer.....	\$ 18.29	1.31
OPERATOR: Drill.....	\$ 16.22	0.34
OPERATOR: Forklift.....	\$ 14.00	0.00
OPERATOR: Grader/Blade.....	\$ 14.34	1.68
OPERATOR: Loader.....	\$ 13.88	0.44
OPERATOR: Mechanic.....	\$ 17.52	3.33
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 16.03	0.00
OPERATOR: Roller.....	\$ 13.11	0.00
PAINTER (Brush, Roller, and Spray).....	\$ 15.00	0.81
PLUMBER, Excludes HVAC Pipe Installation.....	\$ 21.18	7.57
ROOFER.....	\$ 13.75	0.00
SHEET METAL WORKER (HVAC Duct Installation Only).....	\$ 18.71	4.90
SHEET METAL WORKER, Excludes HVAC Duct Installation.....	\$ 14.89	1.55
SPRINKLER FITTER (Fire Sprinklers).....	\$ 15.46	0.00
TILE FINISHER.....	\$ 11.22	0.00
TILE SETTER.....	\$ 14.74	0.00
TRUCK DRIVER: Dump Truck.....	\$ 11.50	1.10
TRUCK DRIVER: Flatbed Truck.....	\$ 19.65	8.57
TRUCK DRIVER: Semi-Trailer Truck.....	\$ 12.50	0.00
TRUCK DRIVER: Water Truck.....	\$ 12.00	4.11

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave  
for Federal Contractors applies to all contracts subject to the  
Davis-Bacon Act for which the contract is awarded (and any  
solicitation was issued) on or after January 1, 2017. If this  
contract is covered by the EO, the contractor must provide  
employees with 1 hour of paid sick leave for every 30 hours  
they work, up to 56 hours of paid sick leave each year.  
Employees must be permitted to use paid sick leave for their  
own illness, injury or other health-related needs, including  
preventive care; to assist a family member (or person who is

like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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

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

#### Union Rate Identifiers

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

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

#### Survey Rate Identifiers

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

Survey wage rates are not updated and remain in effect until a

new survey is conducted.

#### Union Average Rate Identifiers

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

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

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#### WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

The request should be accompanied by a full statement of the interested party's position and by any information (wage

payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

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

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

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

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END OF GENERAL DECISION

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**STATUTORY  
PAYMENT BOND**

**STATE OF TEXAS** §  
**COUNTY OF CORYELL** §  
**CITY OF COPPERAS COVE** §

The **City of Copperas Cove**, a municipal corporation in the State of Texas (hereafter referred to as “City”) and \_\_\_\_\_, a \_\_\_\_\_ with its principal place of business located at \_\_\_\_\_ (hereafter referred to as “Contractor” or “Principal”) have entered into a Contract (hereafter referred to as “the Contract”) dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ for the \_\_\_\_\_ Project (hereafter referred to as “the Project”). Said Contract is incorporated by reference into this Statutory Payment Bond, pursuant to Chapter 2253 of the Texas Government Code (hereafter referred to as “this Bond”).

By virtue of this Bond, Contractor as Principal and \_\_\_\_\_, with its physical address located at \_\_\_\_\_, a mailing address of \_\_\_\_\_ and a business telephone number of \_\_\_\_\_ as Surety (hereafter referred to as “Surety”) do hereby acknowledge each to be bound to City as an Obligee in the \_\_\_\_\_ maximum penal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which represents one hundred percent (100%) of the Contract amount (hereafter referred to as the “Bond Sum”). Contractor and Surety hereby further bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally for payment of this Bond, as provided herein.

1. **GENERAL CONDITIONS.** It is a condition of this Bond that if Contractor promptly makes payment of all sums for all labor, services, materials and equipment furnished for use in the performance of the work required by the Contract, Surety’s obligations pursuant to this Bond are null and void. Otherwise, Surety’s obligations shall remain in full force and effect. Surety waives any requirement to be notified of alterations or extensions of time, or any other duly authorized modifications or changes, made by City to the Contract. Surety acknowledges and agrees that this Bond is being furnished to comply with Texas Government Code, Chapter 2253 and that any and all provisions provided in said statute are incorporated herein by reference. Any conflicts between this Bond and Texas Government Code, Chapter 2253 shall be resolved in favor of said statute.
  
2. **SURETY OBLIGATION.** Surety’s obligation under this Bond is for the benefit and sole protection of all persons supplying labor, services, materials and equipment in the prosecution of said Contract (collectively, the “Claimant(s)”). Surety’s obligation to the Claimant(s) shall not exceed the Bond Sum.
  
3. **QUALIFICATION.** Surety companies executing this Bond must appear on the United States

Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the Texas, 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, and/or be otherwise qualified to act as a Surety under Texas Insurance Code, Chapter 3503.

4. **VENUE.** The obligations of the parties under this Bond shall be performable in Coryell County, Texas and shall be construed under the laws of the State of Texas. If legal action, such as civil litigation, is necessary in connection with this Bond, exclusive venue shall be in Coryell County, Texas.

**THIS BOND** is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
SURETY (seal)

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Print Title)

[ATTACH POWER OF ATTORNEY]

[Additional signatures, if any, appear  
on attached page]

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**STATUTORY  
PERFORMANCE  
BOND**

**STATE OF TEXAS**                    §  
**COUNTY OF CORYELL**           §  
**CITY OF COPPERAS COVE**      §

The **City of Copperas Cove**, a municipal corporation in the State of Texas (hereafter referred to as “City” or “Owner”) and \_\_\_\_\_, a \_\_\_\_\_ with its principal place of business located at \_\_\_\_\_ (hereafter referred to as “Contractor” or “Principal”) have entered into a Contract (hereafter referred to as “the Contract”) dated \_\_\_\_\_, 20\_\_ for the \_\_\_\_\_ Project (hereafter referred to as “the Project”). Said Contract is incorporated by reference into this Statutory Performance Bond, pursuant to Chapter 2253 of the Texas Government Code (hereafter referred to as “this Bond”).

By virtue of this Bond, Contractor as Principal and \_\_\_\_\_ with its physical address at \_\_\_\_\_, a mailing address of \_\_\_\_\_ and a business telephone number of \_\_\_\_\_ as Surety (hereafter referred to as “Surety”) do hereby acknowledge each to be bound to Owner as an Obligee in the maximum penal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which represents one hundred percent (100%) of the Contract amount (hereafter referred to as the “Bond Sum”). Contractor and Surety hereby further bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally for payment of this Bond, to City as provided herein.

1. **GENERAL CONDITIONS.** It is a condition of this Bond that if Contractor promptly performs its Contract obligations (hereafter referred to as the “Work”), Surety’s obligations pursuant to this Bond are null and void. Otherwise, Surety’s obligations shall remain in full force and effect. Surety waives any requirement to be notified of alterations or extensions of time, or any other duly authorized modifications, made by City to the Contract. Surety acknowledges and agrees that this Bond is being furnished to comply with Texas Government Code, Chapter 2253 and that any and all provisions provided in said statute are incorporated herein by reference. Any conflicts between this Bond and Texas Government Code, Chapter 2253 shall be resolved in favor of said statute. Upon making demand on this Bond, City shall make the Contract balance (equal to the total amount payable by City to Contractor pursuant to the Contract less amounts paid by City to Contractor) available to Surety for completion of the Work.
  
2. **SURETY OBLIGATION.** If Contractor does not faithfully construct and complete said work, as defined in the Scope of Work under its contract with City, and City invokes its contractual rights and declares Contractor in default, Surety promptly shall remedy the default and, at City’s sole option, Surety shall:
  - A. Within a reasonable time (but not later than thirty (30) days after Surety receives written notice of Contractor’s/Principal’s Default), with written notice to City, step into and assume the role, all rights and all obligations of the defaulting Contractor/Principal under the Contract, including without limitation, responsibilities for the correction of defective work completed by the Contractor, additional legal, design professional and delay costs resulting from Contractor’s default or resulting from Surety’s actions or failure to act under the terms of this Bond, and liquidated damages provided under the Contract. Upon assumption of this role, Surety and all sureties directly shall contract with a Completion Contractor hired/engaged by Surety and all sureties to complete the structure(s), Work and improvements, pursuant to the Scope of Work in the Contract with Contractor/Principal. The selection of the Completion Contractor must be approved in writing by City and such approval shall not be unreasonably delayed,

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conditioned or withheld. Surety and all sureties solely shall be responsible for any and all costs incurred, up to the Bond Sum, to complete the structure(s), Work and improvements, pursuant to the Scope of Work in the Contract with Contractor/Principal; or

B. In the event Surety fails to contract with a Completion Contractor within ninety (90) days of receipt of City's written notice of Default, City may, at City's sole discretion, select a Completion Contractor in accordance with Texas Law. In this event of Surety and all sureties failing to contract with a Completion Contractor within ninety (90) days of receipt of City's written notice of Default, Surety and all sureties then shall pay City any and all costs, up to the Bond Sum, for City's selected Completion Contractor to complete the structure(s), Work and improvements, as defined in the Scope of Work in the Contract with Contractor/Principal; or

C. At City's sole discretion, Surety and all sureties shall pay to the City the City's estimated amount for the City to execute a Project Completion Contract with a Completion Contractor, selected by City in accordance with Texas Law, solely to complete the structure(s), Work and improvements, pursuant to the Scope of Work in the Contract with Contractor/Principal. Surety and all sureties shall pay City any and all costs, up to the Bond Sum, for the City-selected Completion Contractor to complete the structure(s), Work and improvements, as defined in the Scope of Work in the contract with Contractor/Principal.

3. **QUALIFICATION.** Surety companies executing this Bond must appear on the United States Treasury Department's most current list (Circular 570, as amended) and be otherwise authorized to transact business in the State of Texas.

4. **VENUE.** The obligations of the parties under this Bond shall be performable in Coryell County, Texas and shall be construed under the laws of the State of Texas. If legal action, such as civil litigation, is necessary in connection with this Bond, exclusive venue shall be in Coryell County, Texas.

**THIS BOND** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
SURETY (seal)

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

\_\_\_\_\_  
(Print Title)

[ATTACH POWER OF ATTORNEY]

[Additional signatures, if any, appear on attached page]

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

# WARRANTY BOND

KNOW ALL BY THESE PRESENTS:

THAT \_\_\_\_\_ as Principal, and \_\_\_\_\_, a corporation organized under the laws of \_\_\_\_\_, as Surety, do hereby expressly acknowledge themselves to be held and firmly bound to pay unto the City of Copperas Cove, a municipal corporation of the County of Coryell and the State of Texas, the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) (35% of Contract Price), for the payment of which sum will truly be made unto said City of Copperas Cove, and its successors, and said Principal and Surety do hereby bind themselves, their heirs, administrators, executors, assigns and successors jointly and severally firmly by these presents.

Principal has agreed to complete the **305 S Main St – Utility Facility Improvements**, and the associated improvements, in conformance with the standards established by that certain contract (“Contract”) between the City of Copperas Cove and Principal, which is hereby expressly made a part of this bond as though the same were written embodied herein.

WHEREAS, under the Contract, it is provided that the Principal, warrants and guarantees the work therein contracted to be done and performed, for a period of one (1) year from the date of the acceptance of said work, and to do all necessary repairing and/or reconstructing in whole or in part of said work that should be occasioned by defective workmanship or materials furnished in the construction or any part thereof or any of the accessories thereto. It is understood that the purpose of this section is to cover all defective conditions arising by reason of defective material, labor or workmanship, and charge the same against the Principal and Surety on this obligation and that both Principal and Surety shall be subject to liquidation damages for each day's failure to correct any defective conditions in accordance with the Contract. Now, therefore, if the Principal shall keep and perform its obligations for said warranty work for a period of one (1) year then this bond shall be null and void and have no further effect, but if default shall be made by the Principal in the performance of its duty to so complete said work, then this bond shall have full force and effect, and the City of Copperas Cove shall have and recover from the Principal and Surety damages resulting from such default; and it is further agreed that this obligation shall be a continuing one against the Principal and Surety and that successive recoveries may be made until the full amount shall have been exhausted; and it is further understood that the obligation herein to complete such work shall continue throughout said period, and the same shall not be changed, diminished or in any manner affected from any cause during said time.

Principal and Surety both acknowledge that this agreement is entered into in Copperas Cove, Coryell County, State of Texas. The construction of this agreement and the rights remedies, and obligations arising there under are governed by the laws of the State of Texas. Both Principal and Surety hereby agree that the Texas conflicts of law rules do not control this agreement and will not be used to cause the application of the laws of a jurisdiction other than the State of Texas. The obligations performable by both Principal and Surety are performable in Copperas Cove, Coryell County, Texas.

Additionally, Surety agrees that the City of Copperas Cove will satisfy any legal or contractual requirements arising from or in connection with this warranty bond by directing such action to the Texas office listed

below. Surety shall not waive or amend this office without the prior consent in writing of the City of Copperas Cove.

IN WITNESS WHEREOF, said Principal has caused this bond to be executed and Surety has caused this bond to be executed by its attorney in fact and said attorney in fact, \_\_\_\_\_ (print name), has hereunto set his or her hand, the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Name of Principal: \_\_\_\_\_ Name of Surety: \_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_  
(print name) (print name)

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

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

The name, address and phone number of the Resident Agent of Surety is: (must be Texas office)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*Power of Attorney attached

NOTE: Date of Warranty Bond shall not be prior to date of acceptance of final acceptance of the Project.

**ATTORNEY'S REVIEW CERTIFICATION**

I, the undersigned attorney and the duly authorized and acting legal representative of the City of Copperas Cove, Texas ("City"), do hereby certify as follows:

I have examined the attached contract and surety bonds for the **305 S Main St – Utility Facility Improvements** Project and I am of the opinion that each of the aforesaid agreements may be duly executed by the City through its duly authorized representative; that said representative executing on behalf of the City has full power and authority to execute said agreements on behalf of the City; and that the foregoing agreements shall constitute valid and legally binding obligations upon the City in accordance with terms, conditions and provisions thereof, to the extent provided under State Law and in accordance with the same.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date