

**CITY OF SAN ANGELO
REQUEST FOR BIDS**

Civic Events Division

Convention Center Marquee

RFP No. CE-01-15



Submittal Deadline
March 24, 2015, 2:00 P.M.

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REQUEST FOR COMPETITIVE SEALED PROPOSALS

Scope of Work

The City of San Angelo Civic Events Division (CITY) is seeking competitive sealed proposals for the design, purchase and installation of a modern, digital marquee at the McNease Convention Center, 501 Rio Concho Drive. The marquee must comply with City sign ordinances and allow for the publication of multiple types of messages, including upcoming events, static advertising, time and temperature, important messages, etc.

- Incorporated into the marquee's design should be the backlit name of the venue and the address – McNease Convention Center 501 Rio Concho Drive.
- The sign must be mounted on the existing concrete base and have the approximately same dimensions as the current marquee – 15 feet wide by 5 feet high by 2 feet deep.
- Proposal price to include removal and disposal of existing marquee.
- Contractor to provide a 5 years parts and labor warranty and provide on-site training on how to operate the message programming software for the marquee.
- Messages on the marquee must be able to be added, deleted or edited remotely through a web-based connection.
- The sign shall produce no uncomfortably harsh or bright light objectionable to passing motorists or to occupants of adjacent and nearby property.
- The electronic message sign shall be equipped with and shall employ an automatic dimming device that reduces the brightness or intensity of light produced during evening and nighttime hours.
- Flashing light, the appearance of flashing light, video clips or any arrangement and timing of light that gives the appearance of movement on the marquee shall be prohibited.
- Each message shall be displayed for at least four (4) seconds.
- Change of message shall be accomplished within no more than two (2) seconds and occur simultaneously on the entire sign face.
- Contractor shall be required to obtain all necessary permits from the City's Permits and Inspections Division located at 52 West College Avenue, San Angelo, Texas, telephone (325) 657-4420.

Ease of the creation of messages and the posting of them on the marquee will be of utmost importance.

Proposals should be "turnkey" in nature – that is, providing for all services and fees related to each and every phase of the project from design to installation to warranty. Each proponent may submit up to three (3) designs.

Estimated Budget & Completion Time

Estimated Budget = \$50,000.00. Estimated Completion Time: 30 days

Document, Plans and Specifications Availability

Contract documents, including plans, specifications and proposal forms are available and may be examined without charge in the Purchasing Department, Room 330, City Hall, San Angelo, Texas or downloaded at <http://www.cosatx.us> at no cost. To locate the documents on the website click on the links listed below:

- *City Departments > Purchasing > Bid Information > RFP: CE-01-15/CC Marquee*

Proposal documents, plans, and specifications may be obtained in the Purchasing Division, Room 330, City Hall, 72 W. College Ave., San Angelo, Texas

Digital Format

If Respondents obtained the bid specifications in digital format in order to prepare a proposal, ***the proposal must be submitted in hard*** copy according to the instructions contained in this bid package. If, in its response, a Respondent makes any changes whatsoever to the published Request documents or specifications, the Request ***as published*** shall control. Furthermore, if an alteration of any kind to the Request documents or specifications is discovered after the contract is executed and is or is not being performed; the contract is subject to immediate cancellation without recourse.

Interpretations

All questions about the meaning or intent of this document shall be submitted to the City of San Angelo's Purchasing Division in writing at sapurch@cosatx.us. Questions received less than seven (7) days prior to the submittal deadline will not be answered. All Addenda will be posted on the City's website. Only questions answered by formal written Addenda will be binding. Oral interpretations or clarifications will be without legal effect.

Delivery of Proposal

All sealed proposals must be received by **March 24, 2015, 2:00 PM** Local Time. Sealed proposals must be addressed as follows:

- **Mark Delivery Container/Envelope in bottom left hand corner: "RFP No.: CE-01-15/CC Marquee"**

- **USPS**

Purchasing Division
RFP No. CE-01-15/CC Marquee
City of San Angelo
72 W. College Ave.
San Angelo, Texas 76903

- **Delivery Services**

Purchasing Division, Room 330
RFP No. CE-01-15/CC Marquee
City of San Angelo
72 W. College Ave.
San Angelo, Texas 76903

Faxed or electronically transmitted submittals will not be accepted

*It is the sole responsibility of the firm to ensure that the sealed submittal arrives at the above location by specified deadline regardless of method chosen by the company for delivery. **The clock located in Purchasing will be the official time.***

Insurance and Indemnification Requirements

Insurance and indemnification requirements applicable to this project are included within the draft project agreement form included within this package. Please read the bold note at the top of the first page of the draft project agreement form and review the insurance and indemnification requirements listed in Section 5 of that form with your insurance agent **prior** to submitting your proposal.

Qualification Statement

Prospective offerors should be advised that a Qualification Statement is required. Contractor shall include Qualification Statement for the type and scope of work included in the bid package.

Proposal Withdrawal

No proposal may be withdrawn within a period of 60 days after the date fixed for opening.

Pre-proposal Conference

None

Rejection of Proposals

The City of San Angelo reserves the right to reject all proposals, to waive informalities or irregularities, and to reject non-conforming, non-responsive, or conditional submissions.

Confidentiality

All submissions will remain confidential. After award, proposals will be made available for public inspection. The City of San Angelo shall not be responsible for the confidentiality of any trade secrets or other information contained or disclosed in the proposal unless clearly identified as such.

Equal Opportunity Employers

All contractors and subcontractors must be Equal Opportunity Employers. Disadvantaged and minority companies are encouraged to participate.

Points of Contact**Roger Banks, Division Manager**

Purchasing Department
City of San Angelo
72 W. College
San Angelo Texas, 76903
Telephone: (325) 657-4220 or 657-4219
Email: sapurch@cosatx.us

Sid Walker

Civic Events Manager
City of San Angelo
501 Rio Concho Drive
San Angelo Texas, 76903

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1. INSTRUCTIONS

1.1. Restrictions On Communication

Respondents should not communicate with: 1) elected City officials and their staff regarding the RFP or Proposals from the time the RFP has been released until the contract is posted as a City Council agenda item; and 2) City employees from the time the RFP has been released until the contract is awarded. These restrictions extend to “thank you” letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFP and/or Proposal submitted by Respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent’s proposal from consideration.

Exceptions to the Restrictions on Communication with City employees include:

1. Conversations with the current contract holder concerning operations;
2. Private (non-business) contacts with the City by the Proposer’s employees acting in their personal capacity;
3. Casual social contacts that do not include mention of this RFP;
4. Respondents may submit written questions concerning this RFP to the Staff Contact Person listed below until **March 13, 2015, 12:00 P.M., Local Time**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by email to:

Roger Banks, Purchasing Division Manager
Email: sapurch@cosatx.us

Please ensure the RFP Number and Title is in the Subject Line.

Suppliers must submit their questions using the following format.

- Supplier’s name, requester, and appropriate contact information
 - Clearly state the question
 - Include specific reference to the applicable Request for Proposal section(s)
5. Questions, if answered, will be posted in the form of an Addendum to the City’s website at www.cosatx.us. Respondent is responsible for calling the City to determine if any addendums have been issued prior to their submittal. Oral interpretations or clarifications will be without legal effect. Only questions answered by formal written Addenda will be binding.

It is the Proposer’s responsibility to ensure all addendums have been considered prior to submitting an offer. All addendums will be
 6. Respondents may provide responses to questions asked of them after responses are received and opened. During interviews, if any, verbal questions and explanations will be permitted. If interviews are conducted, Respondents shall not bring lobbyists. The City reserves the right to exclude any persons from interviews as it deems in its best interests;
 7. Upon completion of the evaluation process, Respondents shall receive a notification letter indicating the recommended firm and anticipated City Council agenda date.
 8. The City reserves the right to accept or reject any or all proposals, and to waive any informalities or irregularities in the RFP process.

City reserves the right to contact any Respondent to negotiate if such is deemed desirable by City. Such negotiations initiated by City staff persons, shall not be considered a violation by Respondent of this section.

1.2. Proposals

1.2.1. Submission of Proposals

Each proposal and accompanying data shall be enclosed in a sealed opaque envelope or wrapping, addressed to the City of San Angelo, Texas, marked PROPOSAL ENCLOSED and identified on the outside with the offeror's name and with the bid number and title as stated. The City will not be responsible for the premature opening of any proposal which is not submitted in a satisfactory envelope or which is not properly addressed and identified.

If the proposal is sent by carrier (Fed Ex, UPS, etc), the sealed envelope shall be enclosed in the carrier's packaging with the notation "PROPOSAL ENCLOSED" on the face thereof.

All proposals shall be delivered to the designated location prior to the time and date for receipt of proposal indicated in this Request or the modified time and date indicated by Addendum. Proposals received after the time and date for receipt will not be considered and may be returned. The **Purchasing Department clock will be the official time for receiving.**

Offeror assumes full responsibility for timely delivery at the location designated for receipt. No Offeror may submit more than one proposal. Multiple submissions under different names will not be accepted from one firm or association.

1.2.2. Modifications – Corrections, Deletions or Additions

No phone, fax, or email changes to documents will be accepted. Prices cannot be changed after all proposals are opened. Corrections, deletions, or additions shall be submitted in writing, initialed and delivered in a sealed envelope prior to opening.

1.2.3. Substitution Request (During the Bidding Phase)

All products listed in the specifications are to set a standard for contractor selection. However, all deviations from the products specified must be approved by the architect, prior to bidding. All requests must be presented to the architect and City Purchasing Department in writing **no later than seven (7) days before the submission deadline by the General Contractor.** Requests from suppliers will not be accepted. All substitution requests submitted for consideration after the substitution submission deadline will be solely at the discretion of the architect and CITY. All addendums will be posted on the City's website at www.sanangelotexas.us for approved substitutions.

1.2.4. Proposal Form

Bids by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The state of incorporation shall be shown below the corporate name. Bids by partnerships must be executed in the partnership name and signed by a partner; title and the official address of the partnership must be shown below the signature. Bids by joint ventures shall be signed by each participant in the joint venture or by an authorized agent of each participant.

The names of all persons signing must also be legibly printed below the signature. A Bid by a person who affixes to his signature the word "president", "secretary", "agent", or other designation without disclosing his principle may be held to be the Bid of the individual signing. When requested by CITY, evidence of the authority of the person signing shall be furnished.

ALL forms must be completed in ink. All blank spaces in the Bid Form shall be filled. A price shall be indicated for each item and alternative listed therein, or the words "No Bid", "No Charge", or other appropriate phrase shall be entered. Bids received without all such items completed may be considered non- responsive.

The Offeror is not required to acknowledge receipt of Addenda but shall include all addenda in their response. No alterations in pricing or alterations made to the printed forms, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the Offeror.

1.2.5. Withdrawal of Proposals

Proposals may be modified or withdrawn by contacting the Purchasing Department and requesting withdrawal any time prior to opening of Proposals. Notice must be in writing. Notices by email, fax, or phone will not be accepted.

1.2.6. Rejection of Proposals

The CITY reserves the right to reject any and all proposals, and does not bind himself to accept the lowest bid or any proposal for this work or any part thereof and shall have the right to ask for new bids/proposals for the whole or parts, should they desire to do so.

1.2.7. Proposal Evaluation and Selection

1.2.7.1. Evaluation Criteria and Selection Process

It is not the intent of CITY to purchase based on low bids alone. This procurement is being issued in compliance with applicable Texas Local Government Codes, Section 27 for Competitive Sealed Proposals. The CITY will select the Offeror that offers the "best value" to the CITY and City of San Angelo based on the evaluation criteria as published in this Request.

CITY reserves the right to reject any or all proposals, to waive any or all informalities, and to reject nonconforming, non-responsive, or conditional proposals.

The award of the proposal, if it is awarded, will be to the Offeror whose pricing, qualifications and who best meets the prescribed requirements. In analyzing proposals, the City may take into consideration all or part of alternates and unit prices, if requested by the Proposal forms.

Failure of the selected offeror to deliver the required Contract Documents, including the required Bonds and insurance, within thirty (30) days of the Notice of Award to selected Offeror shall be just cause for the CITY and the City to annul the award and declare the Proposal and any guarantee thereof forfeited, not as a penalty, but as liquidation of damages to the City.

1.2.7.2. Selection Process

1. All proposals will be publically opened by the City of San Angelo and read aloud, including price information.
2. CITY's Evaluation Panel will evaluate and rank the proposals in relation to the published selection criteria within 45 days after the opening.
3. CITY will then select the proposal that offers the best value based on the published selection criteria and its ranking evaluation.
4. Following the selection, the contract negotiation process begins.
5. CITY will negotiate first with the highest ranked offeror and CITY and its design professional may discuss modifications to the proposed scope, time and price.
6. If the two parties are unable to reach a final agreement, then CITY will inform the offeror in writing that negotiations are ended. CITY may then negotiate with the next ranked offeror. This continues in the order of the selection ranking until a contract is reached or all proposals are rejected.
7. The evaluation panel will present its recommendation for awarding the contract to the CITY Board of Directors, who in turn will request ratification from the City of San Angelo City Council. Upon ratification, the proposal will be awarded.

1.2.7.3. Evaluation Panel

An evaluation panel consisting of three to five qualified personnel will evaluate proposals under this procurement. The Evaluation Panel will consist of members of the Civic Events division, Parks and Recreation division, and a member of the Civic Events Advisory Board.

1.2.7.4. Solicitation and Tentative Selection Schedule

- Three-week advertisement
- Two weeks after opening date, conduct evaluations and ranking
- Three weeks after opening date, recommend Vendor to CITY/Council
- Four weeks from opening date (after approved award), begin negotiation/execution
- One to two weeks execute Agreement
- Nine (9) weeks total from posting to execution of agreement

1.2.7.5. Proposal Copies

Please submit one (1) original signed sealed proposal, one (1) electronic (CD or USB drive) and, seven (7) copies of the proposal.

1.2.7.6. Proposal Format

Proposal format requirements are set forth in the solicitation document. Wherever additional pages may be allowed, a "page" refers to single-sided, single-spaced; 10-point minimum font printed on 8-1/2 x 11-inch pages.

An original signature must appear on at least one (1) of the seven (7) Proposal copies submitted. Offeror shall comply with project and page number limitations requested. Responses with an excess volume of pages may not be thoroughly reviewed and may have points deducted. Total possible points are 100.

Proposals shall be submitted in the following format with each element requested and/or form furnished as specified to facilitate evaluation of the proposals. The detailed requirements in this RFP are **mandatory**.

Proposal Format

Each proposal shall be issued on letter paper in a spiral or ring binder with the following tabs:

- TAB 1 – Interest and Qualifications
 - Letter of Interest
 - Contractor Qualifications Statement
- TAB 2 – Organization Structure and Business Practices
- TAB 3 – Cost Proposal
- Tab 4 - Marquee Design Proposal, Drawings, Specifications, Operating Instructions and Warranty
- TAB 5 – Contractor References
 - List of Contractor References (City only)
 - List of Contractor References
- TAB 6 – Proposal Forms
 - Debarment and Suspension
 - Conflict of Interest
- TAB 7 – Contract Information
 - Contractor Contact Information
 - IRS W-9 Form
- TAB 8 - Additional Information

1.2.7.7. Evaluation Scoring Criteria

If, after the initial evaluations the top two firms are determined to be functionally equivalent based on the published selection criteria, the weighted value for each criterion, and the ranking evaluations (meaning there is a difference of one evaluation point or less), and there is a price difference of 25% or more between the functionally equivalent firms, CITY will recommend award to the firm providing the proposal with the lower price. The purpose of this process is to allow the CITY to recommend a more economical award if the difference in price between the equivalent firms is significant.

1. Price40 points max
2. Marquee Design30 points max

3. **Ease of Marquee Programming20 points max**
4. **Favorable references10 points max**

The City reserves the right to request a “Best and Final Offer” from all proposers following the initial review of all submissions.

1.2.8. Taxes and Permits

Attention is directed to the requirements of the General Conditions regarding payment of taxes and obtaining permits. All taxes that are lawfully assessed against City or Selected Offeror in connection with the Work shall be paid by the selected firm. Prices shall include all such taxes and the costs of all required permits. The City and CITY are exempt from State Sales Tax.

1.2.9. Examination of Contract Documents

Each Offeror shall thoroughly examine and be familiar with the Contract Documents. The submission of a proposal shall constitute an acknowledgment that the Offeror has thoroughly examined and is familiar with the contract documents. The failure or neglect of an Offeror to receive or examine any of the contract documents shall in no way relieve him from any obligations with respect to his proposal or to the contract. No claim for extra or additional compensation will be allowed based upon a lack of knowledge of any contract document, and the CITY will in no case be responsible for any loss or for unanticipated costs that may be suffered by the selected Offeror as a result of conditions pertaining to the work.

1.3. Familiarization with the Type of Work

Before submitting his Proposal, each prospective Offeror shall familiarize himself with the Work, local labor conditions and all laws, regulations, and other factors affecting performance of the Work. He shall carefully correlate his observations with requirements of the Contract Documents and otherwise satisfy himself of the expense and difficulties attending performance of the Work. The submission of a Proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment for lack of such familiarization.

1.4. Site Investigation

The information contained in the Contract Documents about topography, subsurface soils, subsurface structures, and any quantities based thereon, is furnished solely for the convenience of the Contractor as information available at the time. The accuracy of this information is not guaranteed and the Contractor is fully and solely responsible to verify pertinent information prior to proposal submittal deadline. Use of the information provided in no way relieves the Contractor or others of any responsibility for loss due to inaccuracies or deviations which may be encountered.

1.5. Soils Testing Specifications

The Contractor will be allowed to conduct soils investigations within the alignment of the proposed Project as they can be coordinated with the CITY and appropriate landowners during the proposal preparation phase. All such investigations must be coordinated through the CITY.

1.6. Subcontractors and Suppliers

All proposals must include a list of proposed subcontractors and suppliers on the form included in the proposal submission form section. **Offerors are strongly encouraged to explore utilizing area subcontractors and suppliers.**

Prior to the first pre-construction meeting, the selected offeror shall submit a list of all Subcontractors he expects to use in the work.

1.6.1. Subcontractor Qualification

Particular consideration will be given to the qualifications of each Subcontractor proposed to perform more than (5%) of the Work.

The successful company will submit to the CITY for acceptance a list of the names of subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) identifying that portion of the Work to be performed by each subcontractor within fourteen (14) days of the issuance of Notice of Award.

Subcontractors will be evaluated utilizing “Criteria for Determining Best Value” contained herein. The CITY will notify the selected contractor in writing if, after due investigation, there is objection to any Subcontractor, person, or organization on such list.

If the apparent low Offeror declines to make any such substitution, the contract shall not be awarded. Declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Additional requirements for subcontractors are contained within the General Conditions, of this document.

The failure of the CITY to make any such objection prior to the execution and delivery of the Agreement shall constitute an acceptance of such Subcontractor, person, or organization. Such acceptance a Subcontractor, person or organization shall not: (1) constitute a waiver of any right of the CITY to reject defective Work, Material, or Equipment, or Work, Material, or Equipment not in conformance with the requirements of the Contract Documents; or (2) constitute a waiver of Contractor's complete and total liability for any defective Work, Material, or Equipment, or Work Material or Equipment not in conformance with the requirements of the Contract Documents whether or not provided by or performed by any such Subcontractor.

If the CITY registers objection to and refuses to accept a Subcontractor, person, or organization list the successful contractor may either (1) submit an acceptable substitute without an increase in his Bid price or (2) withdraw his Bid. If the CITY raises objection to a Subcontractor, person, or organization after the execution and delivery of the Agreement, the Contractor will submit an acceptable substitute and the Contract Price shall be increased or decreased by the reasonable difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. In the event that prior objection is raised as described above, but the Contractor fails to submit an acceptable substitute prior to execution and delivery of the Agreement, no increase in Contract Price shall be allowed.

1.6.2. Suppliers

The list of Subcontractors shall also include the suppliers and manufacturers of the principal items of materials and equipment the Offeror expects to use in the Work.

1.7. Performance and Payment Bonds

Having satisfied all conditions of award as set forth elsewhere in these documents, the successful contractor shall furnish bond(s) each in a penal sum of at least the full amount of the contract as awarded in the form included in the specifications, which secures the faithful performance of the contract, and for the payment of all persons, firms or corporations to whom the selected Contractor may become legally indebted for labor, materials, tools, equipment, or service, of any nature, employed or used by him in performing the work. Such bond(s) shall bear the same date as or a date subsequent to, the date of the contract.

On each such bond the rate of premium shall be stated, together with the total amount of the premium charged. The current power of attorney for the person who signs for any surety company shall be attached to such bond.

The failure of the successful contractor to supply the required bonds within thirty (30) days after the prescribed forms are presented for signature, or within such extended period as the CITY may grant based upon reasons determined adequate by the CITY, shall constitute a default, and the CITY may either award the contract to the next responsible contractor or re-advertise for bids, and may charge against the offeror the difference between the amount of the bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid guarantee.

Performance and Payment Bonds shall be delivered to the Civic Events Manager for verification and approval by the Risk Division prior to the commencement of any work.

1.8. Certificates of Insurance

The selected contractor shall provide a current certificate of Insurance listing coverages in the amounts required herein. All Certificates of Insurance shall be delivered to the Civic Events Manager for verification and approved by the Risk Division prior to the commencement of any work.

1.9. Employment Requirements and Wage Rates

1.9.1. General

The award of this contract shall be based in part upon payment by the selected Contractor and his Subcontractors of wage rates not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work. The prevailing wage law does not prohibit payment of more than the general prevailing rate of

wages.

The selected Contractor shall comply with all requirements of the prevailing wage law of the State of Texas, Texas Government Code, Chapter 2258, including the latest amendments thereto.

1.9.2. Records

The selected Contractor and each Subcontractor shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed, together with the actual wages paid to each worker. At all reasonable hours, such records shall be open to inspection by the representatives of CITY. Certified Payrolls shall be submitted to the project manager weekly.

Certified Payrolls are to be submitted to the Project Manager weekly.

1.9.3. Penalty

If the selected Contractor or any Subcontractor fails to comply with the prevailing wage law, he shall forfeit to CITY sixty dollars (\$60.00) per day for each laborer, workman, or mechanic who is paid less than the specified rate, pursuant to §2258.023 of the Texas Government Code.

1.9.4. Hours of Labor

The selected Contractor shall comply with all requirements of the hours of work on public works defined by Texas Government Code §650.001, including the latest amendments thereto, as an eight (8) hour work day. Violation of this provision is punishable by fine and imprisonment pursuant to §650.003 of the Texas Government Code.

1.9.5. Prevailing Wage and Hour Decision

Chapter 2258 of the Texas Government Code requires contractors and subcontractors performing work on public works contracts to pay wages at a rate consistent with the rate prevailing in the area.

The Contractor will forfeit as a penalty to the CITY \$60.00 for each laborer, worker or mechanic employed, for each calendar day or portion thereof the laborer, worker or mechanic is paid less than the required rate, even if the laborer, worker or mechanic wages are corrected.

General Decision Number: TX150336 01/02/2015 TX336

Superseded General Decision Number: TX20140336

State: Texas

Construction Type: **Building**

Counties: Irion and **Tom Green Counties** in Texas.

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

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is 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 \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015

BOIL0074-003 01/01/2014

	Rates	Fringes
BOILERMAKER.....	\$ 23.14	21.55

ENGI0178-005 06/01/2014

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 06/15/2014

IRONWORKER, ORNAMENTAL	\$ 22.02	6.35
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PLUM0404-025 07/01/2013

PLUMBER	\$ 22.80	7.16
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SUTX2014-062 07/21/2014

BRICKLAYER.....	\$ 20.00	0.00
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CARPENTER, Excludes Drywall Hanging, and Metal Stud Installation.....	\$ 13.82	0.00
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CEMENT MASON/CONCRETE FINISHER	\$ 13.76	0.00
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DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 16.72	0.00
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ELECTRICIAN.....	\$ 23.18	6.31
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	Rates	Fringes
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)	\$ 19.77	7.13
IRONWORKER, REINFORCING	\$ 12.27	0.00
IRONWORKER, STRUCTURAL	\$ 22.16	5.26
LABORER: Common or General	\$ 9.74	0.00
LABORER: Mason Tender – Brick	\$ 11.38	0.00
LABORER: Mason Tender - Cement/Concrete	\$ 10.58	0.00
LABORER: Pipelayer	\$ 12.49	2.13
LABORER: Roof Tear off	\$ 11.28	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	\$ 14.25	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader	\$ 13.93	0.00
OPERATOR: Bulldozer	\$ 18.29	1.31
OPERATOR: Drill	\$ 16.22	0.34
OPERATOR: Forklift	\$ 14.83	0.00
OPERATOR: Grader/Blade	\$ 13.37	0.00
OPERATOR: Loader	\$ 13.55	0.94
OPERATOR: Mechanic	\$ 17.52	3.33
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)	\$ 16.03	0.00
PAINTER (Brush, Roller, and Spray)	\$ 15.00	0.73
PIPEFITTER	\$ 25.80	8.55
ROOFER	\$ 13.17	0.26
SHEET METAL WORKER (HVAC Duct Installation Only)	\$ 22.73	7.52
SHEET METAL WORKER, Excludes HVAC Duct Installation	\$ 15.00	0.00
TILE FINISHER	\$ 11.22	0.00
TILE SETTER	\$ 14.74	0.00
TRUCK DRIVER: Dump Truck	\$ 12.39	1.18
TRUCK DRIVER: Flatbed Truck	\$ 19.65	8.57
TRUCK DRIVER: Semi-Trailer Truck	\$ 12.50	0.00

TRUCK DRIVER: Water Truck..... \$ 12.00..... 4.11

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

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

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

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

Union Average Rate Identifiers

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

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

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

Specialty Classifications

Additional classification requests/conformances are often requested for the following specialty classifications. These specialty classifications should not be approved if the duties are performed on similar construction in the area by general classifications that are listed on the contract wage determination.

SPECIALTY CLASSIFICATION (Often requested by contractors)	GENERAL CLASSIFICATION (may perform the specialty duties)
Drywall (sheetrock) installers	Carpenters
Drywall finishers/tapers	Painters
Alarm installers Sound and communication workers/installers Electronic technicians Lightning protection installers Low voltage installers	Electricians
HVAC mechanics (heating, ventilation and air conditioning mechanics) Refrigeration mechanics/workers Furnace installers Burner repairmen	Sheet metal workers Plumbers Pipe fitters/steam fitters Electricians
Pipe wrappers/insulators Mechanical (system) insulators	Asbestos workers/ heat & frost insulators
Batt insulation installers Blown insulation installers	Carpenters Laborers
Asbestos abatement workers (removal from pipes and boilers that will be reinsulated)	Asbestos workers/heat and frost insulators
Asbestos abatement workers (removal does not include removal from pipes and boilers that will be reinsulated)	Laborers
Metal building assemblers/builders/erectors	Iron workers Laborers Sheet metal workers Carpenters
Fence erectors	Ironworkers Laborer
Rebar workers Rodman (performing rebar work) Steel setters Steel or iron tiers	Ironworkers (reinforcing) Cement workers Laborers
TV-grout operators	Power equipment operators Laborers Truck drivers

Source: U.S. DEPARTMENT OF LABOR, PREVAILING WAGE RESOURCE BOOK 2010



2. CONTRACT-CONSTRUCTION (EXAMPLE)

NOTICE

This is the City's standard form of agreement for projects of this type. The specified insurance requirements in Section 17 are applicable to this project. After bids are opened and the City has determined its recommendation, a final agreement for your signature will be prepared. The appropriate sections will be completed with an accurate summary of the description of work to be awarded and the bid price recommended to Council, including all alternates, options and addenda to be awarded. This agreement must be finalized by the CITY, and signed by the Contractor, prior to the award of the bid by the City Council.

CONTRACT FOR CONSTRUCTION PROJECT RFP No. CE-01-15

This Contract is entered into this ____ day of _____, 2015 (but effective as of _____, 2015) ("effective date") by and between the City of San Angelo, a home-rule municipal corporation of the State of Texas ("City") and _____, a _____ ("Contractor").

RECITALS:

A. City has issued a Request for Proposal No. CE-01-15 Convention Center Marque ("RFP No. CE-01-15") for the purchase and installation of a digital marquee sign at the McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas ("Work").

B. Contractor's proposal, in response thereto, has been selected as the most qualified proposal for the provision of Work.

C. The Council of the City of San Angelo approved the selection of Contractor on _____, 2015, and authorized the City Manager to negotiate and execute a contract, under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, City and Contractor agree as follows:

TERMS:

1. **RECITALS AND INCORPORATIONS:** The recitals are true and correct and are hereby incorporated into and made a part of this Contract. The RFP and Contractor's Proposal are sometimes referred to herein collectively as the Contract Documents ("Contract Documents"), which are by this reference incorporated herein and made a part of this Contract and attached hereto as Exhibit "___".

2. **STATEMENT OF WORK:**

A. Contractor shall be responsible for completing Work as described in Contract Documents for the purchase and installation of a digital marquee sign, San Angelo, Texas as specified in the Contract Documents.

B. Contractor shall provide all labor for preparing the worksite and furnish all material, accessories, labor, and equipment necessary for completing the construction, replacement and installation; and, all other Work specified in the technical specification documents and drawings included with the Contract Documents incorporated herein by reference in Section 7. of this Contract and in accordance with the terms and conditions set forth herein and within those Contract Documents.

3. **TIME OF PERFORMANCE:** Contractor agrees to substantially complete Work within thirty (30) consecutive calendar days ("Contract Time") after the date Work commences as established by the Notice to Proceed. Upon Contractor's receipt of the Notice to Proceed from City, Contractor will commence and complete Work in accordance with specifications as set out in Contract Documents. Contractor further agrees that approval for beginning Work on the project will not be given and that Work will not start until all required bonds and insurance certificates specified in the bid documents have been received and approved by City.

4. **LIQUIDATED DAMAGES:** City and Contractor recognize that the time of performance is of the essence in this Contract and that City will suffer financial loss if Work is not substantially complete within the time specified in Section 3. above, plus any extensions thereof allowed. Both parties hereto also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by City if Work is not substantially complete on time. Accordingly, instead of requiring such proof, City and Contractor agree that a reasonable estimate of liquidated damages for any delay (but not as a penalty) would

be for Contractor to pay City One Hundred and No/100 Dollars (\$100.00) for each calendar day that expires after the time specified in Section 3. until Work is substantially complete. Therefore, Contractor shall pay City as liquidated damages One Hundred and No/100 Dollars (\$100.00) for each calendar day that expires after the time specified in Section 3. until Work is substantially complete.

5. **CONTRACT PRICE:** City shall pay to Contractor for performance of Work embraced in this Contract, and Contractor shall accept as full compensation therefore, the bid price of _____ Dollars (_____) subject to adjustment only as provided by approved change order, for all Work covered by and included in the contract award; payment thereof to be made in current funds in the manner provided in Section 6. Payment Procedure.

6. **PAYMENT PROCEDURE:** Contractor shall submit Applications for Payment in accordance with the General Conditions as shown in Contract Documents and City shall process the Applications for Payment in accordance with the General Conditions, except that progress payments and the final payment under this Contract shall be made as set forth below:

A. Progress Payments. City shall make progress payments of the Contract Price on the basis of Contractor's Application for Payment on or about the thirtieth (30th) day after submittal of the Application for Payment each month as provided below. All progress payments shall be based upon the progress of Work measured as provided for in the General Conditions. Contractor shall subdivide Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Partial payment retainage shall not exceed five percent (5%) of the total price. Upon approval of the value by City, it shall be incorporated into the form of a Partial Payment Estimate furnished by Contractor.

B. Final Payment. Upon completion and acceptance of Work by City in accordance with the General Conditions, City shall pay the remainder of the Contract Price.

7. **CONTRACT DOCUMENTS:**The following documents from City are incorporated herein by reference for all purposes, as if fully set out verbatim:

- Request for Proposal No. CE-01-15 Convention Center Marque("RFP No. CE-01-15")
- Contractor's Bid

- All of the documents, conditions, specifications, technical data, drawings, requirements and addenda comprising said Bid Invitation Number as of the time this Contract is entered into by Contractor and City.

8. **REPRESENTATIONS OF CONTRACTOR:** In order to induce City to enter into this Contract, Contractor makes the following representations to City:

A. Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, and with all local conditions and federal, state and local laws.

B. Contractor has made, or caused to be made, examinations and investigations of information as it deems necessary for the performance of Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations or similar data are, or will be required by Contractor for such purposes.

C. Contractor has given City advanced written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents prior to bidding and the written resolution thereof by City is acceptable to Contractor.

D. Contractor is skilled and experienced to responsibly perform the type of Work described in the Contract Documents in a timely manner.

9. **COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:** Contractor understands that Contracts between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, recordkeeping, etc. City and Contractor agree to comply with and observe all applicable laws, codes and ordinances as they may be amended from time to time.

10. **OWNERSHIP OF DOCUMENTS:** Contractor understands and agrees that any information, document, report or any other material whatsoever which is given by City to Contractor or which is otherwise obtained or prepared by Contractor pursuant to or under the terms of this Contract is and shall at all times remain the property of City. Contractor agrees not to use any such information, document, report or material for any other purpose whatsoever without the written consent of City, which may be withheld or conditioned

by City in its sole discretion.

11. AUDIT AND INSPECTION RIGHTS:

A. City may, at reasonable times, and for a period of up to three (3) years following the date of final payment by City to Contractor under this Contract, audit, or cause to be audited, those books and records of Contractor which are related to Contractor's performance under this Contract. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Contract.

B. City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such tests, as City deems reasonably necessary, to determine whether the goods or services required to be provided by Contractor under this Contract conform to the terms hereof, if applicable. Contractor shall make available to City all reasonable facilities and assistance to facilitate the performance of tests or inspections by City representatives. All tests and inspections shall be subject to, and made in accordance with, the provisions of the City of San Angelo Code of Ordinances, as same may be amended or supplemented from time to time.

12. AWARD OF CONTRACT: Contractor represents and warrants to City that it has not employed or retained any person or company employed by City to solicit or secure this Contract and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award of this Contract.

13. PUBLIC RECORDS: Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to City contracts, and agrees to allow access by City and the public to all documents subject to disclosure under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Contract by City.

14. DEFAULT: If Contractor fails to comply with any term or condition of this Contract, or fails to perform any of its obligations hereunder, then Contractor shall be in default. Upon the occurrence of a default hereunder, City in addition to all remedies available to it by law, may immediately, upon written notice to Contractor, terminate this Contract whereupon all payments, advances, or other compensation paid by

City to Contractor while Contractor was in default shall be immediately returned to City. Contractor understands and agrees that termination of this Contract under this section shall not release Contractor from any obligation accruing prior to the effective date of termination. Should Contractor be unable or unwilling to commence to perform Work within the time provided or contemplated herein, then, in addition to the foregoing, Contractor shall be liable to City for all expenses incurred by City in preparation and negotiation of this Contract, as well as all costs and expenses incurred by City in the re-procurement of Work, including consequential and incidental damages.

15. TERMINATION RIGHTS OF CITY:

A. City shall have the right to terminate this Contract, in its sole discretion, at any time, by giving written notice to Contractor at least five (5) business days prior to the effective date of such termination. In such event, City shall pay to Contractor compensation for Work rendered and expenses incurred prior to the effective date of termination. In no event shall City be liable to Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

B. City shall have the right to terminate this Contract, without notice or liability to Contractor, upon the occurrence of an event of default hereunder. In such event, City shall not be obligated to pay any amounts to Contractor and Contractor shall reimburse to City all amounts received while Contractor was in default under this Contract.

16. RESOLUTION OF CONTRACT DISPUTES: Contractor understands and agrees that all disputes between Contractor and City based upon an alleged violation of the terms of this Contract by City shall be submitted to City Manager for his resolution, prior to Contractor being entitled to seek judicial relief in connection therewith. In the event that the amount of compensation hereunder exceeds Twenty Five Thousand Dollars (\$25,000.00), the City Manager's decision shall be approved or disapproved by the City Council. Contractor shall not be entitled to seek judicial relief unless: (i) Contractor has first received City Manager's written decision, approved by the City Council if the amount of compensation hereunder exceeds Twenty Five Thousand Dollars (\$25,000.00); or (ii) a period of sixty (60) days has expired, after submitting to the City Manager a detailed statement of the dispute, accompanied by all supporting documentation (ninety

(90) days if City Manager's decision is subject to City Council approval); or (iii) City has waived compliance with the procedure set forth in this section by written instruments, signed by the City Manager.

17. INSURANCE:

A. Contractor shall, at all times during the term hereof, maintain such insurance coverage as may be required by City. All such insurance, including renewals, shall be subject to the approval of City for adequacy of protection and evidence of such coverage shall be furnished to City on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be canceled during the performance of Work under this Contract without thirty (30) calendar days prior written notice to City. Completed Certificates of Insurance shall be filed with City prior to the performance of services hereunder, provided however, that Contractor shall at any time upon request file duplicate copies of the policies of such insurance with City.

B. If in the judgment of City, prevailing conditions warrant the provision by Contractor of additional liability insurance coverage or coverage which is different in kind, City reserves the right to require the provision by Contractor of an amount of coverage different from the amounts or kind previously required and shall afford written notice of such change in requirements thirty (30) days prior to the date on which the requirements shall take effect. Should the Contractor fail or refuse to satisfy the requirement of changed coverage within thirty (30) days following City's written notice, this Contract shall be considered terminated on the date that the required change in policy coverage would otherwise take effect.

18. INDEMNIFICATION:

A. GENERAL INDEMNIFICATION: CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND ITS OFFICIALS, EMPLOYEES AND AGENTS (COLLECTIVELY REFERRED TO AS "INDEMNITEES") AND EACH OF THEM FROM AND AGAINST ALL LOSS, COSTS, PENALTIES, FINES, DAMAGES, CLAIMS, EXPENSES (INCLUDING ATTORNEY'S FEES) OR LIABILITIES (COLLECTIVELY REFERRED TO AS "LIABILITIES") ASSERTED BY ANY PERSON OR PERSONS, INCLUDING AGENTS OR EMPLOYEES OF CONTRACTOR OR CITY BY REASON OF ANY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR DESTRUCTION OR LOSS OF ANY PROPERTY ARISING OUT OF, RESULTING FROM, OR IN CONNECTION WITH (I) THE PERFORMANCE OR NON-PERFORMANCE OF THE SERVICES CONTEMPLATED BY THIS CONTRACT WHICH IS OR IS

ALLEGED TO BE DIRECTLY OR INDIRECTLY CAUSED, IN WHOLE OR IN PART, BY ANY ACT, OMISSION, DEFAULT OR NEGLIGENCE (WHETHER ACTIVE OR PASSIVE) OF CONTRACTOR OR ITS EMPLOYEES, AGENTS OR SUB-CONTRACTORS (COLLECTIVELY REFERRED TO AS "CONTRACTOR"), REGARDLESS OF WHETHER IT IS, OR IS ALLEGED TO BE, CAUSED IN WHOLE OR PART (WHETHER JOINT, CONCURRENT OR CONTRIBUTING) BY ANY ACT, OMISSION, DEFAULT OR NEGLIGENCE (WHETHER ACTIVE OR PASSIVE) OF THE INDEMNITEES, OR ANY OF THEM OR (II) THE FAILURE OF CONTRACTOR TO COMPLY WITH ANY OF THE PARAGRAPHS HEREIN OR THE FAILURE OF CONTRACTOR TO CONFORM TO STATUTES, ORDINANCES, OR OTHER REGULATIONS OR REQUIREMENTS OF ANY GOVERNMENTAL AUTHORITY, FEDERAL OR STATE, IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT OR SUSTAINED IN OR UPON THE PREMISES, OR AS A RESULT OF ANYTHING CLAIMED TO BE DONE OR ADMITTED TO BE DONE BY CONTRACTOR HEREUNDER. CONTRACTOR EXPRESSLY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES, OR ANY OF THEM, FROM AND AGAINST ALL LIABILITIES WHICH MAY BE ASSERTED BY AN EMPLOYEE OR FORMER EMPLOYEE OF CONTRACTOR, OR ANY OF ITS SUB-CONTRACTORS, AS PROVIDED ABOVE, FOR WHICH CONTRACTOR'S LIABILITY TO SUCH EMPLOYEE OR FORMER EMPLOYEE WOULD OTHERWISE BE LIMITED TO PAYMENTS UNDER STATE WORKERS' COMPENSATION OR SIMILAR LAWS. THIS INDEMNIFICATION SHALL SURVIVE THE TERM OF THIS CONTRACT AS LONG AS ANY LIABILITY COULD BE ASSERTED. NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY, DEFEND, OR HOLD HARMLESS ANY INDEMNIFIED PARTY FOR THE INDEMNIFIED PARTY'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

B. ENVIRONMENTAL INDEMNIFICATION: CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD CITY AND ITS COUNCIL MEMBERS, BOARD AND COMMISSION MEMBERS, OFFICIALS, AGENTS, GUESTS, INVITEES, CONSULTANTS AND EMPLOYEES FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, PROCEEDINGS, SUITS, JUDGMENTS, COSTS, PENALTIES, FINES, DAMAGES, LOSSES, ATTORNEYS' FEES AND EXPENSES ASSERTED BY LOCAL, STATE OR FEDERAL ENVIRONMENTAL AGENCIES OR PRIVATE INDIVIDUALS OR ENTITIES IN CONNECTION WITH OR RESULTING FROM OR ARISING OUT OF CONTRACTOR'S HANDLING, COLLECTION, TRANSPORTATION, STORAGE, DISPOSAL, TREATMENT, RECOVERY, AND/OR REUSE BY ANY PERSON UNDER CONTRACTOR'S DIRECTION OR CONTROL OF WASTE COLLECTED, TRANSPORTED OR LANDFILLED OR ANY CLEANUP ASSOCIATED WITH ENVIRONMENTAL CONTAMINATION, WHETHER SUCH CLEANUP IS OF AIR, SOIL, STRUCTURE, GROUND WATER OR SURFACE WATER CONTAMINATION. CONTRACTOR

SPECIFICALLY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AGAINST ALL CLAIMS, DAMAGES AND LIABILITIES OF WHATEVER NATURE ASSERTED UNDER CERCLA CAUSED BY ACTS OR OMISSIONS OF CONTRACTOR REGARDLESS OF WHEN SUCH INCIDENT IS DISCOVERED. CONTRACTOR SHALL BE RESPONSIBLE AND LIABLE FOR ANY SPILL, UNDERGROUND POLLUTION OR ANY OTHER ENVIRONMENTAL IMPAIRMENT INCIDENT CAUSED BY ACTS OR OMISSIONS OF CONTRACTOR REGARDLESS OF WHEN SUCH INCIDENT IS DISCOVERED. IT IS THE INTENT OF THE PARTIES THAT THIS SECTION SHALL IN NO WAY LIMIT OTHER COVERAGE HEREIN AS IT MAY RELATE TO ANY ENVIRONMENTAL CLAIM, DAMAGE, LOSS OR LIABILITY OF ANY KIND.

C. PROSPECTIVE APPLICATION: ANY AND ALL INDEMNITY PROVIDED FOR IN THIS CONTRACT SHALL SURVIVE THE EXPIRATION OF THIS CONTRACT AND THE DISCHARGE OF ALL OTHER OBLIGATIONS OWED BY THE PARTIES TO EACH OTHER HEREUNDER AND SHALL APPLY PROSPECTIVELY NOT ONLY DURING THE TERM OF THIS CONTRACT BUT THEREAFTER SO LONG AS ANY LIABILITY COULD BE ASSERTED IN REGARD TO ANY ACTS OR OMISSIONS OF CONTRACTOR IN PERFORMING UNDER THIS CONTRACT.

D. RETROACTIVE APPLICATION: THE INDEMNITY PROVIDED FOR IN THIS CONTRACT SHALL EXTEND NOT ONLY TO CLAIMS AND ASSESSMENTS OCCURRING DURING THE TERM OF THIS CONTRACT BUT RETROACTIVELY TO CLAIMS AND ASSESSMENTS WHICH MAY HAVE OCCURRED DURING THE TERM OF PREVIOUS CONTRACTS BETWEEN CITY AND CONTRACTOR.

19. INSURANCE REQUIREMENTS:

A. General Conditions. The following conditions shall apply to all insurance policies obtained by Contractor for the purpose of complying with this Contract.

- 1) Satisfactory Companies. Coverage shall be maintained with insurers and under forms of policies satisfactory to City and with insurers licensed to do business in Texas.
- 2) Named Insureds. All insurance policies required herein shall be drawn in the name of Contractor, with City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees named as additional insureds, except on Workers' Compensation coverage.
- 3) Waiver of Subrogation. Contractor shall require its insurance carrier(s), with respect to all insurance policies, to waive all rights of subrogation against City, its council members, board and commission members, officials, agents, guests, invitees, consultants and employees.
- 4) Certificates of Insurance. At or before the time of execution of this Contract, Contractor

shall furnish City's Risk Manager with certificates of insurance as evidence that all of the policies required herein are in full force and effect and provide the required coverage and limits of insurance. All certificates of insurance shall clearly state that all applicable requirements have been satisfied. The certificates shall provide that any company issuing an insurance policy shall provide to City not less than thirty (30) days advance notice in writing of cancellation, non-renewal, or material change in the policy of insurance. In addition, Contractor and insurance company shall immediately provide written notice to City's Risk Manager upon receipt of notice of cancellation of any insurance policy, or of a decision to terminate or alter any insurance policy. Certificates of insurance and notices of cancellations, terminations, or alterations shall be furnished to City's Risk Manager at City Hall, 72 W. College Ave., San Angelo, Texas 76903.

5) Contractor's Liability. The procurement of such policy of insurance shall not be construed to be a limitation upon Contractor's liability or as a full performance on its part of the indemnification provisions of this Contract. Contractor's obligations are, notwithstanding any policy of insurance, for the full and total amount of any damage, injury, or loss caused by or attributable to its activities conducted at or upon the premises. Failure of Contractor to maintain adequate coverage shall not relieve Contractor of any contractual responsibility or obligation.

6) Subcontractors' Insurance. Contractor shall cause each Subcontractor and Sub-Subcontractor of Contractor to purchase and maintain insurance of the types and in the amounts specified below. Contractor shall require Subcontractors and Sub-Subcontractors to furnish copies of certificates of insurance to City's Risk Manager evidencing coverage for each Subcontractor and Sub-Subcontractor.

B. Types And Amounts Of Insurance Required. Contractor shall obtain and continuously maintain in effect at all times during the term hereof, at Contractor's sole expense, insurance coverage as follows with limits not less than those set forth below:

1) Commercial General Liability. This policy shall be occurrence-type policy and shall protect Contractor and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than Contractor's employees) and damage to property of City or others arising out of the act or omission of Contractor or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Contractor under the paragraph of this Contract entitled "Indemnification," including completed operations, products liability, contractual coverage, broad form property coverage, explosion, collapse, underground, premises/operations, and independent contractors [to remain in force for two (2) years after final payment].

Coverage limits shall not be less than:

\$ 500,000.00	General Aggregate
\$ 500,000.00	Products - Completed Operations
\$ 500,000.00	Personal & Advertising Injury
\$ 500,000.00	Each Occurrence
\$ 100,000.00	Fire Damage (any one fire)

2) Business Automobile Liability. This policy shall protect Contractor and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the premises of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired. Coverage limits shall not be less than:

\$ 500,000.00	Combined Single Limit
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3) Workers' Compensation and Employer's Liability. If Contractor hires any employees, Contractor shall maintain Workers' Compensation and Employer's Liability insurance, which shall protect Contractor against all claims under applicable state workers' compensation laws and employer's liability. The insured shall also be protected against claim for injury, disease or death of employees which for any reason, may not fall within the provisions of a workers' compensation law. Coverage shall not be less than:

Statutory Amount	Workers' Compensation
\$ 100,000.00	Employer's Liability, Each Accident
\$ 100,000.00	Employer's Liability, Disease - Each Employee
\$ 100,000.00	Employer's Liability, Disease - Policy Limit

The foregoing requirement will not be applicable if, and so long as, Contractor qualifies as a self-insurer under the rules and regulations of the commission or agency administering the workers' compensation program in Texas and furnishes evidence of such qualification to City in accordance with the notice provisions of this Contract.

4) Builders Risk. This policy shall be an all risk type of insurance covering work performed under this instrument and materials, equipment or other items to be incorporated into the building, while the same are located at the construction site, stored off site or stored at the place of manufacture. The policy shall cover, at a minimum, losses due to fire, flood, explosion, hail, lightening, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke until the date of final acceptance of work. Coverage shall not be less than:

****Amount is usually the value of the project****

\$ _____	Completed Value
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If Contractor uses contract labor, Contractor shall require its subcontractor to maintain the above referenced coverage and furnish copies of certificates of insurance as required herein.

20. INDEPENDENT CONTRACTOR: Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Contract. City shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance on Contractor's employees.

21. NONDISCRIMINATION: Contractor represents and warrants to City that Contractor does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Contractor's performance under this Contract on account of race, color, sex, religion, age, handicap, marital status or national origin. Contractor further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Contract.

22. VERIFICATION OF EMPLOYMENT ELIGIBILITY: Contractor must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Contractor -- not City -- must verify eligibility for employment as required by IRCA.

23. AMENDMENTS: This Contract may be modified or amended only by a written instrument signed by City and Contractor, without further approval of City Council, unless such approval is otherwise required by law, subject to availability and appropriation of funds. Such amendments shall not invalidate this Contract, nor relieve or release City or Contractor from their respective obligations under this Contract.

24. ASSIGNMENT: No assignment by a party hereto of any rights under, or interest in, the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due, and moneys that are due, may not be assigned without such prior consent (except to the extent that 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.

25. SUCCESSORS AND ASSIGNS: This Contract shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, or assigns.

26. NOTICES: Communication and details concerning this Contract shall be directed to the following representatives:

CITY:

City of San Angelo
Attn: David Knapp, Construction Manager
72 W. College Ave.
San Angelo, Texas 76903

CONTRACTOR:

Attn: _____

Before City shall be liable to Contractor or any of its successors or assigns for any alleged breach of this Contract, notice must first be given City within six (6) months of the date Contractor alleges the breach occurred. Such notice shall be in accordance with and provide substantially the same information as required for notice of tort claims as specified in Article 1.500 of the City of San Angelo Code of Ordinances.

27. MISCELLANEOUS PROVISIONS:

A. Remedies: In the event of default by Contractor under the Contract Documents, City shall have all rights and remedies afforded to it at law or in equity to enforce the terms of the Contract Documents; however, arbitration is not an available remedy to resolve any disputes arising under this Contract unless City and Contractor mutually agree to such remedy in a separate written Contract. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.

B. Attorneys' Fees: If any action at law or in equity is necessary by either City or Contractor to enforce or interpret the terms of the Contract Documents, the party prevailing on the majority of issues shall be entitled to reasonable attorneys' fees and costs and any necessary disbursements in addition to any other relief to which the prevailing party is entitled.

C. Conflicts: This Contract, the documents required to be provided, and the Contract Documents constitute the entire Contract between the parties hereto and supersede any prior written or oral

Contracts and understandings between the parties. If any provision of this Contract, the General Conditions, the Specifications or any other provision contained within the Contract Documents conflicts, or is inconsistent with any other provision of the Contract Documents, then the conflict or inconsistency will be resolved first by reference to the terms of this Contract, then to the General Conditions to this Contract and then finally to the Specifications therein, unless a federal law, regulation or restriction would require otherwise, in which case the federal provision would control.

D. Severability: If any provision of this Contract is held invalid or unenforceable, the remainder of the Contract shall not be affected thereby and all other parts of this Contract shall nevertheless be in full force and effect.

E. Venue: This Contract, including the Contract Documents, is governed by the laws of the State of Texas. Venue for any suit or claim or cause of action arising out of or related to Work covered by this Contract shall be in Tom Green County, Texas.

F. Counterparts: This Contract may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Contract.

G. Enforcement: This Contract shall be construed and enforced according to the laws of the State of Texas.

H. Headings: Titles and paragraphs are for convenient reference and are not a part of this Contract.

I. No Waiver: No waiver or breach of any provision of this Contract shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

J. Governing Laws: Should any provision, paragraph, sentence, word or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the City of San Angelo, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and

provisions of this Contract shall remain unmodified and in full force and effect or limitation of its use.

K. Applicable Law: This Contract and the Contract Documents are subject to all applicable federal and state laws, statutes, codes, rules and regulations and local ordinances, rules and regulations.

28. CONTINGENCY CLAUSE: Funding for this Contract is contingent on the availability of funds and continued authorization for program activities and the Contract is subject to amendment or termination due to lack of funds, reduction of funds and/or change in regulations, upon thirty (30) days notice.

29. ENTIRE CONTRACT: This Contract constitutes the sole and entire Contract between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

30. REAFFIRMATION OF REPRESENTATIONS: Contractor hereby reaffirms all of the representations contained in Contract Documents.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year above written.

ATTEST:

(SEAL)

ATTEST:

Bryan Kendrick, City Clerk

(SEAL)

CONTRACTOR:

By: _____

CITY:

City of San Angelo

By: _____

Daniel Valenzuela, City Manager

**CONTRACT FOR PROJECT
BETWEEN CITY OF SAN ANGELO & _____
RFP No. CE-01-15**

Approved as to Content:

David Knapp, Construction Manager

Approved as to Form:

Lysia H. Bowling, City Attorney

Approved as to Content:

Approved as to Insurance Requirements:

Draft



3. EXHIBIT A - GENERAL CONDITIONS

General Conditions

3.1. General Conditions

The conditions contained herein are generally applicable to the Work described. Contractor and CITY agree to interpret and enforce the terms and conditions contained within this section only insofar as they are applicable to the Work.

3.2. Definitions

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

Agreement

The written agreement between the CITY and the Contractor covering the Work to be performed, including the Request for Bid, the Contractor's Bid, and the Bonds.

Architect

The "Architect" shall be the CITY or any individual, partnership, firm or corporation duly authorized by CITY to be responsible for the architectural aspects of the Work.

Award

The acceptance, by the CITY, of the successful Offeror's proposal.

Bid

The written offer of the Offeror setting forth the prices to perform the contemplated Work and furnish the necessary labor, Equipment, Materials and other incidentals necessary to perform the contemplated Work in accordance with the provisions of the Plans and Specifications.

Bidder

Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.

Bond(s)

The approved form(s) of security furnished by the Contractor and his/her surety in accordance with the terms set forth in the Bid and as may otherwise be requested of the Contractor in the Contract Documents.

Calendar Day

A "Calendar Day" is defined as all working days charged Sunday through Saturday, including all holidays, regardless of weather conditions, material availability, or other conditions not under the control of the Contractor.

Change Order

A written order to the Contractor signed by the CITY covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for the work affected by such changes. The work, covered by a change order, shall be within the scope of the contract.

Contract Documents

The Agreement, Plans, Specifications, Drawings, and Field Changes, or any related addenda to the Agreement, Supplemental Agreement(s), Plans, Specifications, or Field Changes.

Contract Price

The total monies payable to the Contractor under the Contract Documents.

Contract Time

The number of calendar days or completion date stated in the Contract for the completion of the Work.

Contractor

The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the Work and for the payment of all legal debts pertaining to the Work who act as directly or through lawful agents or employees to complete the Work.

Engineer

The "Engineer" shall be the CITY or any individual, partnership, firm or corporation duly authorized by the CITY to be responsible for the engineering aspects of the Work.

Equipment

All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the Work.

Extra Work

An item of work not provided for in the Contract Documents as previously modified by Change Order or Supplemental Agreement, but which is found by the CITY to be necessary to complete the Work within the intended scope of the Contract Documents as previously modified.

Field Change

A Field Change may be issued in the form of:

- (a) A written amendment of the Contract Documents signed by both parties,
- (b) A Change Order,
- (c) A written clarification or interpretation issued by the CITY.
- (d) A written order for a minor change or alteration in the Work issued by the CITY.

A Field Change may only be issued after execution of the Agreement.

Field Order

A written order issued by the CITY which clarifies or interprets the Contract Documents or minor changes in the Work.

Materials

Any substance specified for use in the construction of the Work.

Owner

A public body or authority, corporation, association, partnership, or individual for whom the Work is to be performed. For this Agreement, the "Owner" is the CITY.

Partial Payment Estimate

A form detailing the amount of Work done to date and covering previous payments, retainage, etc. This estimate is usually issued on a monthly basis.

Plans

The official drawings or exact reproductions which show the location, character, dimensions and details of the Work to be done and which are to be considered as a part of the Contract Documents, supplementary to the Specifications.

Project

All duties and Work to be performed as provided in the Contract Documents.

Resident Project Representative

The "Resident Project Representative" shall be the CITY or any individual, partnership, firm or corporation duly authorized by the CITY who is assigned to the Project, or any part thereof, and who shall be responsible for observing the progress and quality of the Work, or any portion of the Work, on the behalf of the City.

Shop Drawings

All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier, or distributor which illustrate the Equipment, Material, or some portion of the Work.

Specifications

A part of the Contract Documents containing the written directions and requirements for completing the Work. Standards for specifying materials or testing which are cited in the Contract Documents by reference shall have the same force and effect as if included in the Contract Documents physically.

Subcontractor

An individual, firm, or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work.

Substantial Completion

The date as certified by the CITY, when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended.

Supplemental Agreement

A written agreement between the Contractor and the CITY covering (1) work that would increase or decrease the total amount of the Agreement as awarded or (2) work that is not within the scope of the Contract Documents.

Work

Any and all obligations, duties, and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all labor, Materials, Equipment, and other incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the Contract Documents.

Work Day

A "Work Day" is defined as a calendar day including Saturdays, Sundays, and legal holidays authorized in the list prepared for the CITY of San Angelo for use of its employees, in which weather or other conditions not under the control of the Contractor will permit the performance of the principal units of work underway for a continuous period of not less than 7 hours between 8:00 a.m. and 5:00 P.M. See also calendar days definition.

Work Week

The "Work Week" shall consist of a period of seven (7) successive calendar days to begin and end as specified by the Contractor.

3.3. Notice to Proceed and the Preconstruction Conference

No work shall be performed until issuance of a written notice to proceed by the CITY. The Notice to Proceed shall be issued only upon completion of the Preconstruction Meeting and all related requirements are complete.

3.4. Ownership, Copies of Documents, and Record Documents

All Specifications, Plans, and copies thereof furnished by the CITY shall remain the property of the CITY. They shall not be used on another project.

The Contractor will keep one record copy of all Specifications, Plans, Field Changes, Shop Drawings, and any addenda thereto at the site in good order and annotated to show all changes made during the construction process. These shall be available to the CITY and shall be delivered to the CITY upon completion of the Project.

3.5. Cooperation Between Contractors

When separate contracts are let within the limits of any one project, each Contractor shall conduct the work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors. The Contractor will afford the other contractors who are parties to such direct contracts (or the CITY, if he is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his Work with theirs. If any part of the Contractor's Work depends upon the work of any such other contractor or the CITY for proper execution or results, the Contractor will inspect the work and promptly report any defects or deficiencies in writing to the CITY. Failure to make such a report shall constitute an acceptance of the other work as fit and proper for the Work, except as to defects and deficiencies which may appear in the other work after the execution of his Work.

The Contractor will do all cutting, fitting, and patching of his Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the CITY.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with the Agreement with CITY and shall protect and hold harmless the CITY and the City of San Angelo from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by the Contractor because of the presence and operations of other contractors working within the limits of the same project.

If the performance of additional work by other contractors or the CITY is not noted in the Contract Documents prior to the Award of the Agreement, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the CITY or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided for herein.

3.6. Subcontracts

The Contractor will not employ any Subcontractor (whether initially or as a substitute) against whom the CITY may have objection, nor will the Contractor be required to employ any Subcontractor against whom he has objection.

The Contractor will be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the CITY or any obligation on the part of the CITY to pay or to see to the payment of any moneys due any Subcontractor, except as may otherwise be required by law. The CITY may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor on account of specific work done.

3.7. Patent Fees and Royalties

The Contractor will pay all license fees and royalties and assume all costs incident to the use of any invention, design, process, or device which is the subject of patent right or copyrights held by others.

CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE CITY AND THE CITY OF SAN ANGELO AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES (INCLUDING ATTORNEY'S FEES) ARISING OUT OF ANY INFRINGEMENT OF SUCH RIGHTS DURING OR AFTER COMPLETION OF THE WORK, AND SHALL DEFEND ALL SUCH CLAIMS IN CONNECTION WITH ANY ALLEGED INFRINGEMENT OF SUCH RIGHTS.

3.8. Permits, Laws, Taxes, and Regulations

The Contractor will secure and pay for all construction permits and licenses and will pay all governmental and public utility charges and inspection fees necessary for the prosecution of the Work. The Contractor will give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If the Contractor observes that the Specifications or Plans are at variance therewith, he will give prompt written notice thereof to the CITY and any necessary changes shall be adjusted by an appropriate Field Change. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the CITY, he will bear all costs arising therefrom.

The Contractor will pay all sales, consumer, and other similar taxes required by the law of the place where the Work is to be performed, or of the place from which any portion of the Equipment or Materials is obtained.

3.9. Availability of Lands

The CITY will provide, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, right-of-ways for access thereto, and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be secured and paid for by the CITY unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the City's furnishing these lands or providing such easements entitles him to an extension of the Contract Time, he may make a claim therefore as provided herein. The Contractor will provide all additional lands and access thereto that may be required for temporary construction facilities or storage of Materials and Equipment.

3.10. Use of Premises

The Contractor will confine his equipment, the storage of materials and equipment, and the operations of his workers to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.

3.11. CITY's Status During Construction

All instructions of the CITY, or its duly appointed representative, to the Contractor shall be issued directly to the Contractor.

The CITY will make periodic visits to the site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The efforts of the CITY will be directed toward providing assurance that the completed Project will conform to the requirements of the Contract Documents, but CITY will not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents. On the basis of on-site observations, the CITY, or its duly appointed representative, will keep informed of the progress of the Work and will endeavor to guard it against defect and deficiencies.

The CITY will have authority to disapprove of or reject Work which is unsatisfactory, faulty, or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test, or approval set forth herein. The CITY will also have authority to require special inspection or testing of the Work as provided herein, whether or not the Work is fabricated, installed, or completed.

Neither the CITY's authority to act under this subsection, nor any decision made by him in good faith, either to exercise or not exercise such authority, shall give rise to any duty or responsibility of the CITY to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

3.12. Interpretations and Decisions

The CITY will issue with reasonable promptness such clarifications or interpretations (in the form of drawings or otherwise) as may be determined necessary for the proper execution of the Work, such clarifications and interpretations to be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the Contractor believes that a written clarification and interpretation entitles him to an increase in the Contract Price, he may make a claim therefore as provided herein. The CITY will be the interpreter of the terms and conditions of the Contract Documents and the judge of the performance thereunder.

3.13. Shop Drawings and Samples

After checking and verifying all field measurements, the Contractor will submit five (5) copies of all Shop Drawings to the CITY. The Shop Drawings shall have been checked and stamped with the approval of the Contractor and otherwise identified as required by the CITY. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction, and the like. The Contractor will also submit to the CITY for his file, all samples required by the Contract Documents. All samples will have been checked and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent catalog numbers, and the use for which it is intended.

At the time of each submission, the Contractor will provide written notification to the CITY concerning any deviations that the Shop Drawing or sample may have from the requirements of the Contract Documents. The CITY will review the Shop Drawings and samples, but this review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents.

No Work requiring a Shop Drawing or sample submission shall be initiated until the submission has been delivered to the

CITY. The review of Shop Drawings or samples by the CITY shall not relieve the Contractor from his responsibility for any deviations at the time of submission unless the CITY has given written approval to the specific deviation, nor shall any review or approval by the CITY, relieve the Contractor from responsibility for errors or omissions in the Shop Drawings.

3.14. Tests and Inspections Required by Law

If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any Work to be inspected, tested, or approved by someone other than the CITY, the Contractor will give prompt and timely notice of readiness to the CITY. The Contractor will furnish the required certificates of inspection, testing, or approval to the CITY. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization as may be required by law or the Contract Documents. If any such Work required to be inspected, tested, or approved is covered up without written approval or consent of the CITY, it must be uncovered for observation at the Contractor's expense, if so directed by the CITY. The costs directly attributable to such uncovering, exposure, observation, inspection, testing, approvals and reconstruction shall be borne in full by the Contractor.

Any Work which fails to meet the requirements of any such test, inspection, or approval, and any Work which meets the requirements of any such test or approval but does not meet the requirements of the Contract Documents shall be considered defective.

Observations by the CITY shall not relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

3.15. Contractor's Supervision and Superintendence

The Contractor will supervise and direct the Work efficiently and with his best skill and attention. He will be solely responsible for the means, methods, techniques, safety, sequences, and procedures of construction. Before undertaking the Work, he will carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. He will immediately file a written report to the CITY concerning any conflict, error, or discrepancy which he may discover. The Contractor will be responsible for seeing that the finished Work complies accurately with the Contract Documents. The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the CITY and its authorized representatives, including, but not limited to, the Engineer, Resident Project Representative, inspectors, and with other Contractors in every way possible.

The Contractor shall have a competent superintendent on the Work at all times who is fully authorized as his/her agent on the Work. All communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor, or his superintendent, shall be capable of reading and thoroughly understanding the Plans and Specifications and shall receive and fulfill instructions from the CITY or its authorized representative.

The Contractor will provide competent, suitably qualified personnel to lay out the Work and perform construction as required by the Contract Documents. He will at all times maintain good discipline and order among his employees at the site.

3.16. Safety and Protection

The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. He will take all necessary safety precautions and will provide the necessary protection to prevent damage, injury, or loss to:

- (a) all employees on the Work and other persons who may be affected thereby,
- (b) all Work and all Materials or Equipment to be incorporated into the Work, whether in storage on or off the site, and
- (c) other property at the site or adjacent thereto, including but not limited to shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor will erect and maintain all necessary safeguards as required by the conditions and progress of the Work, including posting danger signs and other warnings against hazards and promulgating safety regulations. He will notify Owners of adjacent utilities, in writing, when prosecution of the Work may affect them. When the use or storage of

explosives or other hazardous materials is necessary for the prosecution of the Work, the Contractor will exercise the utmost care and will carry on such activities under the supervision of properly qualified personnel. All damage, injury, or loss to any person or property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by the Contractor. The Contractor shall comply with the requirements of the Occupational Safety Standards and any other applicable standards that may be set forth by federal, state, municipal, or any other governmental or regulatory agency.

The Contractor will designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the CITY.

In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner, is obligated to act, at his discretion, to prevent threatened damage, injury, or loss. He will give the CITY prompt written notice of any significant changes in the Work or deviations involved. If the Contractor believes that additional emergency work by him, which arose from causes beyond his control, entitles him to an increase in the Contract Price or an extension of the Contract Time he may make a claim therefore as provided herein.

3.17. Access to the Work and Uncovering Finished Work

The CITY and his representatives will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

If any Work is covered contrary to the request of the CITY, it must be uncovered for observation and replaced at the Contractor's expense, if requested by the CITY.

If any Work has been covered which the CITY has not specifically requested to observe prior to its being covered, or if the CITY considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the CITY's request, will uncover, expose, or otherwise make available for observation, inspection or testing that portion of the Work in question. The Contractor will furnish all necessary labor, material, and equipment.

If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection, testing, and professional services. An appropriate Change Order shall be issued deducting all such costs from the Contract Price. If, however, such Work is found not to be defective and meets the requirements of the Contract Documents, the Contractor may request and will be granted an increase in the Contract Price or extension of the Contract Time as compensation, but only for the amount or time directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction.

3.18. Changes in the Work

Without invalidating the Agreement, the CITY may, at any time or from time to time, order additions, deletions, or revisions in the Work as may be necessary or desirable to complete the work originally intended in an acceptable manner. These alterations that are for work within the general scope of the Contract Documents shall be covered by Change Orders issued by the CITY. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents and as directed by the CITY. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made.

The CITY may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any minor change or alteration authorized by the CITY entitles him to an increase in the Contract Price, he may make a claim.

Additional work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided herein.

The CITY will execute any appropriate Change Order covering changes in the Work the CITY determines to be reasonably necessary.

3.19. Changes of Contract Price

The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by the Contractor shall be at his expense without change in the Contract Price.

The Contract Price may only be authorized by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an increase in the Contract Price, his claim shall be made in writing and delivered to the CITY within 15 days of the occurrence of the event giving rise to the claim.

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined by the CITY in one of the following ways:

- (a) Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of items involved.
- (b) By mutual acceptance of a lump sum.
- (c) By cost and a mutually acceptable fixed amount for overhead and profit, or
- (d) If required by the CITY, the Contractor shall submit an itemized cost breakdown together with supporting data.

The amount of credit to be allowed by the Contractor to the CITY for any such change which results in a net decrease in cost will be the amount of the actual net decrease as determined by the CITY. When both additions and credits are involved in any one change, the approved overhead and profit shall be figured based on the net increase, if any.

3.20. Extra Work

Should acceptable completion of the Work require the Contractor to perform an item of work for which no basis of payment has been provided in the original Contract Documents or previously issued Change Orders or supplemental agreements, then same shall be called "Extra Work". Extra Work that is within the general scope of the Contract shall be covered by written Change Order. Change Orders for such Extra work shall contain agreed unit prices for performing the Change Order work in accordance with the requirements specified in the Change Order, and shall contain any adjustment to the Contract Time that, in the CITY's opinion, is necessary for completion of such Extra Work.

Extra Work that is necessary for acceptable completion of the Project, but is not within the general scope of the Work covered by the original Contract Documents shall be covered by a "Supplemental Agreement". Any claim for payment of Extra Work that is not covered by written agreement (Change Order or Supplemental Agreement) shall be rejected by the CITY.

3.21. Unauthorized Work

WORK DONE CONTRARY TO THE INSTRUCTIONS OF THE CITY, WORK DONE BEYOND THE LINES SHOWN OR AS GIVEN IN THE CONTRACT DOCUMENTS, OR ANY EXTRA WORK DONE WITHOUT AUTHORITY, WILL BE CONSIDERED AS UNAUTHORIZED AND WILL NOT BE PAID FOR UNDER THE PROVISIONS OF THE AGREEMENT. WORK SO DONE MAY BE ORDERED REMOVED OR REPLACED AT THE CONTRACTOR'S EXPENSE.

3.22. Neglected Work

If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents and progress schedule, the CITY, after three (3) days written notice to the Contractor, may make good such deficiencies, and the cost thereof including compensation for additional professional services shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revisions in the Contract Documents and including an appropriate reduction in the Contract Price. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the CITY.

3.23. Conformity with Contract Documents

All Work, Materials, and Equipment furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the Contract Documents.

If the CITY finds the Materials or Equipment furnished, Work performed, or the finished product not within reasonably close conformity with the Contract Documents but that the portion of the Work affected will, in CITY's opinion, result in a finished product having an acceptable level of safety, economy, durability, and workmanship, the CITY shall determine, in its sole discretion, whether the affected Work will be accepted and remain in place. The CITY will determine the basis of acceptance and will provide for an adjustment in the Contract Price for the affected portion of the Work. The CITY's determination and recommended Contract Price adjustments will be based on good engineering judgment and such tests or retests as are, in CITY's opinion, needed. Changes in the Contract Price shall be covered by a Change Order or Supplemental Agreement as applicable.

If the CITY finds the Materials and Equipment furnished, Work performed, or the finished product are not in reasonably close conformity with the Contract Documents and have resulted in an unacceptable finished product, the affected Work, Materials or Equipment shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the CITY's written orders.

For the purpose of this subsection, the term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the Work in strict compliance with the requirements of the Contract Documents.

3.24. Change of Contract Time

The Contract Time may only be changed by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an extension in the Contract Time, his claim shall be in writing delivered to the CITY within ten (10) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the Contract Time shall be determined by the CITY. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by the CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

Time limits stated in the Contract Documents are the essence of the Agreement. The provisions of this Section shall not exclude recovery for damages (including compensation for additional professional services) for delay by either the Contractor or the CITY.

3.25. Warranty and Guarantee Regarding Defective Work

The Contractor warrants and guarantees to the CITY that all Materials or Equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, test, or approvals referred to herein. All unsatisfactory or faulty Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests, or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected.

If required by the CITY prior to approval of final payment, the Contractor will promptly, without cost to the CITY, either correct any defective Work, whether or not fabricated, installed, or completed, or remove it from the site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected Work within a reasonable time, as required by written notice from the CITY, the CITY may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services shall be paid by the Contractor, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price. The Contractor will also bear the expenses of making good all work of others destroyed or damaged by his correction, removal, or replacement of his defective Work.

Prior to the expiration of one (1) year after the date of Substantial Completion (or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents), if any Work is found to be defective, the Contractor will, promptly without cost to the CITY and in accordance with the CITY's written instruction, either correct such defective Work, or, if it has been rejected by the CITY, remove it from the site and replace it

with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the CITY may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, will be paid by the Contractor. In such case, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price. If the acceptance occurs after approval of final payment, an appropriate amount shall be paid by the Contractor.

3.26. Waivers of Claims and Continuing Obligations

The Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the CITY, nor the issuance of a certificate of Substantial Completion, nor any payment by the CITY to the Contractor under the Contract Documents, nor any use or occupancy of the Project or any part thereof by the CITY, nor any act of acceptance by the CITY nor any failure to do so, nor any correction of faulty or defective Work by the CITY shall constitute an acceptance of Work not in accordance with the Contract Documents.

The Acceptance of Final Payment by the Contractor shall constitute a waiver of all claims by the Contractor against the CITY other than those previously made in writing and still unsettled.

3.27. CITY's Right to Stop or Suspend Work

The CITY may order the Contractor to stop the Work, or any portion thereof, if the Work is defective, the Contractor fails to supply sufficient skilled workmen or suitable Materials or Equipment or to provide adequate supervision, or if the Contractor fails to make prompt payment to Subcontractors or for labor, Materials or Equipment or for any other similar cause when necessary to protect the integrity of the Work. The CITY may suspend the Work until the cause for the order has been eliminated. No additional Contract Time and no increase in Contract Price will be awarded in this case.

The CITY may, at any time and without fault of the Contractor, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to the Contractor and the CITY shall fix the date on which Work shall be resumed. The Contractor will resume the Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time directly attributable to any suspension if he makes a claim therefore as provided in the other applicable sections of the RFP.

3.28. CITY's Right to Terminate

CITY may, by written notice, terminate this contract in whole or in part at any time, either for the CITY's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice, services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract shall be delivered to the CITY.

- (a) If the termination is for the convenience of the CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- (b) If the **termination** is due to failure to fulfill the contractor's obligations, the CITY may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the CITY for any additional cost occasioned to the CITY thereby.
- (c) If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor **has** not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in subsection (a) of this clause.
- (d) The **rights** and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

3.29. Contractor's Right to Stop Work or Terminate

If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days, or the CITY fails to act as directed in the Contract Documents or fails to pay the Contractor any authorized amount, then the Contractor may, upon seven (7) days written notice to the CITY, terminate the Agreement and recover from the CITY payment for all Work executed, reasonable expenses and profit. In lieu of terminating the Agreement, if the CITY has acted in the aforesaid manner, the Contractor may upon seven (7) days notice to the CITY stop the Work until he has been paid all amounts then due.

3.30. Assignment and Subletting

The Contractor agrees to retain personal control and will give personal attention to the fulfillment of this Agreement and will not sublet or assign, by power of attorney or otherwise, said Agreement without the written consent of the CITY. No part or feature of the Work will be sublet to anyone objectionable to the CITY. The subletting of any portion or feature of the Work, or Materials required in the performance of this Agreement, shall not relieve the Contractor from full obligation to the CITY.

3.31. Abandonment by Contractor

In case the Contractor should abandon the Work and fail or refuse to resume the Work within ten (10) days after written notification from the CITY or if the Contractor fails to comply with the orders of the CITY, when such orders are consistent with the Contract Documents, then, where performance and payment bonds exist, the Surety on the Bonds shall be notified in writing and directed to complete the Work, and a copy of said notice shall be delivered to the Contractor.

After receiving 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 CITY or the Surety on the performance and payment bonds, 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 in this Agreement), it being understood that the use of such Equipment and Materials will ultimately reduce the cost to complete the Work and be reflected in the final settlement. Where there is no performance and payment bond provided or in case the Surety should fail to commence compliance with the notice for completion provided for, within ten (10) days after service of such notice, the CITY may provide for completion of the Work in either of the following elective manners:

- (a) The CITY may employ such labor and use such Equipment, tools, Materials, and supplies as the CITY deems necessary to complete the Work and charge the expense of such labor, machinery, Equipment, tools, Materials and supplies to the Contractor. The expense(s) so charged shall be deducted and paid by the CITY out of such moneys as may be due, or that may thereafter become due by virtue of this Agreement. In case such expense is less than the sum which would have been due had the Work 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 Agreement, then the Contractor or his Surety shall pay the amount of such excess to the CITY;

or

- (b) The CITY may let the Agreement for the completion of the Work under substantially the same terms and conditions provided for in this Agreement. In case of any increase in cost to the CITY under the new agreement, such increase shall be charged to the Contractor and the Surety. However, should the cost to complete be less, the Contractor and his Surety shall be credited with the difference. When the Work shall have been Substantially Completed a complete itemized statement of the contract amounts certified to by the CITY, shall be prepared, and delivered to the Contractor and his Surety, whereupon the Contractor or his Surety shall pay the balance due if any within fifteen (15) days of the date of such Certificate of Completion.

In the event the statement of accounts shows that the cost to complete the Work is less than the Contract Price; or when the Contractor or his Surety shall pay the balance shown to be due by them to the CITY, 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 CITY within the time designated hereinabove, and there remains any machinery, equipment, tools, materials, or supplies on the site of the Work, notice, together with an itemized list of such equipment and materials, shall be mailed to the Contractor and his Surety. Such property shall be held at the risk of the Contractor and his Surety. After fifteen (15) days from the date of said notice, the CITY may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor and his Surety. Such sale may be made at either public or private sale, with or without notice, as the CITY may elect. The CITY 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 owner.

3.32. Abandonment by CITY

In case the CITY shall fail to comply with the terms of this Agreement, and should fail or refuse to comply with said terms after the expiration of ten (10) days of receipt of written notification, the Contractor may suspend or wholly abandon the

Work, and may remove there from all machinery, tools, and equipment, and all materials that have not been included in payments to the Contractor and have not been wrought into the Work. Thereupon, the CITY shall make an estimate of the total amount earned by the Contractor, which estimate shall include the value of all Work actually completed (at the prices stated in the attached proposal where unit prices are used), the value of all partially completed Work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the terms of this Agreement, and a reasonable sum to cover the cost of any provisions made by the Contractor to carry the whole Work to completion and which cannot be utilized. The CITY shall then make final statement of the balance due by deducting from the above estimate all previous payments, and all other sums that may be retained by the CITY. CITY shall pay on or before thirty (30) days after the date of notification the balance shown by said final statement as due.

3.33. Worker's Compensation Insurance Requirements

3.33.1. 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 (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the Project.

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 Owner. Persons providing services on the Project ("Subcontractor" in Texas Labor Code, 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 Contractor, Subcontractors, leasing companies, motor carriers, Owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. "Services" include, without limitation, providing, hauling, or delivering Equipment or Materials, or providing labor, transportation, or other service related to a Project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

3.33.2. Workers' Compensation Insurance Coverage

The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, meeting the statutory requirements of Texas Workers' Compensation Act, Title 5 Subchapter A of the Texas Labor Code for all employees of the Contractor providing services on the Project, for the duration of the Project.

- A.** The Contractor must provide a certificate of coverage to the CITY prior to issuance of Notice to Proceed.
- B.** 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.
- C.** The Contractor shall obtain from each person or entity 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.
- D.** The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.
- E.** The Contractor shall notify the CITY in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

F. The Contractor shall post on each Project site a notice, in the text, form and manner prescribed by the Division of Workers' Compensation, 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.

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

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

3.33.3. Failure to Maintain Adequate Insurance Coverage

In the event that CITY learns that Contractor has workers (whether employees, volunteers or contract labor) present at the site or working in any manner on this Project who are not covered at all times by the required coverages for workers' compensation, Contractor shall be assessed a penalty of \$500.00 per day, per worker, until Contractor provides a certificate of coverage which documents the required coverage for such workers. Contractor shall further immediately remove any such workers from the job site.

In the event that CITY learns that Contractor has failed to maintain any of the insurance coverages required herein such failure to maintain required coverage shall be taken into account in determining whether a Contractor is a responsible bidder for purposes of future bid or proposals made on projects let by CITY or the City of San Angelo. The foregoing remedies shall be in addition to and not in lieu of any other remedies available at law or in equity to CITY.

3.34. Contract Measurement And Payment

3.34.1. Quantities and Measurements

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

3.34.2. Estimated Quantities

The Contract Documents are intended to show clearly all Work to be done and Material and Equipment to be furnished hereunder. Where the evaluation quantities are shown for the various classes of the Work, they are to be used only as a basis for comparing the proposals offered for the Work. It is understood and agreed that the actual amount of the Work to be done and Material and Equipment to be furnished under this Agreement will not be reflected by these evaluation quantities. The basis for payment shall be for the actual amount of the Work done and the Material and Equipment furnished. Where payment is based on the unit price method, the Contractor agrees that he will make no claim for damages, or anticipated profits on account of any differences which may be found between the quantities of the Work actually done, the Material and Equipment actually furnished under this Agreement and the evaluation quantities provided.

3.34.3. Price of Work

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 of the delivery of all Material and Equipment embraced in this Agreement in full conformity with the Specifications and stipulations contained within the Contract Documents, the CITY agrees to pay the Contractor the prices set forth in the Bid hereto attached, which has been made a part of this Agreement. The Contractor hereby agrees to receive such prices in full for furnishing all Material, Equipment and all labor required for the aforesaid Work, also 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 Agreement and the Contract Documents. The unit prices provided in the Bid shall be the actual unit price for each item when considering the cost of providing all labor, material, equipment, resources, and profit to be recovered by the Contractor for such Work and without consideration of association with any other item of Work.

3.34.4. Partial Payment Estimates

The Contractor shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction.

3.34.5. Deadline

On or before the 10th day of each month the Contractor shall prepare a statement showing as completely as practicable the total value of the Work done by the Contractor up to and including the last day of the preceding month. The statement shall be deemed complete and received once all corrections to the Work required by CITY, if any, have been made. The CITY shall submit a recommendation for approval upon completion of all corrections. Failure by the CITY to note corrections prior to payment does not constitute acceptance of the Work nor waive any remedy provided for in the Contract Documents or under law.

3.34.6. Payment

The CITY shall pay the total amount of the Contractor's statement, as approved by the Architect, to the Contractor on or before the 30 day of upon receipt of a valid payment request, less all previous payments and all further sums that may be retained, withheld or delayed by the CITY under the terms of this Agreement.

3.34.7. Warranty of Title

The Contractor warrants and guarantees that clear ownership title to all Work, Materials, and Equipment covered by a Partial Payment Estimate, whether incorporated in the Project or not, will have passed to the CITY prior to making the Partial Payment Estimate free and clear of all liens, claims, security interests, and encumbrances (hereinafter in these General Conditions referred to as "Liens"); and that no Work, Materials, or Equipment covered by a Partial Payment Estimate will have been acquired by the Contractor or by any other person performing the Work at the site or furnishing materials and equipment for the Project subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

Partial payment retainage by the CITY shall be at the maximum rate prescribed by the laws, rules, or regulations established by the State of Texas and shall in no case exceed five percent (5%). See Contract Measurement and Payment, Section 2.2 for specific payment methods.

3.34.8. Approval of Payments

The Partial Pay Estimate shall be based on on-site observations of the Work in progress, and shall verify that the Work has progressed to the point indicated; that the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent test called for in the Contract Documents and any qualifications stated in the approval); and that the Contractor is entitled to payment of the amount approved. However, by such payment, the CITY shall not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or the quantity of the Work, or that he has reviewed the means, methods, techniques, sequences, and procedures of construction or that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys paid or to be paid to him on account of the Contract Price.

The CITY may nullify any such payment previously requested to such extent as may be necessary to provide protection from loss because:

- (a) the Work is defective, neglected, or omitted,
- (b) claims have been filed or there is reasonable evidence indicating the probable filing thereof,
- (c) the Contract Price has been reduced because of Change Orders or Field Changes,
- (d) the CITY has been required to correct defective Work or complete neglected Work.
- (e) unsatisfactory prosecution of the Work, including failure to clean up as required herein.
- (f) material installation has not been tested as required by the terms of the Contract Documents.

Payment will not be made for materials and equipment on hand or delivered to the site but not installed.

For utility lines, fittings, valves, manholes, vaults and related work partial payment shall be made for completion of the individual sections of work identified and more fully described in the Technical Specifications, Section 3.1.20 of the General Notes, entitled "Approximate Breakdown of Quantities." The Work shall be performed in the manner and sequence more fully described in Sections 3.1.18 and 3.1.19. Partial Payment of fifty percent (50%) of the total of each section of work, less retainage, shall be authorized for installation and backfilling of the utility feature and successful completion of bacteriological and pressure testing. Partial Payment of an additional forty percent (40%) of the total for each section of work, less retainage, will be made for completion of the installation and trench repair. The final ten percent (10%), less retainage, will be paid upon final completion.

3.34.9. Substantial Completion

Prior to final payment, the Contractor may provide the CITY with written certification that the entire Project is substantially complete and request that the CITY issue a certificate of Substantial Completion. Within a reasonable time thereafter, the CITY and Contractor will make an inspection of the Project to determine the status of completion.

If the CITY does not consider the Project substantially complete, the Contractor will be notified in writing of the reasons.

If the CITY does consider the Project substantially complete, he will prepare a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between the CITY and the Contractor for maintenance, etc. Attached to the certificate, there shall be a tentative list of items to be completed or corrected before final payment, and the certificate shall fix the time within which such items shall be completed or corrected, said time to be within the Contract Time.

The CITY shall have the right to exclude the Contractor from the Project after the date of Substantial Completion, but the CITY will allow the Contractor reasonable access to complete or correct items on the tentative list.

3.34.10. Partial Utilization

Prior to final payment, the CITY shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work of such portions may not have expired, but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If such prior use increases the cost or delays the Work, the Contractor may request in writing, in accordance with the process set forth in these General Conditions, an increase in the Contract Price or extension of the Contract Time, or both as the CITY may determine to be reasonable.

3.34.11. Final Payment

Upon written notice from the Contractor that the Project is complete, the CITY and the Contractor will make a final inspection and the CITY will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is defective. The Contractor shall immediately make such corrections as are necessary to remedy such defects.

After the Contractor has completed any such corrections to the satisfaction of the CITY and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection and other documents, he may request final payment. The final estimate shall be accompanied by such supporting data as the labor and services performed and the material and equipment furnished. In lieu thereof and as approved by the CITY, the Contractor may furnish receipts or releases in full, including an affidavit of the Contractor showing that releases and receipts for all labor, services, Material, and Equipment for which a Lien could be connected with the Work have been paid or otherwise satisfied; and showing consent of the surety, if any, to final payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, the Contractor may furnish a bond satisfactory to the CITY in an amount sufficient to cover any Lien.

If, on the basis of observation and review of the Work during construction and the final inspection, the CITY is satisfied that the Work has been completed and the Contractor has fulfilled all of his obligations under the Contract Documents the CITY will issue written approval and the final estimate will be processed for payment. Otherwise, the CITY will indicate in writing his reasons for refusing to issue payment of the final estimate.

If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor, the CITY shall make payment of the balance due for that portion of the Work fully completed and accepted if the remaining balance for Work not fully completed or corrected is less than the retainage, and, if Bonds

have been furnished in accordance with the Contract Documents, the written consent of the surety to the payment of the balance due shall be submitted to the CITY. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

3.34.12. Payments Withheld

The CITY may, on account of subsequently discovered evidence, withhold or nullify payment to such extent as may be necessary for protection from loss on account of:

- (a) Defective Work not remedied.
- (b) Claims filed or reasonable evidence that the filing of a claim is likely.
- (c) Failure of the Contractor to make payments properly to sub-contractors for Material, Equipment or labor.
- (d) Damage to another Contractor.
- (e) Failure to carry out testing of material installation, if required.

When the above grounds are removed, or the Contractor provides a Surety bond satisfactory to the CITY, which will protect the CITY in the amount withheld, payment shall be made.

3.34.13. Delayed Payments

Should the CITY fail to make payment to the Contractor of the sum named in any statement when payment is due, or should the CITY fail to issue any statement on or before the date required, then the CITY shall pay to the Contractor, in addition to the sum shown as due by such statement, interest at the rate of six (6%) percent per annum until fully paid. Payment of interest on the amount owed shall fully liquidate any injury to the Contractor growing out of such delay in payment. The right is expressly reserved to the Contractor in the event payments are not promptly made to treat the Agreement as abandoned and recover compensation unless such payments are withheld as otherwise authorized in the Contract Documents.

3.35. Project Requirements

3.35.1. Line and Grade

Lines and grades for construction are as directed in the Contract Documents. Any questions, alterations, or adjustments must be directed through the CITY.

3.35.2. Working Day

Work on the site shall be done only during the Work Day, except for emergencies or as otherwise approved by the CITY. This Agreement is established with the intent that no Work shall be permitted on weekends or legal holidays except in cases of extreme emergency and then only with the written permission of the CITY.

After Hours Inspection Costs. Work performed outside of the standard Work Day hours of the CITY, 8:00 a.m. to 5:00 P.M., will require the permission of the CITY. The Contractor agrees to pay \$25.00 per hour for overtime inspection services when work is performed outside the standard Work Day with a minimum of \$50.00 per occurrence to compensate CITY for after hour inspection costs.

Weekend or Holiday Inspection Costs. Contractor agrees to compensate CITY \$25.00 per hour with a minimum of \$100.00 per daily occurrence against the next payment application for costs associated with after hour inspection services when Work is performed on a weekend or holiday.

3.35.3. Character of Employees

The Contractor agrees to employ only orderly and competent employees, skillful in the performance of the type of Work required under this Agreement, to do the Work; and agrees that whenever the CITY shall inform the Contractor in writing that any employee or employees are, in its opinion, incompetent or disorderly, such employee or employees shall be discharged from the Work and shall not again be employed on the Work without the written consent of the CITY.

3.35.4. Physical and Subsurface Conditions

The Contractor will promptly notify the CITY in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. The CITY will promptly investigate those conditions and determine if further surveys or subsurface tests are necessary. Promptly thereafter, the CITY will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the CITY finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract Documents, a Change Order shall be issued incorporating the necessary revisions.

3.35.5. Reference Points

The CITY will obtain such general reference points as will enable the Contractor to proceed with the Work. The Contractor will be responsible for the layout of the Work, will protect and preserve the established reference points, and will make no changes or relocations without the prior written approval of the CITY. He will report to the CITY whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor will replace and accurately relocate all reference points so lost, destroyed, or moved. All utilities shown on drawings are schematic only. The Contractor is solely responsible for verification of existence and location of all utilities within the Project site prior to construction.

3.36. Materials

3.36.1. Materials and Equipment

The Contractor shall furnish and pay for all labor, Materials, Equipment, tools, transportation, construction equipment, fuel, power, light, heat, telephone, water, sanitary facilities, and all other incidentals required to complete the Work in accordance with the Contract Documents. All Materials and Equipment used in the construction of the Work shall conform fully to the Contract Documents and be approved by the CITY. Any Materials or Equipment placed before approval of the CITY shall be removed, if directed by the CITY, and replaced with approved Materials or Equipment, at the expense of the Contractor.

If required the Contractor will furnish satisfactory evidence as to the kind and quality of Materials and Equipment to be used. If authorized by CITY, the Contractor may use a substitute that is equal to any Material or Equipment specified. No substitute shall be ordered or installed without the written approval of the CITY.

All Materials and Equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processors, except as otherwise specifically provided in the Contract Documents. The Contractor shall provide start-up services for all major equipment.

3.36.2. Right of the CITY to Modify Equipment and/or Methods

If at any time the methods or Equipment used by the Contractor are found to be inadequate to secure the quality of Work or the rate of progress required under this Agreement, or the working force of the Contractor is inadequate for securing the progress herein specified, the CITY may order the Contractor in writing to improve their character and efficiency, or to increase force or Equipment or both, and the Contractor shall comply with such order. Such authority of the CITY, however, is for the sole benefit of the CITY in order to secure completion in conformity with this Agreement. It shall remain the sole duty and responsibility of the Contractor to take adequate precautions in his operation for the safety of persons and property. No failure of the CITY to notify the Contractor of deficient or negligent methods or Equipment shall excuse or relieve the Contractor of sole liability for damage to the property or improvements of the CITY by reason of his neglect or omission.

3.36.3. CITY Furnished Materials

The Contractor shall furnish all Materials required to complete the Work, except those specified herein (if any) to be furnished by the CITY. CITY-furnished Materials shall be made available to the Contractor at the location specified in the Contract Documents. All costs of handling, transportation from the specified location to the site of Work, storage, and installing CITY furnished Materials shall be included in the unit price bid for the contract item in which such CITY-furnished Material is used.

After any CITY furnished Material has been delivered to the location specified, the Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the Contractor's handling, storage, or use of such CITY-furnished Material. The CITY will deduct from any monies due or to become due the Contractor any cost

incurred by the CITY in making good such loss due to the Contractor's handling, storage, or use of CITY-furnished Materials.

3.36.4. Material Storage

Materials shall be so stored as to assure the preservation of their quality and fitness for the Work. When considered necessary by the CITY, Materials shall be placed on wooden platforms or other hard, clean, and dry surfaces and not in contact with the ground, and shall be placed under cover. Stored materials, even though approved before storage, may again be inspected prior to their use in the Work. Stored materials shall be located to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the CITY or its Resident Project Representative. Materials to be stored on the site of the Work shall not create an obstruction to the public, nor shall they interfere with the free and unobstructed movement of vehicular traffic associated with the site. The storage of the Materials and the location of the Contractor's plant and parked equipment or vehicles shall be as directed by the CITY or its representative. Private property shall not be used for storage purposes without written permission of the CITY. The Contractor shall make all arrangements and bear all expenses for the storage of Materials on private property.

All storage sites shall be restored to their original condition by the Contractor at his/her entire expense, except as otherwise agreed to by the CITY.

3.36.5. Sources of Supply and Quality of Materials

The source of supply of each of the Materials shall be approved by the CITY before delivery is started and may be sampled and tested to determine compliance with the specifications before delivery is started. If it is found that sources of supply previously approved do not produce uniform and satisfactory products, or if the product from any source proves unacceptable at any time, the Contractor shall furnish Materials from other approved sources. Only Materials conforming to the requirements of the Contract Documents and approved by the CITY shall be used in the Work. No material which after approval has in any way become unfit for use shall be incorporated in the Work.

Throughout the specifications where reference is made to ASTM, AASHTO, or bulletins of the Texas Department of Transportation for the quality of Materials or sampling and testing, the latest standard, tentative standard, or bulletin issued prior to the date of the proposal shall govern.

3.36.6. Samples and Tests

All Materials shall be inspected, tested, and approved by the CITY, and any Work in which Materials are used without prior test and approval may be ordered removed and replaced at the Contractor's expense. The Contractor shall furnish a complete written statement of the origin, composition, and manufacture of any or all Materials that are to be used in the Work.

3.36.7. Defective Materials

All Materials not conforming to the requirements of the Contract Documents will be rejected and shall be removed immediately from the site of the Work. Rejected Materials in which the defects have been subsequently corrected, shall have the status of new Material. Upon failure on the part of the Contractor to comply with the provisions of this item, the CITY will have authority to remove and replace defective Material and to deduct the cost of removal and replacement from any payment due or to become due to the Contractor.

3.37. Project Meetings

See Also Section 01 31 00 and all related sections of the Specifications

3.37.1. Pre-construction Meeting

Prior to the commencement of Work at the site, a pre-construction conference will be held with the CITY at a mutually agreed upon time and location. The conference shall be attended by:

- Contractor and his superintendent
- Principal Subcontractors
- Representatives of principal suppliers and manufacturers as appropriate
- Representatives of CITY
- Others as requested by the Contractor or the CITY

The agenda will include:

- Contractor's tentative schedules
- Critical Work sequencing
- Transmittal, review, and distribution of Contractor's submittals
- Field decisions and Change Orders
- Use of premises, office and storage areas, security, housekeeping, and CITY's needs
- Major equipment deliveries and priorities
- Maintaining record documents
- Processing applications for payment
- Contractor's assignments for safety and first aid

The sequence of operations to be followed shall be prepared by the Contractor for approval by the CITY. The sequence shall meet the job requirements for Completion Time and shall conform to the requirements set forth in the Contract Documents.

3.37.2. Progress Meetings

The Contractor shall schedule and hold regular progress meetings at least monthly and at other times as requested by the CITY or required by progress of the Work. The Contractor, the CITY, and all Subcontractors active on the site shall be represented at each meeting. The Contractor may, at his discretion, request attendance by representatives of his suppliers, manufacturers, and other Subcontractors.

The Contractor shall preside at the meetings and provide for keeping of the minutes and provide the CITY with a copy of the minutes. The purpose of the meetings will be to prepare statements of payment, review the progress of the Work, maintain coordination of efforts, discuss changes in procedures and personnel, and resolve problems.

3.38. Construction Administration

3.38.1. Notices to Owners and Authorities

The Contractor shall notify Owners of adjacent property and utilities in writing and sufficiently in advance when prosecution of the Work may affect them. When it is necessary to temporarily deny access by Owners or tenants to their property, or when any utility service connection must be interrupted, the Contractor shall give notices in writing and sufficiently in advance to enable the affected persons to provide for their needs. Notices will conform to any applicable local ordinance, shall be provided in writing, and will include appropriate information concerning the interruption and instructions on how to limit their inconvenience.

3.38.2. Notification of Street Closing

Where the Contractor has cause to close a street or thoroughfare for purposes of construction, the CITY shall be provided reasonable advance notice, in writing, prior to such actions for approval and coordination with appropriate agencies.

3.38.3. Detours and Barricading

The Contractor shall be responsible for providing barricading for all work areas during the construction of this Project. Unless provided by CITY in the Technical Specifications contained within the contract documents, the Contractor shall prepare and submit a barricading plan to the City of San Angelo for approval. City of San Angelo's approval shall be for routing and for length of time of barricading only. Plans shall be prepared by a Professional Engineer, Registered in the State of Texas, and show all necessary barricades, signs, etc., required to provide a safe work site. Plans shall be based on the recommendations in the Manual of Uniform Traffic Control Devices for control of traffic in a construction area. It shall be the total responsibility of Contractor to maintain the barricades, lights, signs, and all other items involved in the detouring of traffic.

Contractor shall provide appropriate barricades for use at night, and shall maintain all lighted barricades for the duration of the project. Contractor shall designate an employee who will be responsible for the maintenance of the barricades and lighting system on a twenty four (24) hour basis, and shall provide a phone number where the responsible party can be reached on a twenty four (24) hour basis.

3.38.4. Convenience to Traffic

When the Agreement requires the maintenance of vehicular traffic on an existing road, street, or highway during the

Contractor's performance of the Work, the Contractor shall keep such road, street, or highway open to all traffic as provided herein and shall provide such maintenance as may be required to accommodate traffic. The Contractor shall furnish, erect, and maintain barricades, warning signs, flag persons, and other traffic control devices in reasonable conformity with the manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein. The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets, or highway.

The Contractor shall make his own estimate of all labor, Materials, Equipment, and incidentals necessary for providing the maintenance of vehicular traffic as specified in this subsection. The cost of maintaining vehicular traffic specified in this subsection shall not be measured or paid for directly, but shall be included in the various contract items.

One-half of the traveled portions of the road must be open to traffic at all times unless otherwise approved by the Owner. Work that will require less than one day to complete shall not be performed on major or collector streets between 7:00 a.m. to 9:00 a.m., 4:00 P.M. to 6:00 P.M., or other peak congestion periods as determined by the Owner.

3.38.5. Unfavorable Construction Conditions

During unfavorable weather, wet ground, or other unsuitable construction conditions, the Contractor shall confine his operations to Work which will not be affected adversely by such conditions. No portion of the Work shall be constructed under conditions which would affect adversely the quality or efficiency thereof unless special means or precautions are taken by the Contractor to perform the work in a proper and satisfactory manner.

3.38.6. Cleaning Up

The Contractor shall keep the premises free at all times from accumulations of waste materials, rubbish, and other debris resulting from the Work. The Contractor will restore to their original or better condition those portions of the site not designated for alteration by the Contract Documents.

The Contractor shall provide adequate trash receptacles about the work site, and shall promptly empty the containers when filled. Construction materials, such as concrete forms and scaffolding shall be neatly stacked by the Contractor when not in use. The Contractor shall promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids, and cleaning solutions from surfaces to prevent marring or other damage.

Volatile wastes shall be properly stored in approved containers and removed daily. Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams, or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local, state, and federal laws. Adequate cleanup will be condition for recommendation of progress payment applications.

Upon completion of the Work and before acceptance and final payment will be made, the Contractor shall remove from and about the site all machinery, equipment, tools, surplus and discarded and waste materials, debris, rubbish, temporary structures, and stumps or portions of trees. He shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition, ready for occupancy by the CITY.

3.38.7. Restoration of Work Site

In the event that a work site is closed, the Contractor shall immediately commence operations to restore the Work site to its proper conditions; such work to be completed within twenty-four (24) hours. In the event such restoration is not done, the CITY shall be authorized to take charge of the Work and restore the premises to its proper condition and shall be entitled to recover from the Contractor the actual expenses incurred by the CITY in restoring the premises, including, but not limited to, cost of labor, materials, overhead, rental of any equipment used by the CITY in restoring the site, and attorney's fees for such purposes.

3.38.8. Site Administration

The Contractor shall be responsible for all areas of the work site, and all Subcontractors in the performance of the Work. The Contractor will exert full control over the actions of all employees and other persons with respect to the use and reservation of property and existing facilities, except such controls as may be specifically reserved to CITY or others. The Contractor has the right to exclude from the site all persons who have no purpose related to the Work or its inspection, and may require all persons on the site (except the CITY's employees) to observe the same regulations as he requires of his employees.

3.38.9. Load Restrictions

The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the Work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment. The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. The Contractor shall be responsible for all damage done by his/her hauling equipment and shall correct such damage at his/her own expense.

3.39. Applicable Codes

References in the Contract Documents to local codes mean codes used, required, or adopted by the CITY of San Angelo, Texas, the State of Texas or the federal government.

3.40. Miscellaneous Provisions (Time Charges)

The Contractor shall have 180 calendar days to complete the project commencing from the Notice to Proceed. The Contractor shall not cease construction activities without written approval from the CITY. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by the CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God. When the contractor is directed to suspend construction by the CITY, the CITY will suspend time charges.

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CITY OF SAN ANGELO
PURCHASING DEPARTMENT
72 West College Avenue, San Angelo, Texas 76903
Tel: (325) 657-4219 or 657-4220

4. PROPOSAL FORMS

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Letter of Interest

The undersigned firm submits the following information in response to Request for Proposal (as amended by Addenda), issued by the City of San Angelo, Texas ("City").

- Respondent is responsible for calling the Purchasing Division or checking the City's website to determine if any addendums have been issued prior to submitting a proposal.
- Respondent also understands that the City is not bound to select any proposals for the final pre-qualified list and may reject any RFP submittal that the City receives.
- Respondent further understands that all costs and expenses incurred by it in preparing this RFP and participating in this process will be borne solely by the respondent, and that the RFP submittal materials will become the property of the City and will not be returned.
- Respondent agrees that the City will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in this RFP and accepts all terms of the RFP submittal process by signing this letter of interest and making the RFP submittal.
- The respondent certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State departments or agencies.
- Respondent agrees that any offer submitted because of this RFP shall be binding on the Respondent for 120 calendar days following the specified opening date. Any proposal for which the respondent specifies a shorter acceptance period may be rejected.

This RFP shall be governed by and construed in all respects according to the laws of the State of Texas.

Company

Authorized Signature

Printed Name & Title

Address

City, State Zip Code

Date

THIS FORM MUST BE RETURNED WITH THE PROPOSAL

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CITY OF SAN ANGELO
PURCHASING DEPARTMENT
72 West College Avenue, San Angelo, Texas 76903
Tel: (325) 657-4219 or 657-4220

Disclosure of Certain Relationships

NOTICE TO VENDORS

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local governmental entity make certain disclosures concerning any affiliation or business relationship that might cause a conflict of interest with the local governmental entity. The provisions of Chapter 176 and the Form CIQ questionnaire that you must complete to comply with this law, are available at the Texas Ethics Commission website at <http://www.ethics.state.tx.us/whasnew/conflictforms.htm>.

A current list of City of San Angelo and City of San Angelo Development Corporations officers is available in the office of the City of San Angelo City Clerk's office located in Room 201 of City Hall or on the City's website at <http://sanangelotexas.org>. If you are considering doing business with the City of San Angelo or the City of San Angelo Development Corporation and have an affiliation or business relationship that requires you to submit a completed Form CIQ, it must be filed with the records administrator (City Clerk) of the City of San Angelo not later than the seventh (7th) business day after the date you become aware of facts that require the form to be filed. See Section 176.006, Texas Local Government Code. It is a Class C misdemeanor to violate this provision.

By Submitting a response to a City of San Angelo or City of San Angelo Development Corporation Request for Proposals, Request for Bids, or Request for Qualifications or by conducting business with either of those two entities, you are representing that you are in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

A handwritten signature in black ink, appearing to read "Roger S. Banks".

Roger S. Banks
Division Manager

LOCAL GOVERNMENT OFFICERS OF THE CITY OF SAN ANGELO
As defined by Chapter 176 of the Texas Local Government Code
(Revised 8/6/13)

For purposes of completion of the required Conflict of Interest Questionnaire for the City of San Angelo (required by all Vendors who submit bids/proposals), Local Government Officers are:

City of San Angelo City Council:

Mayor: Dwain Morrison, Mayor

Councilmembers: Rodney Fleming, SMD 1
Marty Self, SMD 2
Johnny Silvas, SMD 3
Don Vardeman, SMD 4
Elizabeth Grindstaff, SMD5
Charlotte Farmer, SMD 6

City Manager: Daniel Valenzuela

City of San Angelo Development Corporation officers are:

Scott Tankersley, President
John Edward Bariou, Jr. - First Vice President
Tony Villarreal - Second Vice President
Daniel Anderson - Director
Richard Crisp - Director
Tommy Hiebert - Director
Pedro Ramirez – Director

Executive Director: Roland Peña

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

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 person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(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 the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes

☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes

☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

4

Signature of person doing business with the governmental entity

Date

Adopted 06/29/2007

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Debarment and Suspension Certification

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Company Name

Signature

Date

Title

Printed Name

Address

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INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the determination whether to enter into this transaction. However, failure of the prospective participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the City of San Angelo or City of San Angelo Development Corporation determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available, the City of San Angelo may terminate this transaction for cause.
4. The prospective participant shall provide immediate written notice to the City of San Angelo to which this proposal is submitted if at any time the prospective participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549(13 CFR Part 145). You may contact the City of San Angelo for assistance in obtaining a copy of these regulations.
6. The prospective participant agrees by submitting this proposal that, should the proposed transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the City of San Angelo.
7. The prospective participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment And Suspension" provided by the City of San Angelo, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the City of San Angelo or San Angelo Development they may terminate this transaction for cause.

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CITY OF SAN ANGELO
PURCHASING DEPARTMENT
P.O. BOX 1751, SAN ANGELO, TEXAS 76902-1751
Tel: (325) 657-4219 or 657-4220

Contractor References (Non City)

Company Name: _____

List three (3) governments or companies, **other than City of San Angelo or CITY**, who can verify the quality of service your company provides. References should be of similar size and scope of work to this bid.

Reference One

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Reference Two

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Reference Three

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Contract Period: _____

Reference Four

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Reference Five

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Reference Six

Government/Company Name: _____

Location: _____

Contact Person and Title: _____

Telephone Number: _____

Scope of Work: _____

Contract Period: _____

Contract Period: _____



Contractor References (City)

Company Name: _____

List all projects for the City of San Angelo or CITY that your company has completed over the past five (5) years similar in size and scope of work to this project.

Use additional pages as necessary

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____

--

Project Description: _____

Project Address/Location: _____

Scope of Work: _____

Contact Person: _____

Contract Amount: _____

Contract Date: _____

Completion Time (In Calendar Days: _____



List of Subcontractors and Suppliers

Company Name: _____

List any subcontractors and suppliers you intend to use on this project and the categories of work they will perform. **Contractors are strongly encouraged to explore utilizing area subcontractors and suppliers.** *Any substitution of subcontractor/suppliers must be approved prior to the commencement of work.*

Use additional pages as necessary to cover all categories.

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

Category of Work: _____

Business Name: _____

Contact Name: _____

Telephone: _____

Address, City, State, Zip: _____

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Bid Proposal

Company Name: _____

Pursuant to the Invitation for Proposals, the undersigned firms hereby proposes to do all work and furnish all necessary superintendence, labor, machinery, equipment, tools, and materials, and whatever else may be necessary to complete all work upon which he bids, as provided by the attached specifications and shown on the plans, and binds himself on acceptance of this proposal to execute an Agreement and Bonds according to the accompanying forms, for performing and completing the said work within the time stated, and furnishing all required guarantees, for the following prices to-wit:

Cash Allowances - Cash allowances shall be incorporated into the bids submitted by each relevant Subcontractor to the General Contractor for inclusion into the Base Bid.

Construction Contingency

General Contractor shall include in his bid as part of the Base Proposal a construction contingency of \$50,000.00 to cover contingencies and \$5,000.00 for exterior signage. No work shall be implemented under this allowance except at the instruction of the Architect or the City. Any unused balance of this allowance shall be deducted from the final payment to the General Contractor.

Profit and Overhead - General Contractor's profit and overhead shall be included in the bid itself and not considered a part of the allowance expense.

Note that the General Contractor's profit and overhead for the items drawn from the contingency shall be included in the Base Bid itself and not part of the above contingency fund. Copies of labor time sheets and materials invoices shall be submitted with requests for payment for additional work from this contingency.

Price Proposal

Item No.	Digital Marque (Purchase, Installation & Training) Offeror May Propose up to three designs)	Cost
1.	Model Number#	
2.	Model Number#	
3.	Model Number#	

Price for Additional Work:

Contractor agrees to furnish all labor and materials for any additional work ordered by the City for which no pre-agreed price has been fixed, for the net cost of all labor and materials plus overhead and profit as follows:

For work performed by the General Contractor's own forces: Overhead _____% Profit _____%

For work performed by the General Contractor's subcontractors: Overhead _____% Profit _____%

Copies of labor timesheets and material invoices shall be submitted with request for payment for additional work.

Consecutive Calendar Days to Complete Project: _____ (____) days
Not to Exceed 30 days. If fewer days are needed, please indicate.

It is understood the quantities of work to be done at unit prices are approximate. Each Offeror is responsible for verification of all quantities and review of all addendums prior to submitting a bid

Upon receipt of the written "Notice of Award", the Contractor will execute the agreement within fifteen (15) days and deliver all bonds and Certificates of Insurance.

Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" and to fully complete the project within 30 days. Contractor further agrees to pay as liquidated damages the sum of \$100.00 for each consecutive calendar day to complete the work beyond the allotted time or as extended by an approved Change Order.

Offeror understands the Owner/Agent reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner/Agent and conforms to State and local laws and ordinances pertaining to the letting of construction contracts.

Addendum Acknowledgment

Receipt is hereby acknowledged of the following addenda to the Contract documents.

Addendum No. 1 Dated:	_____	Received:	_____
Addendum No. 2 Dated:	_____	Received:	_____
Addendum No. 3 Dated:	_____	Received:	_____
Addendum No. 4 Dated:	_____	Received:	_____
Addendum No. 5 Dated:	_____	Received:	_____
Addendum No. 6 Dated:	_____	Received:	_____
Addendum No. 7 Dated:	_____	Received:	_____

(Seal if Bidder is a Corporation)

Company Name

Signature

Date

Title

Printed Name

Address

Note: Agents must provide evidence of authority to bind corporation.

- **Proposals that are not signed will be rejected!** -

Contact Information
Please Print

Contact Name:	
Mailing Address:	
City, State Zip Code:	
Accounts Receivable Address	
City, State Zip Code	
Tax ID:	
Payment Terms:	
Telephone:	FAX:
Email:	

Attach W-9

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