



## Meeting Agenda City Council Regular

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Thursday, April 24, 2014

7:00 PM

City Hall Council Chambers

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1. Pledge of Allegiance, Invocation, Consider absence request.

### Presentation:

- Presentation proclaiming May 4- 10, 2014 as Municipal Clerks Week.

Hear Visitors: A citizen may address the City Council on any item which does not appear on the posted Agenda. Registration forms are available in the lobby and at the desk of the City Secretary. This form should be completed and delivered to the City Secretary by 5:30 pm. Please limit remarks to three minutes. A timer alarm will sound after 2 1/2 minutes to signal thirty seconds remaining to conclude your remarks. The City Council will receive the information, ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concerns shall be directed to the City Manager. Comments should not personally attack other speakers, Council or staff.

### **Consent Agenda**

At the discretion of the Mayor, individuals may be allowed to speak on a Consent Agenda Item. Individuals who wish to address the City Council on a consent agenda item not posted as a public hearing shall register with the City Secretary prior to the Mayor's reading of the agenda item. Registration forms are available in the lobby and at the desk of the City Secretary.

2. Presentation, possible action and discussion of consent agenda items which consists of ministerial or "housekeeping" items required by law. Items may be removed from the consent agenda by majority vote of the Council.

- 2a. 14-399** Presentation, possible action, and discussion of minutes for:
  - April 10, 2014 Workshop
  - April 10, 2014 Regular Council Meeting

**Attachments:** [WKSHP041014 DRAFT Minutes.pdf](#)  
[RM041014 DRAFT Minutes.pdf](#)

- 2b. 14-366** Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount not to exceed \$645,638.00 for the purposes of providing Project Management services for the replacement of the City's current ERP system. Contract is for 24 months.

**Attachments:** [BerryDunn.pdf](#)

- 2c. 14-369** Presentation, possible action, and discussion regarding an Inter-Local

Agreement with the Brazos Valley Council of Governments for the provision of Broadband Networking Services.

Attachments: [BVCOG-BR.pdf](#)

- 2d. 14-372 Presentation, possible action, and discussion regarding renewal of Bid No. 12-048 with ProSTAR Industries for the purchase of janitorial supplies in an amount not to exceed \$60,303.66.

Attachments: [12-048 Ren2.pdf](#)

- 2e. 14-373 Presentation, possible action and discussion of the award of Contract 14-224, for the Annual Crack Sealing of City Streets for an amount not to exceed \$140,000.00.

Attachments: [Tabulation.pdf](#)

- 2f. 14-374 Presentation, possible action and discussion of the award of Contract 14-238 for the Annual Concrete joint sealing of City Streets for an amount not to exceed \$148,750.00.

Attachments: [14-045 Tab.pdf](#)

- 2g. 14-375 Presentation, possible action and discussion awarding a bid to Bayer Construction in the amount of \$116,440 for the improvements of the school zones at A&M Consolidated High School.

- 2h. 14-377 Presentation, possible action, and discussion to consider a resolution to adopt an updated Water Conservation Plan, as required by TCEQ.

Attachments: [Resolution.docx](#)  
[Water Conservation Plan.docx](#)

- 2i. 14-378 Presentation, possible action, and discussion to consider an ordinance amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.

Attachments: [Drought Plan with Ordinance.docx](#)

- 2j. 14-379 Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for the Electronic Storage Upgrade project.

Attachments: [4-24-2014.pdf](#)

- 2k. 14-380 Presentation, possible action and discussion on approving annual water meter purchases from Aqua Metric Sales Company through the Houston-Galveston Area Council (HGAC) contract (#WM08-12). Based on the attached contract unit pricing, the estimated annual expenditure for water meters is: \$224,499.54.

Attachments: [HGAC Quote Meters 032114.pdf](#)

- 2l. 14-381 Presentation, possible action, and discussion on a funding agreement

between the City of College Station and the Research Valley Partnership to provide \$225,000 in Hotel Tax Funds for the Aggies Go to War Exhibit; and approval of the RVP budget for the Aggies Go to War Exhibit project.

**Attachments:** [Signed Exhibit Agreement.pdf](#)

- 2m. 14-382** Presentation, possible action, and discussion regarding approval of a resolution authorizing the Mayor to approve the Plan of Finance, the Issuance of New Hope Cultural Education Facilities Finance Corporation Student Housing Revenue Bonds and the project to be acquired with the proceeds of such bonds.

**Attachments:** [Certificate of Mayor \(College Station\)-TEFRA Approval - unsigned by College Station TEFRA Resolution.pdf](#)

- 2n. 14-385** Presentation, possible action, and discussion regarding approval of the Brazos Valley Wide Area Communications System (BVWACS) Operating Budget for FY 15 and authorizing the City's quarterly payments of approximately \$53,602 for an annual total of \$214,406; and approval of the BVWACS Capital Equipment Replacement Reserve Fund Budget for FY 15 and payment of the City's share in the amount of \$63,329.

- 2o. 14-400** Presentation, possible action, and discussion on awarding a bid to Vox Construction, LLC. in the amount of \$256,955.82 for the 2014 CDBG Neighborhood Sidewalk Project.

**Attachments:** [Contract.pdf](#)  
[Attachment 2 - Map.pdf](#)  
[Attachment 3 - Bid Tab.pdf](#)  
[Surety Assignment.pdf](#)

### **3. Adjourn.**

The City Council may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion.

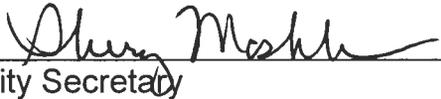
APPROVED



City Manager

Notice is hereby given that a Regular Meeting of the City Council of the City of College Station, Texas will be held on the 24th day of April, 2014 at 7:00 PM at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda.

Posted this 17th day of April, 2014 at 5:00 p.m.



City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on April 17, 2014 at 5:00p.m. and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting. This public notice was removed from the official posting board at the College Station City Hall on the following date and time: \_\_\_\_\_ by \_\_\_\_\_.

Dated this \_\_\_ day \_\_\_\_\_, 2014 By \_\_\_\_\_

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public – Brazos County, Texas

My commission expires: \_\_\_\_\_

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on www.cstx.gov. Council meetings are broadcast live on Cable Access Channel 19.



## Legislation Details (With Text)

**File #:** 14-399      **Version:** 1      **Name:** Minutes  
**Type:** Minutes      **Status:** Consent Agenda  
**File created:** 4/11/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion of minutes for:  
· April 10, 2014 Workshop  
· April 10, 2014 Regular Council Meeting  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [WKSHP041014 DRAFT Minutes.pdf](#)  
[RM041014 DRAFT Minutes.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion of minutes for:

- April 10, 2014 Workshop
- April 10, 2014 Regular Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Approval

Summary: None

Budget & Financial Summary: None

Attachments:

MINUTES OF THE CITY COUNCIL WORKSHOP  
CITY OF COLLEGE STATION  
APRIL 10, 2014

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry, Mayor

**Council:**

Blanche Brick  
Steve Aldrich  
Karl Mooney  
John Nichols  
Julie Schultz, arrived after roll call  
James Benham, arrived after roll call

**City Staff:**

Kelly Templin, City Manager  
Carla Robinson, City Attorney  
Chuck Gilman, Deputy City Manager  
Sherry Mashburn, City Secretary  
Ian Whittenton, Records Management Coordinator

**1. Call to Order and Announce a Quorum is Present**

With a quorum present, the Workshop of the College Station City Council was called to order by Mayor Berry at 4:30 p.m. on Thursday, April 10, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

**2. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.086-Competitive Matters, and §551.087-Economic Incentive Negotiations, the College Station City Council convened into Executive Session at 4:30 p.m. on Thursday, April 10, 2014 in order to continue discussing matters pertaining to:

A. Consultation with Attorney to seek advice regarding pending or contemplated litigation; to wit:

- College Station v. Star Insurance Co., Civil Action No. 4:11-CV-02023.

- Patricia Kahlden, individ. and as rep. of the Estate of Lillie May Williams Bayless v. Laura Sue Streigler, City of College Station and James Steven Elkins, No. 11-003172-CV-272, in the 272nd District Court of Brazos County, TX
- Cause No. 13-002978-CV-361, Deluxe Burger Bar of College Station, Inc. D/B/A Café Eccell v. Asset Plus Realty Corporation, City of College Station, Texas and the Research Valley Partnership, Inc., In the 361<sup>st</sup> Judicial District Court, Brazos County, Texas

B. Consultation with Attorney to seek legal advice; to wit:

- Legal advice related to the College Station power supply contract

C. Deliberation on a competitive matter as that term is defined in Gov't Code §552.133; to wit:

- College Station Power Supply Contract

D. Deliberation on an offer of financial or other incentives for a business prospect that the City Council seeks to have locate, stay or expand in or near the City; to wit:

- Economic incentive for a proposed development located generally near the intersection of University Drive and College Avenue
- Economic incentive for a proposed development located generally near the intersection of Gateway Boulevard and Lakeway Drive in the Business Center at College Station
- Economic incentives for a proposed development located at or near University Drive and Tarrow/East Tarrow Streets in College Station

The Executive Session adjourned at 5:46 p.m.

### **3. Take action, if any, on Executive Session.**

Action was taken in Executive Session related to Competitive Matters.

### **4. Presentation, possible action, and discussion on items listed on the consent agenda.**

Items 2c, 2d, 2f, 2g, 2h, and 2j were pulled from Consent for clarification.

**(2c):** Debbie Eller, Community Services, clarified the MOU related to parking issues.

**(2d):** Alan Gibbs, City Engineer, clarified the installation of the stream gauges and how the data will be used.

**(2f):** Dave Coleman, Director of Water Services, clarified that the cost is about 50% for the creation of a website to provide homeowners information to determine if they should water or not.

**(2g) and (2h):** Ben Roper, Director of Information Technology, explained why he is the Interim ICE Project manager. He also noted that there is no single provider that could supply the necessary software, and the decision was made to go with three targeted “best of breed” software.

(2j): Brian Hilton, Emergency Management Coordinator, clarified the hazard assessment and how often it is updated. He noted that we have no control on what is carried over the rails, but we are prepared to respond to hazardous occurrences.

Eric Hurt, Fire Chief, noted that we use the 2012 International Fire Code with strengthening amendments. The newest standards are implemented every three years.

#### **5. Presentation, possible action, and discussion, and a joint meeting of the Planning and Zoning Commission and the City Council regarding the 2014 Planning & Zoning Commission Plan of Work.**

With a quorum present, the Joint Meeting of the College Station City Council and Planning and Zoning Commission was called to order by P&Z Chair Miles at 6:42 p.m. on Thursday, April 10, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840. Present were: Brad Corrier, Jane Kee, Bo Miles, Casey Oldham, Jim Ross, and Jodi Warner. Jerome Rektorik was absent.

Bo Miles, P&Z Chair, presented the 2014 Planning and Zoning Commission Plan of Work. He provided a brief overview of the various plans they are working on via a five-year update. Demographics are also being researched and how they will impact the community. Council provided recommendations for items to be added to the Plan of Work.

**MOTION:** Upon a motion made by Councilmember Benham and a second by Councilmember Schultz, the City Council voted seven (7) for and none (0) opposed, to accept the 2014 Planning and Zoning Commission Plan of Work. The motion carried unanimously.

There being no further business, P&Z Chair Miles adjourned the joint meeting of the College Station City Council and Planning and Zoning Commission at 7:06 p.m. on Thursday, April 10, 2014.

#### **6. Presentation, possible action, and discussion regarding recommended changes to the rental registration program and related code enforcement efforts.**

Lance Simms, Director of Planning and Development Services, provided a brief overview of the implemented changes to the Rental Registration Program. These included additional language to the rental registration form and rental registration website, and to start notifying property management companies of violations (in addition to the property owner). Other recommended changes, needing Council's direction, included a civil process/administrative penalty, a notarized affidavit from the property owner as part of the registration process, a copy of the current lease from the owner/property manager upon request, increasing the Code Enforcement staff as part of the FY 2015 budget and to enhance education and communication to the public. Council consensus was in favor of the recommended changes.

#### **7. Council Calendar**

- **April 14 Citizens University Graduation in Council Chambers, 7:00 p.m.**
- **April 15 Interim President Dr. Mark Hussey - TAMU State of Affairs Discussion,**

**9:30 a.m. (POSTPONED - DATE TBD)**

- **April 15 Transportation & Mobility Committee Meeting at Room 203 Conference Room A - Municipal Court, 3:30 p.m.**
- **April 16 BVSWMA Board Meeting at CS Municipal Court Building - 300 Krenek Tap Road, 11:00 p.m.**
- **April 16 RVP Board Meeting at RVP, 3:00 p.m.**
- **April 17 P & Z Workshop/Regular Meeting in Council Chambers, 6:00 p.m. (Liaison, John Nichols)**
- **April 18 CITY OFFICES CLOSED - GOOD FRIDAY**
- **April 21 Brazos County Muster at MSC Bethancourt Ballroom, 6:00 p.m.**
- **April 23 Audit Committee Meeting in City Hall Administrative Conference Room, 3:30 p.m.**
- **April 24 Executive Session/Workshop/Regular Meeting at 4:00, 6:00 & 7:00 p.m.**

Council reviewed the calendar.

**8. Presentation, possible action, and discussion on future agenda items: a Councilmember may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.**

Councilmember Benham requested an item on a taxi voucher program to address the proliferation of non-emergency ambulance trips.

Councilmember Aldrich requested an overview of oil and gas resource development.

Councilmember Brick requested an update on the Lick Creek Nature Center.

**9. Discussion, review and possible action regarding the following meetings: Animal Shelter Board, Arts Council of Brazos Valley, Arts Council Sub-committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Blinn College Brazos Valley Advisory Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BWACS, Compensation and Benefits Committee, Convention & Visitors Bureau, Design Review Board, Economic Development Committee, Gigabit Broadband Initiative, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Partnership, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Twin City Endowment, Youth Advisory Council, Zoning Board of Adjustments.**

Councilmember Schultz reported on the RVP and the Aggies Go To War mission.

Councilmember Mooney reported on the CVB and Brazos Valley Sports Committee.

Councilmember Benham reported on the Research Valley Technology Council.

Councilmember Nichols reported on the Brazos County Health Department.

Councilmember Brick reported on the Bicycle, Pedestrian and Greenways Committee.

**10. Adjournment**

**MOTION:** There being no further business, Mayor Berry adjourned the workshop of the College Station City Council at 8:03 p.m. on Thursday, April 10, 2014.

\_\_\_\_\_  
Nancy Berry, Mayor

ATTEST:

\_\_\_\_\_  
Sherry Mashburn, City Secretary

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
CITY OF COLLEGE STATION  
APRIL 10, 2014

STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS       §

**Present:**

Nancy Berry, Mayor

**Council:**

Blanche Brick  
Steve Aldrich  
Karl Mooney  
John Nichols  
Julie Schultz  
James Benham

**City Staff:**

Kelly Templin, City Manager  
Carla Robinson, City Attorney  
Chuck Gilman, Deputy City Manager  
Sherry Mashburn, City Secretary  
Ian Whittenton, Records Management Coordinator

**Call to Order and Announce a Quorum is Present**

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Berry at 8:03 p.m. on Thursday, April 10, 2014 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

**1. Pledge of Allegiance, Invocation, consider absence request.**

**Presentation proclaiming April 7, 2014 as Rock Prairie Behavioral Health Day**

Mayor Berry presented a proclamation to Jim Shaheen, President of Strategic Behavioral Health, and staff members.

**Citizen Comments**

Ben Roper, 5449 Prairie Dawn Court, came before Council to honor the service and sacrifice of Corporal Brian Kennedy.

Julie Anderson, 201 N. Texas Avenue, and Ken Bost, representing the Brazos County Health Department, reported this is Public Health Week and noted some of the services they provide.

Joshua Benn, 4228 Rock Bend, thanked the Council and staff for their efforts related to neighborhood integrity and rental registration. He urged Council to keep in mind the profit margin some landlords have when violating City ordinances versus those fines. He asked that it be a true negative when applying those penalties.

Jeffrey Leatherwood, 4618 Midsummer Lane, urged Council to consider stronger finds and penalties. The tiered program is good, but it needs to begin at \$2,000 on the low end and escalate to \$10,000 - \$20,000.

Jerry Cooper, 602 Bell, said he echoes the comments just made. He hopes that it applies to the entire ordinance and not just to the registration.

Casey Oldham, 2003 Moses Creek, said his concern is related to privacy. There are some privacy issues when requiring a copy of the lease. Some of the other requirements also seem to be a little overreaching.

## **CONSENT AGENDA**

### **2a. Presentation, possible action, and discussion of minutes for:**

- **March 27, 2014 Workshop**
- **March 27, 2014 Regular Council Meeting**

**2b. Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and CEN TEX Hydroseed, Inc., of Bedias, Texas, in the amount of \$147,628, plus \$11,000 for one alternate totaling \$158,628 for the purposes of improvements to athletic fields in Veterans Park and Athletic Complex, and authorizing the City Manager to execute the contract on behalf of the City Council.**

**2c. Presentation, possible action, and discussion on Ordinance 2014-3563, amending Chapter 10 "Traffic Code", Section 4 "Administrative Adjudication of Parking Violations", Subsection G "Two-Hour Parking", (3) twenty-four (24) hours a day, seven (7) days a week", establishing two-hour parking on the west side of Boyett, from Patricia to Church Avenue.**

**2d. Presentation, possible action, and discussion regarding approval of a U.S. Geological Joint Funding Agreement for Water Resources Investigations for Stream Stations.**

**2e. Presentation, possible action and discussion regarding approval of an Estoppel Certificate between DRI/APRC Northgate, LLC., the City of College Station and the Research Valley Partnership, Inc.**

**2f. Presentation, possible action, and discussion regarding an Inter-Local Agreement for the Brazos Valley Groundwater Conservation District to grant the City \$57,500 for creation of a website to provide homeowners with information to conserve lawn irrigation water.**

**2g. Presentation, possible action, and discussion on approving two contracts between the City of College Station and CRW Systems, Inc.: a “Software Maintenance & Support Agreement”, (1st Yr Maint. - \$69,000) for the software maintenance and support services for CRW Software Products, and a “License and Installation Agreement for CRW Software Products”, (\$531,000.00) for the software licenses and implementation services; and approving Resolution 04-10-14-2g, authorizing the City Manager to approve contract documents and expenditures related to the CRW contracts.**

**2h. Presentation, possible action, and discussion on approving a contract between the City of College Station and Tyler Technologies, Inc.: a “Master Agreement for the Enterprise Resource Planning System” in the amount of \$1,421,077 for the software licenses and implementation services; approving Resolution 04-10-114-2h, authorizing the City Manager to approve contract documents and expenditures related to the Tyler Technologies contract; and approving Resolution 04-10-14-2ha, declaring intention to reimburse certain expenditures with proceeds from debt.**

**2i. Presentation, possible action, and discussion on a payment of \$140,001.90 to the Brazos Valley Convention and Visitors Bureau for the Preferred Access to Texas A&M University Facilities.**

**2j. Presentation, possible action and discussion regarding the approval of Resolution 04-10-14-2j, approving the Emergency Management Plan, dated April 2014.**

**MOTION:** Upon a motion made by Councilmember Schultz and a second by Councilmember Benham, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Agenda. The motion carried unanimously.

## **REGULAR AGENDA**

**1. Public Hearing, presentation, possible action, and discussion regarding Ordinance 2014-3564, amending Chapter 12, “Unified Development Ordinance”, Section 12-4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from D Duplex to GS General Suburban for an approximate 0.535 acre tract of land in the Robert Stevenson Survey, Abstract No. 54, College Station, Brazos, County, Texas. Said tract being a portion of a called 0.967 acre tract as described by a deed to TMFIVE Properties, LLC, recorded in Volume 8742, Page 170, of the Official Public Records of Brazos County, Texas, more generally located at 805-809 Montclair Avenue.**

Theresa Rogers, Staff Planner, provided a brief overview of the zoning change and reported that the Planning and Zoning Commission considered this item at their March 20, 2014 meeting and voted six (6) for and none (0) opposed to recommend approval of the rezoning request.

At approximately 8:28 p.m., Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:28 p.m.

**MOTION:** Upon a motion made by Councilmember Benham and a second by Councilmember Mooney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance 2014-3564, amending Chapter 12, “Unified Development Ordinance”, Section 12-4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from D Duplex to GS General Suburban for an approximate 0.535 acre tract of land in the Robert Stevenson Survey, Abstract No. 54, College Station, Brazos County, Texas. Said tract being a portion of a called 0.967 acre tract as described by a deed to TMFIVE Properties, LLC, recorded in Volume 8742, Page 170, of the Official Public Records of Brazos County, Texas, more generally located at 805-809 Montclair Avenue. The motion carried unanimously.

**2. Public Hearing, presentation, possible action, and discussion regarding Ordinance 2014-3565, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to GS General Suburban for an approximate 2 acre tract of land in the Robert Stevenson League, Abstract No. 54, College Station, Brazos County, Texas. Said tract being a portion of a called 2 acre tract as described in a deed to B.A. Cathey, Ltd. Recorded in Volume 9516 Page 268, of the Official Public Records of Brazos County, Texas, more generally located at 2670 Barron Road.**

Jennifer Paz, Planning and Development Services, provided a brief overview of the zoning change and reported that the Planning and Zoning Commission considered this item at their March 20, 2014 meeting and voted six (6) for and none (0) opposed to recommend approval of the rezoning request.

At approximately 8:31 p.m., Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:31 p.m.

**MOTION:** Upon a motion made by Councilmember Benham and a second by Councilmember Schultz, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance 2014-3565, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural to GS General Suburban for an approximate 2 acre tract of land in the Robert Stevenson League, Abstract No. 54, College Station, Brazos County, Texas. Said tract being a portion of a called 2 acre tract as described in a deed to B.A. Cathey, Ltd. Recorded in Volume 9516 Page 268, of the Official Public Records of Brazos County, Texas, more generally located at 2670 Barron Road. The motion carried unanimously.

**3. Public Hearing, presentation, possible action, and discussion regarding Ordinance 2014-3566, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural and PDD Planned Development District to PDD Planned Development District for an approximate 88.7 acres in the Crawford Burnett League, A-7, 29.175-acre tract, Volume 7583, Page 90, Crawford Burnett League A-7, 54.987-acre tract, Volume 9627, Page 73 of the Official Public Records of Brazos County, Texas, which includes Barracks II Subdivision Phase 102 and Barracks II Subdivision Phase 300 Lot 1 Block 28, and Barracks II Subdivision Phase 100 Lot 1A Block 1, generally**

**located at 12470 Old Wellborn Road.**

Jason Schubert, Planning and Development Services, provided a brief overview of the zoning change and reported that the Planning and Zoning Commission considered this item at their March 20, 2014 meeting and voted six (6) for and none (0) opposed to recommend approval of the rezoning request.

At approximately 8:38 p.m., Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 8:38 p.m.

**MOTION:** Upon a motion made by Councilmember Benham and a second by Councilmember Aldrich, the City Council voted six (6) for and none (0) opposed, with Councilmember Schultz abstaining, to adopt Ordinance 2014-3566, amending Chapter 12, “Unified Development Ordinance,” Section 12-4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundaries from R Rural and PDD Planned Development District to PDD Planned Development District for an approximate 88.7 acres in the Crawford Burnett League, A-7, 29.175-acre tract, Volume 7583, Page 90, Crawford Burnett League A-7, 54.987-acre tract, Volume 9627, Page 73 of the Official Public Records of Brazos County, Texas, which includes Barracks II Subdivision Phase 102 and Barracks II Subdivision Phase 300 Lot 1 Block 28, and Barracks II Subdivision Phase 100 Lot 1A Block 1, generally located at 12470 Old Wellborn Road. The motion carried.

**4. Public Hearing, presentation, possible action, and discussion on Ordinance 2014-3567, Budget Amendment #3, amending Ordinance No. 3523 which will amend the budget for the 2013-2014 Fiscal Year in the amount of \$46,327.**

Jeff Kersten, Assistant City Manager, provided a brief overview of the proposed budget amendment and recommended approval.

At approximately 9:01 p.m., Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 9:01 p.m.

**MOTION:** Upon a motion made by Councilmember Brick and a second by Councilmember Schultz, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance 2014-3567, Budget Amendment #3, amending Ordinance No. 3523 which will amend the budget for the 2013-2014 Fiscal Year in the amount of \$46,327. The motion carried unanimously.

**5. Adjournment.**

**MOTION:** There being no further business, Mayor Berry adjourned the Regular Meeting of the City Council at 9:08 p.m. on Thursday, April 10, 2014.

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Nancy Berry, Mayor

ATTEST:

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Sherry Mashburn, City Secretary



Legislation Details (With Text)

**File #:** 14-366      **Version:** 1      **Name:** BerryDunn ICE Project Manager Services Contract  
**Type:** Contract      **Status:** Consent Agenda  
**File created:** 4/3/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount not to exceed \$645,638.00 for the purposes of providing Project Management services for the replacement of the City's current ERP system. Contract is for 24 months.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [BerryDunn.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a contract between the City of College Station and BerryDunn in the amount not to exceed \$645,638.00 for the purposes of providing Project Management services for the replacement of the City's current ERP system. Contract is for 24 months.

Relationship to Strategic Goals: (Select all that apply)

- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s): Staff recommends approval of the contract

Summary: The city conducted a search and selected a contract worker to serve as the ERP system replacement project manager. This worker subsequently was hired to a different full time city position. Due to the established working relationship with BerryDunn through the ERP requirements definition, RFP process and contract negotiations, the city selected BerryDunn to provide Project Management services for the duration of the expected project.

Budget & Financial Summary: Funding for this project is included in the Facilities and Technology Capital Projects Fund as part of the ERP Replacement Project, CO 1204. It is anticipated that the project will be funded with a combination of long term debt as well as current resources from the General Fund and Utility Funds.

Attachments:

1. BerryDunn PM Contract



## CONSULTANT CONTRACT

This Contract is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City") and **Berry, Dunn, McNeil, and Parker, LLC** (dba BerryDunn) (the "Contractor"), whereby Contractor agrees to perform and the City agrees to pay for the work described herein.

### ARTICLE I

1.01 This Contract is for Project Management Oversight of the City's ERP System Implementation (the "Project"). The scope and details of the work to be provided to the City by Contractor are set forth in **Exhibit "A"** to this Contract and are incorporated as though fully set forth herein by reference. Contractor agrees to perform or cause the performance of all the work described in **Exhibit "A."**

1.02 Contractor agrees to perform the work described in **Exhibit "A"** hereto and the City agrees to pay Contractor a fee based on the rates set forth in **Exhibit "B"** to this Contract for the services performed by Contractor. Invoices shall be submitted to the City on or before the 15th of each month for services provided in the previous month. The payment terms are net payable within thirty (30) calendar days of the City's receipt of the invoice. Upon termination of this Contract, payments under this paragraph shall cease, provided, however, that Contractor shall be entitled to payments for work performed in accordance with this Contract before the date of termination and for which Contractor has not yet been paid.

1.03 The total amount of payment, including reimbursements, by the City to Contractor for all services to be performed under this Contract may not, under any circumstances, exceed **Six Hundred Forty Five Thousand Six Hundred Thirty Eight Dollars and 00 cents (\$ 645,638.00)**.

1.04 The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Contractor pursuant to this Contract, provided, however, that any such change that in the opinion of Contractor, the City Manager, or the City's Project Manager varies significantly from the scope of the work set out herein and would entail an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Contractor and the City's Project Manager.

1.05 a. When the original Contract amount plus all change orders is \$50,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$50,000. For such contracts, when a change order results in a total contract amount that exceeds \$50,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

b. When the original contract amount plus all change orders is equal to or greater than \$50,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and

**c. Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

1.06 Except as provided in Article VI hereinbelow, the Contractor shall complete all of the work described in Exhibit "A" based on a twenty-four (24) month ERP implementation.

1.07 **Time is of the essence of this Contract.** The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

1.08 Contractor promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Contractor agrees to perform any and all Project-related tasks included in Exhibit A reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The work of Contractor under this Contract may be authorized by the Project Manager in various phases as set forth in **Exhibit "A."**

1.09 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Contract. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Contract. Contractor shall be liable for any misrepresentations. Any negotiations by the Contractor on the City's behalf are binding on the City only when within the scope of work contained herein and approved by the City.

## ARTICLE II

2.01 The City shall direct Contractor to commence work on the Project by sending Contractor a "letter of authorization" to begin work on the Project.

2.02 Upon receipt of the letter of authorization to begin work on the implementation of the Project, Contractor shall meet with the City for the purpose of determining the nature of the Project, including but not limited to the following: meeting with the City's staff to coordinate Project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

2.03 Contractor shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Contractor shall be an independent contractor at all times and is not to be considered either an agent or an employee of the City.

## ARTICLE III

3.01 As an experienced and qualified professional, Contractor warrants that the information provided by Contractor reflects high professional and industry standards, procedures, and performances. Contractor warrants the design, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval or acceptance by the City of any of Contractor's work product under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Contractor, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract. Nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the Project's work products prepared by Contractor, its employees, associates, agents, or subcontractors.

3.02 Contractor shall keep the City informed of the progress of the work and shall guard against any defects or deficiencies in its work.

3.03 Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Contractor shall, at no cost to the City, remedy any errors, deficiencies or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable work product.

3.04 Contractor's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, Contractor shall promptly deliver to the City all records, notes, data, memoranda, models, and equipment of any nature that are within Contractor's possession or control and that are the City's property or relate to the City or its business.

#### ARTICLE IV

**4.01 Indemnity.** The Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees, and agents (separately and collectively referred to in this paragraph as "Indemnitee"), from and against any and all claims, losses, damages, causes of action, suits, judgments, settlements made by Indemnitee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Contractor, any of its subcontractors of any tier, or of any employee or invitee of Contractor or of any such subcontractors, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Contractor or by any such subcontractors of any tier, under this Contract.

**4.02** It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 4.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

**4.03 Release.** The Contractor releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's work to be performed hereunder. Both the City and the Contractor expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Contractor or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Contractor, or any third party.

#### ARTICLE V Insurance

5.01 The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to

property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, limits and endorsements required are as set forth on **Exhibit "C"**.

## **ARTICLE VI**

6.01 At any time, the City may terminate the Project for convenience, in writing. At such time, the City shall notify Contractor, in writing, who shall cease work immediately. Contractor shall be compensated for the services performed. In the event that the City terminates this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred prior to the date of termination.

6.02 No term or provision of this Contract shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of contract by the Contractor. The City may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due the City from the Contractor is determined and paid.

## **ARTICLE VII**

7.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

7.02 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City:  
City of College Station  
Attn: Jeff Kersten  
P.O. Box 9960  
College Station, Texas 77842

Contractor:  
Berry, Dunn, McNeil, and Parker, LLC  
Attn: Timothy Masse  
100 Middle Street  
Portland, ME 04104

7.03. Contractor, its employees, associates or subcontractors shall perform all the work hereunder. Contractor agrees that all of its associates, employees, or subcontractors who work on this Project shall be fully qualified and competent to do the work described hereunder. Contractor shall undertake the work and complete it in a timely manner.

7.04 The Contractor shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA.

7.05 No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

7.06 This Contract and all rights and obligations contained herein may not be assigned by Contractor without the prior written approval of the City.

7.07 If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

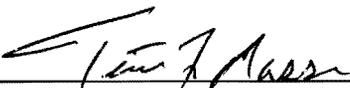
7.08 This Contract represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

7.09 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

7.10 This Contract will be effective when signed by the last party whose signing makes the Contract fully executed.

**BERRY DUNN MCNEIL PARKER LLC**

**CITY OF COLLEGE STATION**

By:   
Printed Name: Timothy F. Masse  
Title: Principal  
Date: April 1, 2014

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

APPROVED:

---

City Attorney

Date: \_\_\_\_\_

---

Assistant City Manager/CFO

Date: \_\_\_\_\_

## Exhibit A

### SCOPE OF SERVICES ICE Project Management Services

BerryDunn will serve in a project management role during the new ERP System implementation, referred to as the Integrate City Efficiency (ICE) Project. This means that BerryDunn will act on the City's behalf as project manager. The BerryDunn Project Manager will lead the ERP Project Team by providing overall direction, planning, coordination, and execution of the project while ensuring consistency with city strategy, commitments and goals. The Project Manager will set deadlines, assigns responsibilities and monitor progress for the ERP system implementation. In addition, the Project Manager will work in collaboration with City staff to evaluate and recommend changes to current and future system requirements to meet organizational needs.

The City reserves the right to interview and approve the BerryDunn nominated Project Manager, both initially and if any changes occur during the time covered by this Agreement.

The BerryDunn Project Manager will lead and actively participate in the activities and services presented in Table 1. For those activities indicating the creation of project documents, the BerryDunn Project Manager will provide template documents and work with vendors and the city staff to develop completed documents.

**Table 1: BerryDunn Full-Time Project Management Services**

<b>Project Management Deliverable</b>	<b>Description</b>
Project Charter	The Project Charter will define the scope of the project, outline the City's goals and objectives, document project influences (e.g., constraints, assumptions, and known risks), describe anticipated impacts to the City, and identify project stakeholders.
Project Work Plan and Schedule	The Project Work Plan will address the project team organization, staffing plan, and agreed upon procedures related to the management of resources, scope, schedule, communication, risk, and quality. The Project Schedule will provide a timeline for completion project phases, milestones, and BerryDunn deliverables within the scope of the contract.
Project Communication Plan	The Project Communication Plan will describe the information needs of the various City stakeholders involved with the project and set forth planned communications to address stakeholder needs. This Plan will serve as a critical tool for effectively managing and promoting the adoption of change amongst stakeholders.
Project Implementation	The Implementation Plan will incorporate the City's and the

Plan	implementation vendor's project planning and contractual documents and provide a detailed roadmap to guide the implementation.
Project Management Tools	BerryDunn will provide the City an on-line project management portal, utilizing Project Management Institute (PMI) and Project Management Body of Knowledge (PMBOK) accepted best practices and tools for project management.
Monthly Project Management Status Reports	Throughout the entire engagement, BerryDunn will develop Monthly Status Reports to report on implementation activities, including project risks and issues, project budget, project schedule, upcoming tasks and milestones as well as planned activities.
Risk Management	BerryDunn will develop and maintain a risk register as part of the monthly status reporting process to proactively identify, manage, and mitigate project risks.
Project Budget	BerryDunn will lead and assist the City in development and administration of a detailed project budget to be included in the monthly Status Reports
Testing Plan and Completion of Testing	BerryDunn will collaborate with the implementation vendor to develop a Testing Plan, facilitate testing, and participate in test processes and quality assurance activities
Training Plan and Completion of User Training	BerryDunn will collaborate with the implementation vendor to develop, facilitate, and administer an Education Plan
Project Close Out and Lessons Learned Report	BerryDunn will conduct a project close-out meeting with the City's Project Team to discuss lessons learned, ensure the City has received all deliverables due, and transfer knowledge and tools to the City. BerryDunn will document project close activities, including lessons learned and recommendations, in a Project Close-out Report.
Review Implementation Vendor Deliverables	BerryDunn will lead the review of the implementation vendor's deliverables. BerryDunn will prioritize their findings into one of three types: Red (show stopper findings that, from BerryDunn's PM perspective, should be corrected prior to the City formally accepting the deliverable as complete); Yellow (important finding to be addressed, but should not prevent acceptance of the deliverable); and Green (findings typically related to grammar, spelling, and format). BerryDunn will review seven vendor deliverables. (Project Plan, Change Management Plan, Resource Plan, Education Plan,

	Communication Plan, Risk Plan, Test Plan and Conversion Plan.
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In addition to the activities and tasks summarized above, the BerryDunn PM will take the lead in working with the ERP vendor(s) and the City Project Team on the following tasks:

- Schedule and coordinate meetings, information sessions and briefings as needed
- Manage the project budget
- Manage project resource allocation
- Plan and Schedule project timelines
- Assist in the resolution of conflicts within and between stakeholders, functional areas and the ERP vendor
- Work with the ERP vendor and the city’s Change Management Team to develop and implement a Change Management plan

**City Roles and Responsibilities**

The City will have the following roles and responsibilities regarding BerryDunn’s serving as ICE Project Manager:

- Review and approve BerryDunn deliverables
- Collaborate on the development and updating of the various Project-related Plans
- Collaborate with BerryDunn and the implementation vendor in the identification of gaps in functionality of the vendor software and the City’s desired future business processes
- Collaborate with BerryDunn in maintaining stakeholder communications, based on the agreed upon Communication Plan
- Collaborate, coordinate, and participate in all testing and quality assurance activities as directed by BerryDunn and the implementation vendor
- Coordinate City staff participation in training activities and resources and participate in training
- Provide BerryDunn Project Manager with office space and office furnishings and equipment equivalent to that provided to City staff
- Appoint a primary Point of Contact for coordination of project management activities and city staff, as required

**Reporting Structure**

The BerryDunn PM will report to the Project Sponsor for performance and accountability purposes. Day-to-day coordination will be accomplished through the City designated Point of Contact.

**Assumptions**

- City resources will participate in all required project activities.
- Maintaining project schedule is dependent on overall project funding being available as needed.

**Exhibit B**

**PAYMENT TERMS**

BerryDunn will progress bill the City on or before the 15th of each month for services provided in the previous month.. Travel expenses will be billed on a monthly basis as incurred.

**Project Cost Estimates**

Estimated fees for the project management services included in this SOW are shown in Table 2 below. The hour estimates are based on BerryDunn’s experience with similar projects. BerryDunn will not charge for time spent traveling, so these costs are reflective only of the time BerryDunn team members will be working on the City’s project. The cost estimates are based on a 24-month implementation and do not include travel-related expenses, which are estimated in Table 3.

**Table 2: Fees for Option 2 – Full- Time Project Management**

<b>Services</b>	<b>Cost</b>
Project Management (3,264 hours, 94 weeks) <ul style="list-style-type: none"> <li>• Two weeks of on-site time each month (56 hours, 28 hours per week)</li> <li>• Two weeks of off-site time each month (80 hours)</li> <li>• Lead Weekly Project Team Meetings</li> <li>• Review of Implementation Vendor Deliverables</li> <li>• Monthly Project Status Reports and On-Site Project Management Activities</li> <li>• User Acceptance Testing (UAT)</li> </ul> Training Oversight	\$584,582
<b>Estimated number of onsite trips is 48.</b>	
<b>Total</b>	<b>\$584,582</b>

**Table 3: Travel Expense Estimates**

<b>Expense Category</b>	<b>Price</b>	<b>Units per Trip</b>	<b>Total</b>
Airfare	\$420	1 ticket	\$420
Hotel	\$97	3 nights	\$388
Rental Car	\$60	4 days	\$240
Per Diem (per Federal GSA rates)	\$56	4 days	\$224
<b>Estimated per onsite trip cost (assumes average 3 days onsite)</b>			<b>\$1,272</b>
<b>Estimated Travel and Expense Cost</b>			<b>\$61,056</b>

## Exhibit C

### Insurance Requirements

I. The Contractor agrees to maintain the types and amounts of insurance required in this Contract throughout the term of the Contract. The following insurance policies shall be required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Workers' Compensation
- D. Professional Liability

II. For each of these policies, the Contractor's insurance coverage shall be primary with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance carried or obtained by the City, its officials, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City *before* work commences.

IV. General Requirements Applicable to All Policies.

- A. Only insurance carriers licensed and authorized to do business in the State of Texas shall be accepted.
- B. Deductibles shall be listed on the certificate of insurance and are acceptable only on an "occurrence" basis for property damage only.
- C. "Claims made" policies are not accepted, except for Professional Liability insurance.
- D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station.
- E. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved forms. Each certificate shall contain the following provisions and warranties:
  - 1. The insurance company is licensed and authorized to do business in the State of Texas
  - 2. The insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
  - 3. All endorsements and coverages are included according to the requirements of this Contract

4. The form of notice of cancellation, termination, or change in coverage provisions is specified in this attachment
- G. The City of College Station, its officials, employees, and volunteers are to be listed as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverages shall contain no special limitations on the scope of protection afforded the City, its officials, employees, and volunteers.
- V. **Commercial General Liability** requirements:
- A. Coverage shall be written by a carrier rated "A: VIII" or better in accordance with the current A. M. Best Key Rating Guide.
  - B. Minimum Combined Single Limit of \$1,000,000 per occurrence per project for bodily injury and property damage with a \$2,000,000 annual aggregate limit.
  - C.
  - D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
  - E. The coverage shall include but not be limited to premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); Host Liquor Liability and Personal and Advertising Injury.
  - F. The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policies held or obtained by the City.
- VI. **Business Automobile Liability** requirements:
- A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
  - B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
  - C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
  - D. The coverage shall include owned, leased or rented autos, non-owned autos, any autos and hired autos.
- VII. **Workers' Compensation Insurance** requirements:
- A. Workers' Compensation insurance shall include the following terms:
    1. Employer's Liability limits of \$1,000,000 for each accident is required.
    2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

3. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

**VIII. Professional Liability requirements:**

- A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- B. Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City upon request.
- C. For "claims made" policies, access to a 24-month extended reporting period shall be required and a retroactive date must be shown on the certificate of liability.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/1/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

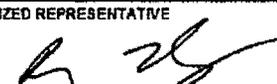
<b>PRODUCER</b> Aon Insurance Services 159 East County Line Rd. Hatboro, PA 19040-1218	<b>CONTACT NAME:</b> _____ <b>PHONE (A/C No. Ext):</b> _____ <b>FAX (A/C No.):</b> _____ <b>E-MAIL ADDRESS:</b> _____													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER B: North River Insurance Company</td> <td>21105</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Continental Casualty Company	20443	INSURER B: North River Insurance Company	21105	INSURER C:		INSURER D:		INSURER E:		INSURER F:
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INSURER E:														
INSURER F:														
<b>INSURED</b> Berry Dunn McNeil & Parker, LLC 100 Middle Street Portland, ME 04103														

<b>COVERAGES</b>	<b>CERTIFICATE NUMBER:</b>	<b>REVISION NUMBER:</b>
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADJL INSR	SUBRN WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GENL. AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ. <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/PROP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
X	Professional Liability			APL-188112791 557-100355-5	04/01/2014	04/01/2015	\$8,000,000 per claim / \$8,000,000 annual aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

<b>CERTIFICATE HOLDER</b> City of College Station PO Box 9960 College Station, TX 77842	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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BERRDUN-03

RRUMPF

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/1/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

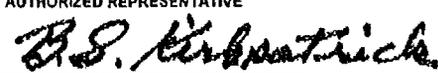
<b>PRODUCER</b> Clark Insurance 2385 Congress Street Portland, ME 04104	<b>CONTACT NAME:</b> PHONE (A/C, No, Ex): (207) 774-6257 FAX (A/C, No): (207) 774-2994 E-MAIL ADDRESS:																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : Peerless Insurance</td> <td></td> <td>24198</td> </tr> <tr> <td>INSURER B : Maine Employers Mutual</td> <td></td> <td>11149</td> </tr> <tr> <td>INSURER C : Underwriters at Lloyd's London</td> <td></td> <td></td> </tr> <tr> <td>INSURER D : Travelers Insurance</td> <td></td> <td>39357</td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A : Peerless Insurance		24198	INSURER B : Maine Employers Mutual		11149	INSURER C : Underwriters at Lloyd's London			INSURER D : Travelers Insurance		39357	INSURER E :			INSURER F :	
INSURER(S) AFFORDING COVERAGE		NAIC #																			
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INSURER D : Travelers Insurance		39357																			
INSURER E :																					
INSURER F :																					
<b>INSURED</b>  Berry Dunn McNeil & Parker LLC PO Box 1100 Portland, ME 04104																					

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X	X	BOP9719897	04/30/2013	04/30/2014	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/POP AGG \$ 4,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		BA8427467	04/30/2013	04/30/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CU9714498	04/30/2013	04/30/2014	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 Commercial Umbr \$ 5,000,000
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	5101800149	01/01/2014	01/01/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Cyber Liability			130309BA91310C	02/22/2014	02/22/2015	2,000,000
D	Crime			105608076	04/30/2011	04/30/2014	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
City of College Station is included as additional insured in regards to general and automobile liability as required by written contract. General liability is primary, non-contributory with waiver of subrogation. Workers Compensation includes "Texas Waiver of Our Right to Recover from others endorsement - WC42 03 04. 30 day notice of cancellation applies except for 10 days for non payment of premium.

<b>CERTIFICATE HOLDER</b>  City of College Station PO Box 9960 College Station, TX 77842	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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Legislation Details (With Text)

<b>File #:</b>	14-369	<b>Version:</b>	1	<b>Name:</b>	BVCOG ILA for Network Bandwidth
<b>Type:</b>	Agreement	<b>Status:</b>		<b>Status:</b>	Consent Agenda
<b>File created:</b>	4/4/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	4/24/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action, and discussion regarding an Inter-Local Agreement with the Brazos Valley Council of Governments for the provision of Broadband Networking Services.				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">BVCOG-BR.pdf</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding an Inter-Local Agreement with the Brazos Valley Council of Governments for the provision of Broadband Networking Services.

Relationship to Strategic Goals: (Select all that apply)

- Core Services and Infrastructure

Recommendation(s):Staff recommends approval of the Interlocal Agreement.

Summary: City internet bandwidth requirements continue to grow. Due to the criticality of sufficient and reliable internet access to provide efficient and effective business services to citizens and conduct day-to-day operations of the city it is necessary to provide additional internet bandwidth capacity and to establish a second independent route for internet data traffic.

The BVCOG has established a business relationship with Texas A&M University that provides the capability and connectivity to offer commodity internet to eligible government and educational organizations.

Budget & Financial Summary:Adoption of the ILA does not commit the city to any funding commitment. Following ILA approval, it is anticipated that the city will purchase 50 Megabytes of bandwidth access per month at a cost of \$1,100 per month. For the remainder of FY 14, this purchase will be funded from the IT Department Operations budget. A SLA will be submitted for consideration through the FY 15 budget process for future funding.

Attachments:  
ILA



Interlocal Agreement Between  
Brazos Valley Council of Governments  
And  
College Station, Texas  
For  
Broadband Networking Services

This Interlocal Agreement is Subject to Arbitration  
Under the Texas Government Code, Chapter 2260, as amended.

This Interlocal Agreement is entered into by and between the City of College Station, Texas, a home-rule municipal corporation, acting by and through its governing body (hereinafter "CITY") and the BRAZOS VALLEY COUNCIL OF GOVERNMENTS, a political subdivision of the State of Texas (hereinafter "BVCOG").

**WHEREAS**, the CITY and BVCOG wish to enter into an Agreement to permit the BVCOG to provide to the CITY Internet Protocol (IP) connectivity bandwidth and related services.

**WHEREAS**, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to perform governmental functions or services including to make cooperative purchases of goods and services among themselves;

**WHEREAS**, CITY and BVCOG desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs and services;

**WHEREAS**, the parties represent that each are independently authorized to perform the functions or services contemplated by this Agreement;

**WHEREAS**, the City of College Station is a Home-Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Agreement pursuant to ARTICLE II, SECTION 5 of its CITY CHARTER;

**WHEREAS**, each party has sufficient funds available from current revenues to perform the functions contemplated by this Agreement;

**WHEREAS**, the parties are of the opinion that the purchase of IP connectivity bandwidth and related services by the CITY from the BVCOG will be beneficial to the parties and the taxpayers they represent through the efficiencies and potential saving to be realized by this Agreement.

**NOW, THEREFORE**, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as follows:

## 1. PURPOSE

The purpose of this Agreement is the provision by BVCOG to the CITY, connectivity to the Internet and various intranets at specified bandwidths. In furtherance of such purpose, the BVCOG agrees to provide staff and/or contractor services in support of but not limited to:

- Sufficient bandwidth and high performance connectivity to meet the needs among its connected parties;
- Physical and virtual links to and within existing networks;
- Replacing and maintaining certain computing and networking equipment;
- Network access for individuals identified by authorized parties under this Agreement;
- Email service and a web presence and hosting for parties by mutual consent under this Agreement;
- Technical support by mutual consent under this Agreement.

## 2. RESPONSIBILITIES OF BVCOG

The BVCOG will be responsible for providing the following services pursuant to this Interlocal Agreement:

- A. Work in concert with CITY providing all necessary computer network and information technology support for the network broadband access requested by CITY to the CITY's single point of entry, to be identified by the City.
- B. Provide network connectivity and access to the internet at speeds up to the bandwidth requested by CITY.
- C. FrameNet Ports will be provisioned with Ethernet framing and delivered over single-mode fiber at 1310nm wavelength. Virtual circuits will be provisioned between local ports and Dallas for the purpose of delivering from Dallas, Commodity Internet Services (IPv4 and IPv6) through BVCOG to CITY single point of entry.
- D. Respond to all legal inquiries regarding the BVCOG network, with a copy to CITY of any legal inquiries pertaining to CITY, and on a periodic basis review overall program management and operation for efficient and effective operations.

- E. Maintain and monitor this Interlocal Agreement and assist the CITY hereto in the operation of this Agreement.
- F. Perform all other duties and functions necessary to fulfill the requirements as outlined in this Agreement.
- G. Prepare and distribute invoices and receive payment from CITY as indicated in BILLING AND RATES FOR REIMBURSEMENTS, as stated in paragraph 4 below.
- H. BVCOG will recognize one primary and one secondary individual at CITY as having administrative rights to add, delete and change individual rights for all CITY employees.
- I. BVCOG will annually (usually but not limited to January 1<sup>st</sup>) pass along any increases or decreases in annual costs of the network.
- J. The BVCOG will provide reasonable administrative and technical assistance either by in-house resources or through a contractor between the hours of 8:00 am to 5:00 pm Monday through Friday. Technical assistance provided during non-business hours will be charged at a rate equal to the base wage of the BVCOG staff providing such service multiplied by 1.5. Continuous after hours phone support will be provided by BVCOG or its designee as outlined in Schedule A.
- K. BVCOG is not obligated by this Agreement to provide additional services to CITY. Any provision of additional like services would require a separate analysis of the feasibility and cost to provide such service, separate service pricing commensurate with cost, and a separate Services Agreement.

### 3. RESPONSIBILITIES OF CITY

CITY shall be responsible for the following duties and requirements:

- A. Provide access to CITY facilities, equipment and software or contractors as needed so that BVCOG may carry out its responsibilities under this Agreement.
- B. As needed, provide access to CITY staff in support of BVCOG's efforts to fulfill the terms of this Agreement.
- C. Provide payment to BVCOG in consideration of this Agreement for the administration, operations and/or services outlined herein.
- D. Use of BVCOG's IP services requires that CITY maintain addresses it receives from BVCOG or secure a valid Autonomous System Number and IPv4/IPv6 address blocks. Any equipment used by CITY in support of this Agreement must comply with IP, BGP, and VLAN ID tagging standards, and have sufficient system memory to support full commodity route tables.
- E. Software or content obtained from the use of the broadband network may contain viruses or other harmful features and CITY is solely responsible for protecting its equipment and software from such matters. Through the use of the broadband network, CITY may obtain or discover content that is offensive or illegal and CITY assumes the risk and is solely responsible for its access to such content.
- F. CITY staff will contact BVCOG's designated person(s)/contractor for any and all problems and/or issues with respect to the services provided in this Agreement.

- G. CITY may not pass bandwidth connectivity obtained through BVCOG to any entity without the express written consent of BVCOG.
- H. CITY is responsible for all costs associated with specific software, cabling and/or equipment necessary for BVCOG to achieve the goals established by this Agreement directly benefiting the CITY. Should initial or future additional software, cabling, equipment and/or supplies become necessary, work and costs will be mutually agreed to prior to any purchases and/or installations.
- I. All costs associated with the CITY's network growth and/or other expansion will be the responsibility of CITY.

#### 4. BILLING AND RATES FOR REIMBURSEMENT

The CITY agrees to pay a monthly fee to BVCOG for the bandwidth, administration and operation of the network and expenses in support of this Agreement. Fees will be based on the number of megabytes (MB) of asynchronous bandwidth requested. The price for bandwidth is as follows:

A) 10MB	\$30.00/MB/month
B) 20MB	\$25.00/MB/month
C) 50MB	\$22.00/MB/month
D) 100MB	\$21.00/MB/month
E) >100MB	To be determined by mutual agreement

These fees will be based on market conditions and reassessed each January based the number of entities participating with BVCOG. Invoicing will be not more frequent than 30 days. Payment must be received in net 30 days from receipt of invoice after which a 1% pro rata per month interest fee will accrue.

#### 5. TERM

This Interlocal Agreement shall be effective when executed by all parties and continue in force and effect for the remainder of the BVCOG's current fiscal year. After that, this Agreement automatically renews annually on October 1st.

#### 6. CANCELLATION

This Interlocal Agreement will be canceled automatically should the CITY fail to make its annual membership and/or monthly payment to the BVCOG. This Interlocal Agreement may be canceled by either of the parties hereto upon ninety (90) days written notice as provided in paragraph 14 hereof.

## 7. INDEMNITY

Subject to the limitations as to damages and liability under the Texas Tort Claims Act, and without waiving its governmental immunity, to the extent allowed by law, each party to this Agreement agrees to hold harmless each other, its governing board, officers, agents, employees and volunteers, for any liability, loss, damages, claims or causes of action caused, or asserted to be caused, directly or indirectly by any other party to this Agreement, or any of its officers, agents, or employees as a result of its performance under this Agreement.

## 8. NO WAIVER OF IMMUNITIES

Nothing in this Agreement will be construed as a waiver or relinquishment by any party of its right to claim such exemptions, privileges and immunities as may be provided by law.

## 9. AMENDMENT

This Interlocal Agreement may only be amended by the written consent of all the parties hereto. Any written consent amendments must be attached to or filed with the original contract to be in effect.

## 10. GOVERNING LAW

This Interlocal Agreement shall be executed in and shall be governed by the laws of the State of Texas. The venue for all disputes shall be Brazos County, Texas.

## 11. FURTHER ASSURANCES

Each party hereto agrees to perform any further acts and to execute and deliver any further documents, which may be necessary to carry out the provisions of this Interlocal Agreement.

## 12. FORCE MAJEURE

Neither BVCOG nor CITY shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused by causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, applicable laws, regulations, court rulings, and administrative orders, as amended, acts of God, natural disasters, military action, riots,

civil insurrections or acts of terror, failure of suppliers, subcontractors, and software providers, phone and internet service providers, carriers, or other parties to substantially meet its performance obligations under this Agreement, provided that, as a condition to the claim of nonliability, the party experiencing the difficulty shall give the other party prompt written (traditional or email) notice, with full details following the occurrence of the cause relied upon and an expected date when obligations under this Agreement will be resumed.

### 13. SEVERABILITY

In the event that any of the provisions or portions of this Interlocal Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions hereof shall not be affected thereby.

### 14. WRITTEN NOTICE

Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the business address as listed herein.

CITY of COLLEGE STATION  
P O Box 9960  
College Station, Texas 77842  
Attn: City Manager

BVCOG  
Executive Director  
Post Office Box 4128  
Bryan, Texas 77805-4128

### 15. AUTHORITY TO ENTER CONTRACT

Each party has the full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

### 16. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by either party.

17. ENTIRE INTERLOCAL AGREEMENT

This Interlocal Agreement contains the entire understanding between the parties hereto concerning the subject matter contained herein. There are no representations, Agreements, arrangements or understanding, oral or written, between or among the parties hereto, relating to the subject matter of the Interlocal Agreement, which are not fully expressed herein.

BRAZOS VALLEY  
COUNCIL of GOVERNMENTS

CITY of COLLEGE STATION, TEXAS

By: 

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

Name: Michael Parks

Date: \_\_\_\_\_

Title: ASSISTANT EXECUTIVE DIRECTOR

ATTEST:

Date: 3/21/14

\_\_\_\_\_  
City Secretary  
Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
City Attorney  
Date: \_\_\_\_\_

\_\_\_\_\_  
Assistant City Manager/CFO  
Date: \_\_\_\_\_

## Schedule A.

*The names and contact information below may change without notice. It is BVCOG's policy to make tech support information available in multiple formats. Current information will be maintained online at [www.bvcog.org](http://www.bvcog.org).*

In accordance with Paragraph 2.J of the Computer and Network Services Agreement, the Brazos Valley Council of Governments will use reasonable, industry accepted efforts to monitor and maintain broadband functionality and to minimize any service disruption that may occur in areas under BVCOG's responsibility.

For technical support under the terms of the Agreement Monday – Friday;  
8am – 5pm please use the following contact information:

### PRIMARY

BVCOG Director of Information Technologies  
Mr. Bo Moncivais  
(979) 595-2800 ext. 2270  
**(979) 777-1841 cell**  
[bmoncivais@bvcog.org](mailto:bmoncivais@bvcog.org)

### SECONDARY

BVCOG Network Administrator  
Mr. Anthony Munoz  
(979) 595-2800 ext. 2271  
**(361) 354-3197 cell**  
[anthony.muoz@bvcog.org](mailto:anthony.muoz@bvcog.org)

For after hours, call, text or email in the order below:

- 1) BVCOG Network Administrator  
Mr. Anthony Munoz  
**(361) 354-3197 cell**  
[anthony.muoz@bvcog.org](mailto:anthony.muoz@bvcog.org)
- 2) BVCOG Director of Information Technologies  
Mr. Bo Moncivais  
**(979) 777-1841 cell**  
[bmoncivais@bvcog.org](mailto:bmoncivais@bvcog.org)
- 3) BVCOG Assistant Executive Director  
Mr. Michael Parks  
**(979) 777-0980 cell**  
[mparks@bvcog.org](mailto:mparks@bvcog.org)

### HELP TICKET PROCEDURE:

Once contacted for tech support help, BVCOG staff will:

- work to assess the nature of the problem;
- determine a course of action, assessing the severity and extent of the issue.
- notify the originator of the HELP TICKET of the findings and recommended solution;
- discuss the solution and estimated of time to completion with the appropriate agency individual(s) before proceeding. (Implementation is not contingent on this step. If the attempt to contact the individual fails, BVCOG would proceed with the solution.)
- proceed with the solution implementation.



## Legislation Details (With Text)

**File #:** 14-372      **Version:** 1      **Name:** Janitorial supplies  
**Type:** Contract      **Status:** Consent Agenda  
**File created:** 4/5/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion regarding renewal of Bid No. 12-048 with ProSTAR Industries for the purchase of janitorial supplies in an amount not to exceed \$60,303.66.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [12-048 Ren2.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding renewal of Bid No. 12-048 with ProSTAR Industries for the purchase of janitorial supplies in an amount not to exceed \$60,303.66.

- Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval of the renewal agreement.

**Summary:** Competitive sealed bids were solicited and opened on March 20, 2012. Ten (10) bids were received and it was determined that ProSTAR Industries submitted the lowest overall bid for janitorial supplies. ProSTAR Industries has performed satisfactory over the past year and has agreed to renew the original 2012 terms and conditions for a final one year term. An 8% increase shall be applied to three (3) contract items specified on the Renewal Acceptance Form and all remaining contract items shall stay at the original 2012 bid prices.

**Budget & Financial Summary:** Funds are budgeted and available in the Public Works Facilities Maintenance Budget.

**Attachments:**

1. Renewal Acceptance Form

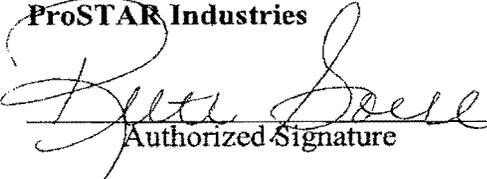
\*\*\*\*\*

**RENEWAL (2) ACCEPTANCE**

By signing herewith, I acknowledge and agree to renew the annual price agreement for Janitorial Supplies (Bid No. 12-048) and all other terms and conditions previously agreed to and accepted for an amount not to exceed Sixty Thousand Three Hundred Three and .66/100 Dollars (\$60,303.66).

I understand this renewal agreement will be for the period beginning April 12, 2014 through April 11, 2015. This is the second and final renewal option available.

**ProSTAR Industries**

  
Authorized Signature

3/20/14  
DATE

This renewal includes an eight percent (8%) increase to unit pricing for the three (3) items referenced below. Unit bid prices bid under the original contract may, my mutual agreement, be increased by no more than eight percent (8%). The remaining items covered by this agreement remain at the original 2012 bid prices.

**Proposed price changes:**

- Black Trash Liner 16" x 14" x 36" ..... \$9.90/case (previous bid price \$9.17/case)
- White Trash Liner 23" x 17" x 46" ..... \$12.48/case (previous bid price \$11.56/case)
- Clear Trash Liner 38" x 63" ..... \$27.72/case (previous bid price \$25.67/case)



Legislation Details (With Text)

**File #:** 14-373      **Version:** 1      **Name:** Annual Crack Sealing of City Streets  
**Type:** Contract      **Status:** Consent Agenda  
**File created:** 4/5/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action and discussion of the award of Contract 14-224, for the Annual Crack Sealing of City Streets for an amount not to exceed \$140,000.00.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Tabulation.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion of the award of Contract 14-224, for the Annual Crack Sealing of City Streets for an amount not to exceed \$140,000.00.

- Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval of the annual contact to the lowest responsible bidder Kegley, Inc. for an amount not to exceed \$140,000.00.

**Summary:** Five (5) sealed competitive bids were received and opened on March 6, 2014. The lowest responsible bidder was Kegley, Inc. at \$140,000.00. This is a one year contract with two possible one year renewals.

**Budget & Financial Summary:** Funds are budgeted and available in the Street Maintenance Fund.

**Attachments:**

1. Bid Tabulation



**City of College Station - Purchasing Division**  
**Bid Tabulation for # 14-042**  
**"Annual Crack Sealing of City Streets"**  
**Open Date: Thursday, March 6, 2014 @ 2:00 p.m.**

				Kegley, Inc.		Larry Young Paving Inc.		Delta Prime Specialty Services Inc.		Alpha Paving Industries, LLC		RHB Construction	
				San Antonio, TX		College Station, TX		Corpus Christi, TX		Hutto, TX		Round Rock, TX	
ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
<b>GENERAL CONSTRUCTION ITEMS</b>													
1	125,000	lbs	Seal cracks per specifications including all, materials, equipment, labor, mobilization, and traffic control.	\$1.12	\$140,000.00	\$1.48	\$185,000.00	\$1.39	\$173,750.00	\$3.90	\$487,500.00	\$1.74	\$217,500.00
<b>TOTAL</b>				<b>\$140,000.00</b>		<b>\$185,000.00</b>		<b>\$173,750.00</b>		<b>\$487,500.00</b>		<b>\$217,500.00</b>	
				Bid Certification		Y		Y		Y		Y	
				Addendum Acknowledged		Y		Y		Y		Y	
				Bid Bond		Y		Y		Y		Y	

20% Discount offered if work can be completed between October through February (cold season)



Legislation Details (With Text)

**File #:** 14-374      **Version:** 1      **Name:** Annual Concrete joint sealing of City Streets  
**Type:** Contract      **Status:** Consent Agenda  
**File created:** 4/5/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action and discussion of the award of Contract 14-238 for the Annual Concrete joint sealing of City Streets for an amount not to exceed \$148,750.00.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [14-045 Tab.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion of the award of Contract 14-238 for the Annual Concrete joint sealing of City Streets for an amount not to exceed \$148,750.00.

- Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval of the annual contact to the lowest responsible bidder Brazos Paving Inc. for an amount not to exceed \$148,750.00.

**Summary:** Four (4) sealed competitive bids were received and opened on March 21, 2014. The lowest responsible bidder was Brazos Paving Inc. at \$148,750.00. This is a one year contract with two possible one year renewals.

**Budget & Financial Summary:** Funds are budgeted and available in the Street Maintenance Fund.

**Attachments:**

1. Bid Tabulation



**City of College Station - Purchasing Division**  
**Bid Tabulation for #14-045**  
**"Annual Resealing of Concrete Joints on City Streets"**  
**Open Date: Friday, March 21, 2014 @ 2:00 p.m.**

				Brazos Paving, Inc. (Bryan, TX)		Scodeller Construction (Wixom, MI)		SCR Construction Co, Inc. (Richmond, TX)		Kegley, Inc. (San Antonio, TX)	
ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
<b>GENERAL CONSTRUCTION ITEMS</b>											
1	75,000	LF	Reseal concrete expansion joints, including cleaning existing joint, reshaping reservoir, installing backer rod, and applying sealant. Traffic Control included.	\$1.85	\$138,750.00	\$2.00	\$150,000.00	\$2.70	\$202,500.00	\$4.14	\$310,500.00
2	10,000	LF	Reseal concrete sawcut joints, including cleaning existing joint, reshaping reservoir, installing backer rod, and applying sealant. Traffic Control included.	\$1.00	\$10,000.00	\$1.50	\$15,000.00	\$2.20	\$22,000.00	\$4.37	\$43,700.00
<b>TOTAL BID</b>				<b>\$148,750.00</b>		<b>\$165,000.00</b>		<b>\$224,500.00</b>		<b>\$354,200.00</b>	



Legislation Details (With Text)

**File #:** 14-375      **Version:** 1      **Name:**  
**Type:** Bid Award      **Status:** Consent Agenda  
**File created:** 4/5/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**

**Title:** Presentation, possible action and discussion awarding a bid to Bayer Construction in the amount of \$116,440 for the improvements of the school zones at A&M Consolidated High School.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion awarding a bid to Bayer Construction in the amount of \$116,440 for the improvements of the school zones at A&M Consolidated High School.

Relationship to Strategic Goals:

- Core Services and Infrastructure

**Recommendation(s):** Staff recommends awarding the school zone improvement project to the lowest responsible bidder, Bayer Construction Electrical Contractor Inc. of Bryan, Texas.

**Summary:** Several months ago Staff installed a school zone on FM 2818 (Harvey Mitchell Parkway) to reduce the travel speed during the start and end times of the school day for A & M Consolidated High School. Currently, we are utilizing flashing beacons on the side of the roadway to inform motorists of the active school zone. This project will provide overhead flashing beacons to better inform motorists of the school zone. Additionally, this project will distinguish the difference between the all day school zone on Welsh Avenue and Nueces Drive from the intermittent school zone on FM 2818 by utilizing school zone signs with LED indications embedded in the sign itself.

Only one bid was received for this project. Bayer Construction Electrical Contractor was the lone responsible bidder in the amount of \$116,440.

**Budget & Financial Summary:** A total of \$134,500 is budgeted for this project. \$13,903 has been expended or committed to date, leaving a balance of \$120,597 for construction and related expenditures. The budget for this project came from traffic signal bond funds authorized as part of the 2008 General Obligation Bond package.

**Attachments:**

1. Contract - on file in the City Secretary's Office





## Legislation Details (With Text)

**File #:** 14-377      **Version:** 1      **Name:** Water Conservation Plan  
**Type:** Master Plan      **Status:** Consent Agenda  
**File created:** 4/6/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion to consider a resolution to adopt an updated Water Conservation Plan, as required by TCEQ.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Resolution.pdf](#)  
[Water Conservation Plan.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion to consider a resolution to adopt an updated Water Conservation Plan, as required by TCEQ.

### Relationship to Strategic Goals:

- Core Services and Infrastructure
- Sustainable City

Recommendation: Staff recommends approval of the Resolution.

Summary: Public water systems with 3,300 or more retail service connections, including the City of College Station, are required to have a Water Conservation Plan. These plans must be updated at least once every five years and the next required update is due to the Texas Commission on Environmental Quality (TCEQ) and the Texas Water Development Board (TWDB) by May 1, 2014. The plan contains strategies for reducing the consumption of water, reducing water loss, improving water use efficiency, and increasing water reuse.

### Major updates, compared to the 2009 Water Conservation Plan, include:

- Updated Utility Profile information summarizing water production capacity, trends in water demand, water loss, and population figures.
- Updated five and ten year water conservation targets and goals
- Documentation of water conservation programs implemented in the last five years:
  - o Landscape irrigation evaluations for high water use customers
  - o Landscape irrigation ordinance requiring minimum design and installation standards and water conservation technology
  - o Rebates for High-Efficiency Toilets and rainwater collection barrels
  - o Implementation of the water reuse system at Veterans Park, and
  - o Partnership with Texas A&M Agrilife and Brazos Valley Groundwater Conservation

District to develop weather-based watering recommendations for customers.

Budget & Financial Summary: There is no cost to adopt this update to the Water Conservation Plan. Funds or Policy changes required to achieve any particular goal will be brought to Council individually for approval.

Attachments:

Resolution

Water Conservation Plan

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING UPDATES TO THE CITY OF COLLEGE STATION’S WATER CONSERVATION PLAN AS REQUIRED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ).**

**WHEREAS**, the City Council last adopted an updated Water Conservation Plan on October 23, 2006 by Resolution No. 10-23-2006-12.08; and

**WHEREAS**, the City still desires to maintain a Water Conservation Plan (Plan) as evidence of its commitment to providing its customers with a reliable and a safe water supply; and

**WHEREAS**, the City shall update the Plan as appropriate based on an assessment of previous five and ten year targets and any other new or updated information to keep the Plan current; and

**WHEREAS**, the Water Conservation Plan meets the requirements of TCEQ and Texas Administrative Code, Title 30, Part 1, Chapter 288 in regard to its content and water conservation goals; now, therefore

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:**

**PART 1:** That the Utility Profile of the Water Conservation Plan is updated to reflect current population figures, water production, and wastewater treatment capacities.

**PART 2:** That the City Council hereby adopts the May 2014 Water Conservation Plan as in Exhibit “A”, which is attached to this resolution.

**PART 3:** That this resolution shall take effect immediately from and after its passage.

**ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**City Secretary**

\_\_\_\_\_  
**Mayor**

**APPROVED:**

\_\_\_\_\_  
**City Attorney**



CITY OF COLLEGE STATION

# Water Conservation Plan

## May 2014

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**Public Water Supply Identification Number: 0210002**

**Brazos County**

**David M. Coleman, P.E., Water Services Director**

**P.O. Box 9960**

**1601 Graham Road**

**College Station, TX 77842**

**979-764-3660**

**<http://www.cstx.gov/water>**

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## **SECTION 1. INTRODUCTION**

In accordance with the requirements of the Texas Commission on Environmental Quality (TCEQ), the City of College Station (the City) has updated its water conservation plan for adoption as a City resolution. The resolution of the City Council adopting the Water Conservation Plan shall authorize the City to implement, enforce, and administer the program.

## **SECTION 2. UTILITY PROFILE**

### ***Population and customer data***

The City of College Station Water Services Department manages a water distribution service area covering 54 square miles and a water service population of over 85,000 residents. This population amount does not include approximately 10,000 students living on campus at Texas A&M University (TAMU) that are served by Texas A&M's water utility, nor approximately 5,000 residents within College Station City limits that are served by Wellborn Special Utility District. The City provides drinking water to its customers through a network of over 400 miles of transmission and distribution mains that provide service to nearly 40,000 water connections.

### ***Water Production and Delivery System***

The City utilizes ground water for its public water supply and since 1980 College Station has developed its own water production facilities. The City has nine groundwater wells, eight of which withdraw groundwater from the Carrizo-Wilcox Aquifer, and one in the Sparta Aquifer. The City's wellfield is located northwest of Bryan in the vicinity of Sandy Point Road near Old San Antonio Road. Cooling towers located at the Sandy Point Pump Station cool the raw water from 118° F down to approximately 85°. The water is then pumped through two parallel water transmission lines to the Dowling Road Pump Station in College Station. Here the water is treated to meet Safe Drinking Water Act standards before being pumped to storage and distribution facilities. The City's water distribution system includes over 400 miles of water lines, two ground storage reservoirs and two elevated storage tanks, providing a total storage capacity of 13 million gallons.

### ***Wastewater Collection and Treatment System***

Raw wastewater in College Station travels through a network of over 320 miles of wastewater collection lines to one of three wastewater treatment plants: Carter's Creek Wastewater Treatment Plant, Lick Creek Wastewater Treatment Plant, and Carter Lake Wastewater Treatment Plant. These three wastewater treatment plants and numerous lift stations serve a population of over 85,000 people, with an average daily discharge of 6 to 7 million gallons per day (MGD) and maximum daily wastewater treatment capacity of 11.5 MGD.

### ***Water use data***

Table 1 below summarizes key water use statistics for 2009 – 2013. Average per person usage is given in gallons per capita per day (gpcd). Average and peak daily water demand are given in million gallons per day (MGD). . The peak day to average day ratio varies between 1.7 and 2.1, meaning that peak day demand is nearly twice the average demand.

The peak demand for the City is 24.998 MGD, reached in 2011. During high demand periods when large volumes of water are being pumped from the aquifer, the production capacity of the wells is reduced

due to declining water levels of the aquifer. The City’s water production and pumping system capacity is currently 29 MGD.

**Table 1. Municipal Water Demand 2009 – 2013**

Year	2009	2010	2011	2012	2013
Peak GPCD <sup>1</sup>	245	239	283	232	246
Annual Average GPCD <sup>2</sup>	146	148	178	150	153
Peak Day (MGD)	24.7	21.8	25.0	22.1	26.2
Average Day (MGD)	11.8	11.7	14.6	12.2	12.1
Peaking Factor	2.1	1.85	1.71	1.82	2.17

1. Peak GPCD = (Total Gallons Used in Peak Month ÷ Permanent Population) ÷ Days in Month

2. Annual Average GPCD = (Total Gallons in System ÷ Permanent Population) ÷ 365

### SECTION 3. WATER CONSERVATION GOALS

The purpose of this water conservation plan is to reduce long-term demand on limited water resources by encouraging more efficient water use practices in College Station. Its primary goals are to reduce peak seasonal water demand and reduce the peaking factor on the water production and delivery system. Peaking factor is defined as the ratio between peak daily water use and average daily water use. A peaking factor of 1.5 or more shows potential for significant water conservation savings, particularly in seasonal water use.

#### *Quantified Five (5) and Ten (10) Year Water Conservation Targets and Goals*

*Goal 1: Reduce peak daily water demand*

*Goal 2: Reduce peaking factor to 1.7 or below*

TCEQ rules require the City build capacity to meet escalating peak daily demands, which, as discussed in Section 1, can be up to twice the average demand. Thus, reducing those peak demands will enable the City to defer new capital expenditures for production facilities, and better use of available water resources.

The City aims to reduce peak demand through two methods: programs targeted at reducing peak per capita demand, and programs aimed at reducing the peaking factor. Table 2 outlines projected targets for reducing per capita demand and peaking factor. The Texas Water Conservation Advisory Council and Texas Water Development Board recommend that municipalities set goals of reducing per capita consumption by 1% per year.

**Table 2. Municipal per capita water use goals**

Year	2018	2023
Peak GPCD	236	225
Annual Average GPCD	147	140
Peaking Factor	1.8	1.7

*Goal 3: Maintain Water Loss at or Below 5% of Produced Water*

The goal of the City’s water loss control program is to maintain Non-Revenue Water (defined as unbilled authorized plus unbilled unauthorized usage) water at or below 5% of water produced, on an annual basis. In order to meet this goal, the City has several programs in place, including routine water audits, a program of leak detection and repair, and a meter testing and replacement program. These are described in the following section.

**Table 3: Water Loss Goals**

	Historic 5yr Average	5-yr Goal (2018)	10-yr Goal (2023)
Water Loss (GPCD) <sup>1</sup>	9	8	8
Water Loss (Percentage) <sup>2</sup>	6%	5%	5%

1.  $Water\ Loss\ GPCD = (Total\ Water\ Loss \div Permanent\ Population) \div 365$

2.  $Water\ Loss\ Percentage = (Total\ Water\ Loss \div Total\ Gallons\ in\ System) \times 100$

***Time frame for achieving conservation goals***

The three goals outlined above are designed to be achieved within five to ten years of the date of adoption of this Plan. The City will periodically evaluate the plan in accordance with State and Federal regulations to determine the extent, if any, that the plan needs modification.

**SECTION 4. UNIVERSAL METERING, METER TESTING, AND REPLACEMENT**

The ability to meter all water distribution and consumption uses allows the City to closely monitor actual water use, water losses, and prevent unauthorized use. All service connections in the City are metered. All production wells, pumping stations, interconnections, irrigation, swimming pools, parks, and municipal structures operated by the City are metered.

Master meters at water production pump stations are calibrated and tested annually in accordance with American Water Works Association (AWWA) standards to provide a minimum accuracy of plus or minus five percent (5%).

The City will continue to provide a preventive maintenance program for its water meters, wherein regular scheduled testing, repairs, and replacement are performed in accordance with American Water Works Association (AWWA) standards. After approximately seven years of usage, mechanical wear on traditional water meters causes them to under-report water usage due to parts rotating slower, resulting in lost revenue. In recent years the City has begun replacing old-style mechanical water meters with digital water meters having no moving parts, a twenty-year warranty, and capability to be retrofitted to Automated Metering Infrastructure (AMI). This results in much more accurate meter readings and the ability to provide customers with detailed water usage data on request.

**SECTION 5. WATER LOSS CONTROL MEASURES**

The Water Services Department generates a monthly water loss report that compares metered production with billed metered consumption, as well as unbilled authorized consumption. This report provides an effective tracking system of water loss. The City also completes a detailed water system audit following Texas Water Development Board (TWDB) guidelines at least once each year. The water

system audit determines the volume of actual water loss, the identification of water loss sources, the status and condition of primary water meters, an analysis of water line breaks, an evaluation of underground leakage potential, and provides recommendations for meter replacement.

**Table 4. Five-Year Summary of Water Loss<sup>1</sup>**

	2009	2010	2011	2012	2013
System Input <sup>2</sup>	4,289,137,000	4,305,911,000	5,320,089,000	4,440,799,000	4,647,972,000
Billed Authorized Consumption	3,861,358,000	3,941,350,000	4,964,117,000	4,113,426,000	4,252,645,000
Non-Revenue Authorized Consumption	108,491,000	166,713,900	88,668,000	88,005,000	63,894,000
Water Loss <sup>3</sup>	319,288,000	197,847,100	267,304,000	239,368,000	331,433,000
Water Loss (% of System Input) <sup>4</sup>	7%	5%	5%	5%	7%

1. Figures in table are in gallons
2. System Input = [Self-Supplied + Water Imported] – Water Exported
3. Water Loss = [System Input] – [Billed Authorized Consumption – Non-Revenue Authorized Consumption]
4. Water Loss % = Water Loss ÷ System Input

## **SECTION 6. LEAK DETECTION AND REPAIR**

The City administers a leak detection and repair program for its water distribution system. This program features a work order prioritization system for leaks needing repair and an inventory of equipment and materials needed to promptly repair all detected or reported leaks. The City’s annual rehabilitation program to upgrade its water distribution system also addresses high volume leaks. The City also conducts an annual distribution system rehabilitation program that replaces the high water loss sections of the distribution system. This program is based on findings of monthly water loss reports and the leak detection program.

## **SECTION 7. PUBLIC INFORMATION AND EDUCATION**

The City’s public education program typically makes at least 3,000 direct customer contacts each year through presentations, booths at community fairs, and plant tours. This figure does not include indirect contacts through utility bill inserts, newspaper and radio ads, and similar programs. The City promotes water conservation issues by informing the public in the following ways:

- Offering water conservation audits to all water customers
- Providing water conservation information to all customers upon request
- Coordinating educational presentations, lectures, and demonstrations for schools, civic groups, and the general public
- Publishing water conservation information on a regular basis in the City’s utility bill insert or other written form

- Participating in community environmental education activities with the City of Bryan, Brazos Valley Groundwater Conservation District, Brazos County Master Gardeners, and other local organizations to promote water conservation education
- Supporting annual events and demonstrations relating to water conservation and environmental issues that affect water supply and quality
- Promoting the latest innovations in water conservation through partnerships with Texas Water Development Board’s Water IQ program and EPA’s Water Sense program.

## **SECTION 8. NON-PROMOTIONAL WATER RATE STRUCTURE**

The City utilizes an inclining water rate structure to encourage customers to reduce both peak and overall water usage, while fairly allocating cost of service to each customer class. Under an inclining rate structure, the rate per thousand gallons increases as the amount of water used increases. The City implemented this inclining water rate structure in Fiscal Year 2008. The rate structure in place as of the date of this Plan charges monthly service charges based on meter size, plus a uniform rate per thousand (1000) gallons up to 10,000 gallons for single-family residential water customers. After 10,000 gallons, the rate per thousand increases slightly per thousand gallons for each separate usage block up to 26,000 gallons, as detailed in Table 4 below (City Ordinance No. 2010-3287).

Currently, commercial rate structure charges monthly service charges based on meter size, plus a varying volumetric rate usage rate per thousand (1000) gallons for domestic or irrigation usage. (City Ordinance No. 2010-3287). City Staff is currently researching the option of altering the commercial rate structure in order to meet conservation goals.

**Table 5. FY 2014 Water Rates**

Customer Class	Monthly Usage (gallons)	Rate per 1,000 Gallons
Single-Family Residential	0 - 10,000	\$2.26
	11,000 - 15,000	\$2.94
	16,000 - 20,000	\$3.61
	21,000 - 25,000	\$4.28
	26,000- above	\$4.96
	Meter Fee	\$10.19
Commercial - Domestic	Domestic (inside) usage	\$2.49
Commercial - Irrigation	Irrigation (outside) usage	\$2.68
	Meter Fee	Varies by meter size

This rate structure shall be reviewed on a regular basis to ensure that the rates adequately recover the cost of service and meet the goals of this water conservation plan.

## **SECTION 9. WHOLESALE WATER SUPPLY CONTRACTS**

The City will, as part of contracts for sale of water to any other entity re-selling water, require that entity to adopt applicable provisions of the City's water conservation and drought contingency plan or have a

plan in effect previously adopted and meeting the basic requirements of 30 TAC §288. These provisions will be through contractual agreement prior to the sale of any water to the water re-seller.

## **SECTION 10. ADDITIONAL WATER CONSERVATION STRATEGIES TO ACHIEVE WATER CONSERVATION GOALS**

This section provides information on recommended Best Management Practices developed by the Water Conservation Advisory Council and adopted by the City as a means of achieving specified water conservation goals.

### ***Conservation Coordinator***

This function is fulfilled through the Water Resource Coordinator position. A Conservation Coordinator is an individual designated to be responsible for preparation and implementation of the utility's water conservation and drought contingency plans, preparation and submittal of annual conservation status reports, promotion of water conservation programs, and other duties necessary to carry out implementation of the utility's conservation program.

### ***Landscape Irrigation Conservation and Incentives***

The City provides information to residential and non-residential customers regarding the methods and benefits of water conserving landscaping practices and devices, through public education to homeowners, business owners, landscape architects and designers, and irrigation professionals. The use of Xeriscape™ and "Water Wise" landscaping techniques, including drought tolerant plants and grasses is encouraged for landscaping new homes and commercial areas.

The City has a commercial landscape ordinance that requires certain point values based on the size and type of development. Additional point credits are given to commercial landscapes that employ water-efficient irrigation systems such as drip irrigation systems when possible or other water conserving irrigation systems that utilize efficient sprinklers.

The City's landscape irrigation ordinance was updated in 2008 to comply with state law requiring that landscape irrigation systems are designed, installed, and operated in a water conserving manner. This change was made effective with Ordinance #3155, adopted December 16, 2008. Under this ordinance, a permit and an irrigation plan drawn to scale are required for all irrigation systems. The irrigation plan must be drawn up by a licensed irrigator, and include location & type of sensors, backflow prevention devices, and water emission devices (sprinklers), irrigation controller(s), and valves. A rain shutoff sensor is required, and all emission devices must be installed according to manufacturer's specifications for spacing and pressure. The effect of this ordinance is that new irrigation systems in College Station are designed and installed to operate much more efficiently than older systems, and procedures are in place to prevent water waste.

The City also works with area landscape supply businesses and nurseries to encourage them to sell locally adapted, drought tolerant plants and grasses along with efficient irrigation systems, and to promote use of these materials through demonstrations and advertisements.

The City is also partnering with the Brazos Valley Groundwater Conservation District (BVGCD) and Texas A&M Agri-Life to implement innovative methods to promote landscape water conservation. Through a system of a weather station and rain gauges located throughout the City, customers will be able to

access specific weather information from a website that will provide specific landscape watering recommendations based on weather conditions for their area. The system will also weekly subscription-based email updates through which watering recommendations and water conservation tips will be sent directly to customers who sign up for the service. Weather-based landscape watering recommendations have shown great success with water conservation in other parts of the state and it is believed this new and innovative program will result in significant savings for College Station as well.

### ***Residential Landscape Irrigation Evaluation***

Summertime average water use in College Station is typically twice as high as annual average water use. That increase is primarily due to outdoor irrigation. Irrigation water is easily wasted due to overwatering, leaks and broken or misaligned sprinklers.

The City of College Station Water Services Department has partnered with Texas A&M Agri-Life Research for several years to study the effectiveness of residential water conservation methods. Each year residential water customers with above average seasonal water use receive a letter containing water budgets comparing their estimated outdoor water use against an estimated landscape need, as well as comparing their household water use with neighborhood average household water use. Customers with above-average seasonal water use are encouraged to sign up for a free landscape irrigation evaluation. In 2012 and 2013, approximately 5,000 customers were contacted through this program.

In 2010 the City began offering landscape irrigation evaluations to residential customers with automatic in-ground irrigation systems to educate customers about proper irrigation and eliminate wasteful irrigation practices. While this service is available to all water customers, the program is targeted to water customers with above-average seasonal water use and customers with high bill complaints. The program is advertised through utility bill inserts as well as direct letters to high water use customers.

To date nearly 400 irrigation evaluations have been completed. The procedure is for the customer to contact the City and schedule the evaluation. A Licensed Irrigator contracted with the City conducts the evaluation, which includes a system checkup, an efficiency check, a recommended irrigation schedule, and a written report of all problems observed. The City has also provided homeowner associations of high water use neighborhoods with articles regarding the program for publication in newsletters, and given presentations regarding program specifics, such as procedures and goals.

### ***Plumbing Code and Plumbing Fixture Retrofit Program***

The City has adopted the International Plumbing Code, which requires water saving, Ultra Low Flow (ULF) fixtures to be installed in new construction and in the replacement of plumbing in existing structures. The City educates residents, plumbers, and contractors on the benefits of retrofitting existing facilities with water saving devices through its public education program.

In 2010 the City began offering rebates toward the replacement of high-flow toilets with qualifying WaterSense toilets in residential and commercial structures built prior to 1994. This program is available to residential and commercial customers, for new construction as well as retrofits. To date 695 commercial and multi-family toilets have been replaced, along with 107 single-family residential toilets, for an estimated savings of 4.6 million gallons.

### ***Rainwater Harvesting***

Rainwater harvesting is an effective method of reducing potable water usage while maintaining healthy landscapes and avoiding problems due to excessive run-off. Rainwater harvesting is the practice of

collecting and storing rainwater close to its source and using it for nearby needs. This can be done through a rain barrel, cistern (larger container), or a rain garden.

In 2010 the City began providing customers with education on the proper installation and use of rainwater harvesting systems, along with a modest rebate for rainwater collection barrels. To date rebates have been issued for over 100 barrels. The City plans to modify the existing rainwater rebate program from a set rebate per barrel to a rebate per gallon of water storage. This will incentivize the purchase and installation of larger rainwater collection systems.

### ***Water Reuse***

The City has received authorization from the TCEQ to reuse its treated wastewater effluent as Type I reuse water, the highest quality of reuse water. This authorization is available for direct reuse projects as well as indirect reuse through its Bed and Banks permit. The goal for the City's water reuse program is to reduce peak demand on the potable (drinking) water system by switching non-potable uses of water, such as athletic field irrigation, to reuse water. In 2006 the City completed a feasibility study of providing reuse water for irrigation at City-owned parks and facilities.

In 2012 the City completed the first phase of this plan by extending reclaimed water infrastructure to the City's Veterans Park and Athletic Complex. When this system is fully implemented, it will provide nearly 1 million gallons per day of reclaimed water to the parks, reducing demand on the potable water system. Plans are in development to develop a Water Reuse Implementation Plan that will focus on expanding the water reuse program to include large volume commercial customers, such as shopping centers and business parks.

### ***Prohibition on Wasting Water***

The City's Drought Contingency Plan was amended in 2009 and reauthorized in 2014 to include the following prohibitions on water waste, which apply year-round:

- Operating automatic in-ground or hose-end sprinkler systems between the hours of 10:00 a.m. and 6:00 P.M.
- Allowing water to run off a property or allowing water to pond in the street or parking lot.
- Operating an irrigation system with sprinkler heads that are broken or out of adjustment.
- Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).
- Operating fountains or ponds without a recirculation device

## **SECTION 11. METHOD FOR TRACKING EFFECTIVENESS OF WATER CONSERVATION PLAN**

In order to track the effectiveness of the Water Conservation Plan, the City compiles and submits an annual report on its Water Conservation Plan to TCEQ, which includes the following performance metrics:

- Summary of public information issued in the previous year
- Report on meter testing program
- Summary of water loss control program
- Peak water demand and overall water consumption
- Per capita water usage for the previous calendar year.
- Evaluation of status of plan and progress toward meeting stated goals

## **SECTION 12. MEANS OF IMPLEMENTATION AND ENFORCEMENT**

The City Manager or his/her designee will act as Administrator of this Water Conservation Plan. The Administrator shall oversee execution and implementation of all elements of this Plan and is responsible for overseeing adequate record-keeping for program documentation.

As a means of implementing and enforcing this Plan, all Plan elements discussed in this document were adopted by City Council Resolution (see Appendix A).

## **SECTION 13. COORDINATION**

This Water Conservation Plan shall work in accordance with the related City of College Station Ordinance, Drought Contingency and Water Emergency Plan, first adopted in January 2000 and as it may be revised or amended from time to time.

The City of College Station will provide a copy of this Water Conservation Plan to the Brazos Region (Region G) Water Planning Group, as designated by the TWDB. See Appendix B.

The City of College Station will provide a copy of this Plan to the Brazos Valley Groundwater Conservation District. See Appendix C.

**APPENDIX A: Resolution of the College Station City Council adopting  
Water Conservation Plan**

**APPENDIX B: Transmittal Letter to Brazos Region G Regional Water Planning Group**

**APPENDIX C: Transmittal Letter to Brazos Valley Groundwater  
Conservation District**



Legislation Details (With Text)

**File #:** 14-378      **Version:** 1      **Name:** Drought Contingency and Water Emergency Plan  
**Type:** Master Plan      **Status:** Consent Agenda  
**File created:** 4/6/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion to consider an ordinance amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Drought Plan with Ordinance.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion to consider an ordinance amending Chapter 11, "Utilities", of the Code of Ordinances of the City of College Station, Texas, by amending Section 9: Drought Contingency and Water Emergency Plan in its entirety.

Relationship to Strategic Goals: (Select all that apply)

- Core Services and Infrastructure
- Sustainable City

Recommendation(s): Staff recommends approval of the Ordinance.

Summary: Texas Commission on Environmental Quality (TCEQ) requires us to adopt a revised Drought Contingency Plan by May 1, 2014, which will renew the City's commitment to prudent water management. The 2014 Plan has 3 major changes from the 2009 Plan:

1. Our first drought stage was previously active during summer months, and this is now a year-round voluntary "default" condition to encourage water use reduction targets. This change is made to be consistent with guidance from TCEQ and TWDB.
2. Potential fines for violation of the Plan are now no less than \$25 and no more than \$2,000. Please note that to date, no fines have been issued, and we will continue to work with customers to achieve these goals and fines remain a last resort.
3. The triggers for the drought stages are updated to more accurately reflect stress on the water production and delivery system caused by high water demand or a water supply emergency:

**Stage 1 - High Water Demand. Triggers:**

- Average daily water consumption for three (3) consecutive days reaches 85% (24.65

MGD) of production/distribution capacity (29 MGD) of the City water system; OR

- A mechanical failure occurs in the water production or distribution system that reduces water production/delivery capacity.

**Stage 2 - Severe Water Shortage.** Triggers:

- Average daily water consumption for three (3) consecutive days reaches 90% (26.1 MGD) of production/distribution capacity (29 MGD) of the system; OR
- The City's daily water consumption will not enable storage levels to be maintained

**Stage 3 - Water Supply Emergency.** Trigger:

- The water system is contaminated, whether accidentally or intentionally, or becomes non-operational for any reason. Condition is reached immediately upon detection.

Budget & Financial Summary: The Plan and its implementation will have minimal financial impact on the City's water production operations, administration, and enforcement of drought contingency measures.

Attachments:

Ordinance  
Drought Contingency and Water Emergency Plan

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 11, "UTILITIES", SECTION 9 "DROUGHT CONTINGENCY AND EMERGENCY WATER PLAN" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:**

**PART 1:** That Chapter 11, "Utilities", Section 9 "Drought Contingency and Emergency Water Plan" of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

**PART 2:** That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 3:** That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two-Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this \_\_\_\_ day of April, 2014.

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Secretary**

**APPROVED:**

\_\_\_\_\_  
**City Attorney**

**EXHIBIT “A”**

Chapter 11, “Utilities”, Section 9 “Drought Contingency and Emergency Water Plan” of the Code of Ordinances of the City of College Station, Texas, is hereby amended, in its entirety as set out hereafter to and is to read as follows:

**SECTION 9: DROUGHT CONTINGENCY AND WATER EMERGENCY PLAN**

- A. DECLARATION OF POLICY, PURPOSE, AND INTENT.** Safe, high quality drinking water is a precious resource in the Bryan-College Station region. This Drought Contingency and Water Emergency Plan (the “Plan”) requires that the available water resources of the City of College Station be put to the most beneficial use possible. The Plan also requires that the waste, unreasonable use, or unreasonable method of use of water be prevented, and that conservation of water be extended with a view to reasonable and beneficial use in the interests of public health and welfare of the College Station community. Emergency conditions resulting from equipment or system failures are also addressed in this Plan. The Plan will be reviewed and updated as necessary, at a minimum of every five (5) years.
- B. AUTHORIZATION.** The City Manager or his designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his designee shall have the authority to initiate or terminate drought stages or water supply emergency response measures as described in this Plan.
- C. APPLICATION.** The provisions of this Plan shall apply to all persons, customers, and property utilizing potable water provided by the City of College Station. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities. Utilization of a water source other than City of College Station potable water is exempt from the provisions of this Plan.
- D. COORDINATION WITH REGIONAL WATER PLANNING GROUP.** The water service area of the City of College Station is located within the Brazos Region G Regional Water Planning Group. The City of College Station has provided a copy of this Plan to the Brazos Region G Regional Water Planning Group.
- E. DEFINITIONS.** For the purposes of this Plan the following definitions shall apply:
- 1. Aesthetic Water Use:** water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
  - 2. Commercial and Institutional Water Use:** water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

3. **Conservation:** those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.
4. **Customer:** any person, company, or organization using water supplied by the City.
5. **Domestic Water Use:** water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.
6. **Even Number Address:** street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
7. **Industrial water use:** the use of water in processes designed to convert materials of lower value into forms having greater usability and value.
8. **Landscape Irrigation Use:** water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.
9. **Non-Essential Water Use:** water uses that are neither essential nor required for the protection of public, health, safety, and welfare, including:
  - a. Irrigation of landscaped areas, including parks, athletic fields, and golf courses, except as otherwise provided under this Plan;
  - b. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
  - c. Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
  - d. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
  - e. Flushing gutters or permitting water to run or accumulate in any gutter or street;
  - f. Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
  - g. Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

- h.** Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- i.** Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

**10. Odd Numbered Address:** street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

**F. PUBLIC EDUCATION.** The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated, and the drought response measures to be implemented in each stage. This information will be provided by means of press releases, utility bill inserts, public events, social media, and similar methods.

#### **G. NOTIFICATION**

- 1. Public Meeting** – This Plan has been presented to the public at a formal public meeting.
- 2.** Public notification of the initiation or termination of drought response stages shall be by means of publication in a newspaper widely circulated in College Station and public service announcements on local television or cable service. Additional methods of public notification may include signs posted in public places, utility bill inserts, and other means to be determined by the City.
- 3.** When mandatory restrictions are enacted with the initiation of Stage 1, Stage 2, or Stage 3, the Executive Director of TCEQ will be notified, at a minimum via telephone and email, within five (5) business days. When any particular stage is rescinded, the Executive Director of TCEQ will again be notified, at a minimum via telephone and email, within five (5) business days.

**H. YEAR-ROUND WATER USE MANAGEMENT AND CONSERVATION.** This section establishes year-round water use management practices and applies year-round regardless of Drought Stage. The purpose of year-round water use management is to raise public and customer awareness of water demand conditions.

- 1. Voluntary Water Conservation Guidelines.** The peak season for water use in College Station is the period from May 1<sup>st</sup> to September 30<sup>th</sup> and attention to water conservation in this period is critical to protecting valuable drinking water resources. During this time, water customers are requested to voluntarily conserve water and limit non-essential water uses. Water conservation practices are discussed in more detail in the City of College Station's Water Conservation Plan.
- 2. Permanent Water Use Restrictions:** In order to minimize water lost to evaporation and leaks, the following water use restrictions apply year-round:



supply. In the spirit of cooperation, various interconnections are in place between the City of College Station, City of Bryan and Texas A&M University that may be utilized to provide water in emergency conditions, provided there is not an additional emergency situation created by any water transfer. These shared water resources shall be evaluated or implemented prior to initiation of each stage of the Plan.

### **1. Stage 1 – High Water Demand**

**a. Requirements for initiation** - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 1, when:

1. Average daily water consumption for three (3) consecutive days reaches 85% of production/distribution capacity of the City water system; or
2. Emergency water supplied to the City of College Station by contractual agreement through system interconnections with Texas A&M University or the City of Bryan is curtailed or interrupted; or
3. A mechanical failure occurs in the water production or distribution system that reduces water production/delivery capacity.

**b. Requirements for termination** - Stage 1 of the Plan may be rescinded by the City Manager when water demand drops below 85% of production/distribution capacity for a period of three (3) consecutive days, or the water system is returned to fully operational conditions. Upon termination of Stage 1, the standard condition of Year-Round Water Use Management becomes operative.

### **2. Stage 2 – Severe Water Shortage**

**a. Requirements for initiation** – Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 2, when:

- (i) The City average daily water consumption for three (3) consecutive days reaches 90% of production/distribution capacity of the system, or
- (ii) The City daily water consumption will not enable storage levels to be maintained.

**b. Requirements for termination** - Stage 2 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative as directed by the City Manager.

### **3. Stage 3 – Water Supply Emergency**

**a. Requirements for initiation** - Customers shall be required to comply with the requirements and restrictions on non-essential water uses, as outlined herein in Responses to Trigger Conditions, Stage 3, when:

(i) The City water system is contaminated, whether accidentally or intentionally. A Water Supply Emergency condition is reached immediately upon detection; or

(ii) The City water system fails for any reason. A Water Supply Emergency condition is reached immediately upon detection.

**b. Requirements for termination** - Stage 3 of the Plan may be rescinded by the City Manager when the condition(s) listed above as triggering events have ceased to exist. Upon termination of Stage 3, the previously initiated stage becomes operative as directed by the City Manager.

**J. RESPONSES TO TRIGGER CONDITIONS.** The City shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth herein, shall determine that a voluntary, moderate or severe water shortage condition exists and shall implement the following actions upon notice as provided herein:

**1. Stage 1 – High Water Demand - Water Demand Exceeds 85% of System Capacity.** The goal for Stage 1 of the Plan is to achieve a 5% reduction in daily water demand and maintain average daily water demand below eighty-five percent (85%) of system capacity. In the event that the City Manager enacts Stage 1, the following water use restrictions shall apply to all customers using water provided by the City, in addition to the Year-Round Water Use Restrictions:

**a.** Water customers are required to participate in the Watering Schedule for non-essential water use. Non-essential water use shall only occur on a designated outdoor watering day(s), which will be no more than twice each week. The Watering Schedule will be determined and distributed each year by the City.

**b.** Non-essential water use is permitted:

(i) From 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight on a customer's designated watering day; or

(ii) Anytime, by the use of hand-held hoses equipped with a positive pistol grip nozzle or other device that automatically shuts off water flow when the hose is not being held by the water user, by drip irrigation, by soaker hose, or by hand-held buckets.

**c.** The time restrictions do not apply to:

- (i) The irrigation of commercial plant nurseries.
  - (ii) Irrigation using reclaimed water.
  - (iii) New landscape installation during planting and the first ten days after planting.
  - (iv) The testing of new irrigation systems or existing irrigation systems being tested or under repair.
- d. The washing of automobiles, trucks, motorbikes, boats, trailers, airplanes or other vehicles is permitted:
  - (i) On designated watering days, from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight.
  - (ii) Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses.
  - (iii) The washing of individual vehicles may be done at any time on the immediate premises of a commercial car wash or commercial service station.
  - (iv) Further, this restriction does not apply to the washing of vehicles or any other type of mobile equipment (such as garbage trucks and vehicles to transport food and perishables) when the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing.
- e. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is permitted only on designated watering days from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight.
- f. Use of water for the irrigation of golf course greens, tees, and fairways is permitted only on designated watering days. Such irrigation shall only occur from 12:00 midnight to 10:00 A.M. and from 6:00 P.M. to 12:00 midnight. These restrictions do not apply to the irrigation of any golf course that uses reclaimed water, or other non-potable water sources.
- g. Charity car washes are prohibited.
- h. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life. This restriction does not apply to ornamental fountains or ponds that use reclaimed water, non-potable water, or water sources other than the City.



(iii) Such water use may occur only between the hours of 6:00 a.m. to 10:00 A.M. and 6:00 P.M. to 10:00 P.M. on designated non-essential water use days.

(iv) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment not occurring on the immediate premises of a commercial car wash or a commercial service station and not in the immediate interest of the public health, safety, and welfare are prohibited. The washing of such vehicles under public safety and health situations may only occur between 6:00 A.M. and 10:00 A.M.

(v) Commercial plant nurseries may use only hand-held buckets, or hand-held hoses equipped with a positive pistol grip nozzle, or other device that automatically shuts off water flow when the hose is not being held by the water user.

(vi) The filling, refilling, or adding of potable water to swimming or wading pools is prohibited.

(vii) No new landscapes of any type may be installed.

c. All variances granted under a previous stage shall be invalid during Stage 2. The use of water under variances granted by the City Manager is to be discontinued.

**3. Stage 3 – Water Supply Emergency.** The goal for Stage 3, Water Supply Emergency, is to rectify the emergency and return to normal operating conditions as soon as possible. In the event of an imminent or actual water supply emergency due to either loss of water supply source (including contamination) and/or system failure, the City Manager has the authority to initiate the following Water Supply Emergency Responses:

a. The City Manager may request assistance from the City of Bryan and Texas A&M University in maintaining distribution system volume and pressure during the emergency conditions.

b. Effective immediately upon initiation of Stage 3, all non-essential water use shall be discontinued, except for immediate health and safety purposes.

c. In the event that water shortage or water emergency conditions threaten public health, safety, and welfare, the City Manager, upon recommendation of College Station Utilities, may order water rationing and/or terminate service to selected users of the system in accordance with the following sequence:

(i) Recreational users,

(ii) Commercial users,

- (iii) School users,
  - (iv) Residential users, and
  - (v) Hospitals, public health, and safety facilities.
- d. Public Notification:** In the event that minimum health and safety standards for drinking water are not met during emergency conditions, public service announcements on local television and radio stations will be utilized to notify the public of the emergency conditions and response measures. These response measures may include notifying the public of the need to boil water, use bottled water, or use a designated alternate water source, as appropriate.
- e. Emergency Management Assistance:** The City may seek assistance through the local and/or State Emergency Management Program.

**K. WHOLESALE AGREEMENTS/CONTRACTS PROVISION.** In the event that the Trigger Conditions specified by Stage 2 – Severe Water Shortage, or Stage 3 – Water Supply Emergency, of this Plan have been met, the City Manager is hereby authorized to initiate allocation of water supplies to wholesale customers on a pro rata basis. This stipulation applies to all existing and future wholesale water supply contracts or agreements made with the City. The pro rata basis for water allocation to wholesale customers will be made in accordance with the Texas Water Code §11.039 and as specified in 30 Texas Administrative Code §288.22(a)(7), as the statutes currently exists or as amended from time to time.

#### **L. ENFORCEMENT**

1. No person shall allow the use of potable water from water supplied by the City for any residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the stage in effect at the time pursuant to action taken by the City Manager in accordance with provisions of this Plan.
2. If a person is convicted or placed on any type of differed sentence or probated sentence, for three or more violations of this Plan, the City shall provide written notice to the person of possible termination of service. The notice shall apprise the person of the possible termination of service, the reasons for such possible termination, and afford the person an opportunity to present his objections to termination in a hearing before the City Manager. The person shall have not less than ten (10) days to present his objections. The notice shall also contain the notice requirements described in TCEQ Commission Rules located in the 30 Texas Administrative Code §291.88(a), as it currently exists or as amended from time to time. If after such hearing, the City Manager determines that service will be terminated then the services discontinued under such circumstances shall be restored only upon payment of the reconnection

charge, as established in Section 1 of this Chapter, and any other costs incurred by the City in discontinuing service. In addition, suitable written assurance must be given to the City Manager, that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court or by any other legal means necessary to gain compliance and enforce the Plan.

#### **M. PRESUMPTIONS**

1. Any person, including a person classified as a water customer of the City, in apparent control of the property where a violation occurs or originates, shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he did not commit the violation.
2. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation. Any such parent may be excused if he proves that he had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.

#### **N. VARIANCES.**

1. The City Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance, or if one or more of the following conditions are met:
  - a. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
  - b. Alternative methods can be implemented which will achieve the same level of reduction in water use.
2. Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within five (5) business days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager or his/her designee and shall include the following:
  - a. Name and address of the petitioner(s),
  - b. Purpose of water use,





## Legislation Details (With Text)

<b>File #:</b>	14-379	<b>Version:</b>	1	<b>Name:</b>	Electronic Storage Update
<b>Type:</b>	Presentation	<b>Status:</b>		<b>Status:</b>	Consent Agenda
<b>File created:</b>	4/7/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	4/24/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for the Electronic Storage Upgrade project.				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">4-24-2014.pdf</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a resolution declaring intention to reimburse certain expenditures with proceeds from debt for the Electronic Storage Upgrade project.

### Relationship to Strategic Goals:

1. Financially Sustainable City
2. Core Services and Infrastructure

**Recommendation:** Staff recommends approval of the resolution declaring intention to reimburse certain expenditures with proceeds from debt.

**Summary:** On January 23, 2014, Council approved a contract for the upgrade of the City's electronic storage needs. The contract was for the purchase of equipment, software and services from Unique Digital.

It is anticipated that long term debt will be issued for this project. On projects for which the expenditures will occur prior to the debt issue, a resolution declaring intention to reimburse certain expenditures with proceeds from debt must be adopted within 60 days of expenditure on the project. The expenditures on this project occurred within this 60 day period.

**Budget & Financial Summary:** The "Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt" is necessary for this item because the long term debt has not been issued for the project. This debt is scheduled to be issued later this fiscal year.

**Reviewed and Approved by Legal:** Yes.

### Attachment:

1. Resolution Declaring Intention to Reimburse Certain Expenditures with Proceeds from Debt.



RESOLUTION NO. \_\_\_\_\_

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH  
PROCEEDS FROM DEBT

WHEREAS, the City of College Station, Texas (the "City") is a home-rule municipality and political subdivision of the State of Texas;

WHEREAS, the City expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described on Exhibit "A" hereto (collectively, the "Project") prior to the issuance of obligations by the City in connection with the financing of the Project from available funds;

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS THAT:

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, with an aggregate maximum principal amount not to exceed \$250,000, for the purpose of paying the aggregate costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

PASSED AND APPROVED THIS 24th DAY OF APRIL, 2014.

\_\_\_\_\_  
Nancy Berry, Mayor

ATTEST:

\_\_\_\_\_  
Sherry Mashburn, City Secretary

(Seal)

APPROVED:

A handwritten signature in blue ink, consisting of stylized initials and a long horizontal flourish.

---

McCall, Parkhurst & Horton L.L.P.  
Bond Counsel

Exhibit "A"

The projects to be financed that are the subject of this Statement are:

Electronic Storage Upgrade – The purchase of equipment, software and services for the upgrade of the City's Electronic Storage System.



Legislation Details (With Text)

**File #:** 14-380      **Version:** 1      **Name:** Annual Water Meters-Inventory  
**Type:** Presentation      **Status:** Consent Agenda  
**File created:** 4/7/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**

**Title:** Presentation, possible action and discussion on approving annual water meter purchases from Aqua Metric Sales Company through the Houston-Galveston Area Council (HGAC) contract (#WM08-12). Based on the attached contract unit pricing, the estimated annual expenditure for water meters is: \$224,499.54.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** [HGAC Quote Meters 032114.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action and discussion on approving annual water meter purchases from Aqua Metric Sales Company through the Houston-Galveston Area Council (HGAC) contract (#WM08-12). Based on the attached contract unit pricing, the estimated annual expenditure for water meters is: \$224,499.54.

**Relationship to Strategic Goals:**

1. Financially Sustainable City
2. Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval to purchase water meters from Aqua Metric Sales Company through the HGAC contract.

**Summary :** The annual water meter replacement program is essential for maintaining the accuracy of our water meters, keep un billed water within acceptable limits and encourage water conservation. Water meters will be purchased, stocked in the Water/Wastewater inventory, and expensed as necessary for the ongoing water meter replacement program.

Aqua Metric Sales Company is the HGAC contract dealer for Sensus IPERL and OMNI water meters. Products and services offered through HGAC have been subjected to either the competitive bid or competitive proposal format based on Texas statutes under the Local Government Code Chapter 252.

Meter Type	Item Number	Estimated Annual Usage	Unit Cost	Extended Cost
5/8" x 3/4" (IPERL)	<a href="#">890-045-00018</a> <tel:890-045-00018>	850	\$127.06	\$108,001.00

1" (IPERL)	<a href="tel:890-045-00019">890-045-00019 &lt;tel:890-045-00019&gt;</a>	50	\$181.62	\$9,081.00
1 1/2" Compound (OMNI C2)	<a href="tel:890-045-00053">890-045-00053 &lt;tel:890-045-00053&gt;</a>	40	\$1,076.66	\$43,066.40
2" Compound (OMNI C2)	<a href="tel:890-045-00012">890-045-00012 &lt;tel:890-045-00012&gt;</a>	30	\$1,242.30	\$37,269.00
3" Compound (OMNI C2)	<a href="tel:890-040-00013">890-040-00013 &lt;tel:890-040-00013&gt;</a>	12	\$1,573.58	\$18,882.96
4" Compound (OMNI C2)	<a href="tel:890-045-00014">890-045-00014 &lt;tel:890-045-00014&gt;</a>	3	\$2,733.06	\$8,199.18

Total Annual Cost of Meters:

\$224,499.54

**Budget & Financial Summary:** Funds are budgeted and available in the Water/Wastewater Fund. Various projects may be expensed as supplies are pulled from inventory and issued.

**Reviewed and Approved by Legal:** Yes

**Attachments:** HGAC Contract Pricing Worksheet



**CONTRACT PRICING WORKSHEET**  
For Catalog & Price Sheet Type Purchases

**Contract No.:** WM08-12

**Date Prepared:** 3/21/2014

**This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.**

<b>Buying Agency:</b>	City of College Station	<b>Contractor:</b>	Aqua-Metric Sales Company
<b>Contact Person:</b>	Lisa Davis/Butch Willis	<b>Prepared By:</b>	Mike Cartwright
<b>Phone:</b>		<b>Phone:</b>	210-967-6300
<b>Fax:</b>		<b>Fax:</b>	210-967-6305
<b>Email:</b>	ldavis@cstx.gov	<b>Email:</b>	michael.cartwright@aqua-metric.com

<b>Catalog / Price Sheet Name:</b>	Sensus Feb 2013 Meter Pricing
<b>General Description of Product:</b>	Sensus Iperls

**A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary**

Quan	Description	Unit Pr	Total
1	3/4" Sensus Iperls w 3 Wire TRPL Cable PC 17 L PL Page 3	127.06	127.06
1	1" Sensus Iperls w 3 Wire TRPL Cable PC 17 L PL Page 3	181.62	181.62
1	1.5" OMNI C2 PC 17 K PL Page 10	1,076.66	1076.66
1	2" OMNI C2 PC 17 K PL Page 10	1,242.30	1242.3
1	3" OMNI C2 PC 17 K PL Page 10	1,573.58	1573.58
1	4" OMNI C2 PC 17 K PL Page 10	2,733.06	2733.06
			0
			0
			0
			0
			0
			0
<b>Total From Other Sheets, If Any:</b>			
<b>Subtotal A:</b>			6934.28

**B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary**

(Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
			0
			0
			0
			0
<b>Total From Other Sheets, If Any:</b>			
<b>Subtotal B:</b>			0

**Check:** Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).

**For this transaction the percentage is:**

0%

**C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

<b>Subtotal C:</b>			0

**Delivery Date:** 2 Weeks ARO

**D. Total Purchase Price (A+B+C):**

6934.28



Legislation Details (With Text)

**File #:** 14-381      **Version:** 1      **Name:** RVP Aggies Go To War  
**Type:** Presentation      **Status:** Consent Agenda  
**File created:** 4/7/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**  
**Title:** Presentation, possible action, and discussion on a funding agreement between the City of College Station and the Research Valley Partnership to provide \$225,000 in Hotel Tax Funds for the Aggies Go to War Exhibit; and approval of the RVP budget for the Aggies Go to War Exhibit project.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Signed Exhibit Agreement.pdf](#)

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion on a funding agreement between the City of College Station and the Research Valley Partnership to provide \$225,000 in Hotel Tax Funds for the Aggies Go to War Exhibit; and approval of the RVP budget for the Aggies Go to War Exhibit project.

**Recommendation(s):** Staff recommends approval of the funding agreement with RVP in the amount of \$225,000 for the Aggies Go to War Exhibit; and approval of the RVP budget for the Aggies Go to War Exhibit project.

**Summary:** On February 13, 2014 the City Council heard a presentation from the Research Valley Partnership on the proposed Aggies Go to War Exhibit in Belgium.

The development cost associated with the entire exhibit is approximately \$1.5 million. Of that amount \$750,000 will be funded by Belgium and the remaining \$750,000 is being asked from university and community stakeholders. Texas A&M University System has committed \$375,000 and the Research Valley Partnership has committed \$50,000. The City of College Station is being asked to fund \$225,000 and the City of Bryan is being asked to fund \$100,000.

On February 24, 2014 The Texas A&M University System and the Research Valley Partnership entered into an agreement with the City of Bastogne and the Economic Development Agency of the Belgian Province of Luxemburg (Idelux) for the designing and producing of the temporary exhibition "Texas Aggies go to War".

The agreement the City Council is being asked to consider is between the City of College Station and the Research Valley Partnership. This agreement provides the terms for making the payment to the RVP for this project.

**Budget & Financial Summary:** On February 13, 2014 the Hotel Tax Fund Budget was amended to include \$225,000 for the Aggies Go to War Exhibit. The funds for this project are available and

budgeted in the Hotel Tax Fund.

**Legal Review:** Yes

**Attachments:**

1. Funding Agreement (Will be available prior to meeting)
2. Agreement between the Texas A&M University System and the Research Valley Partnership.
3. RVP Budget for the Aggies Go to War Exhibit project. (Will be available prior to meeting)

Agreement for designing and producing the temporary exhibition and video  
"Texas Aggies go to War"

**BETWEEN**

The Texas A&M University System (here after TAMUS) and The Research Valley Partnership (here after RVP)

**AND**

the City of Bastogne and the Economic Development Agency of the Belgian Province of Luxemburg (Idelux),

hereinafter referred to jointly as the "Parties" and individually as a "Party".

**THE FOLLOWING HAS BEEN ESTABLISHED:**

A strong connection and solidarity link was established between the American citizens and the inhabitants of the City of Bastogne and neighboring communities during the siege of Bastogne. This strong connection and solidarity is exhibited in a WWII Memory Center on the site of the Bastogne War Memorial (Mardasson), which was jointly developed by the City of Bastogne and Idelux.

By its military tradition, Texas A&M University has greatly contributed to the success of the American Armed Forces in Europe during WWII and the Battle of the Bulge in particular. One such Texas A&M University graduate was Mr. Earl Rudder. Mr. Rudder played a significant role not only in the liberation of Europe in WWII, but in the Battle of the Bulge. After WWII, Mr. Rudder was the president of Texas A&M University and further enhanced the legacy of Texas A&M University after his tenor as president.

In furthering history, the City of Bastogne and Idelux have signed an agreement with Tempora to develop, manage and run a visiting exhibition in the WWII Memory Center called "Texas Aggies go to War" (hereinafter "Visiting Exhibition"). The Visiting Exhibition will initially be displayed in Bastogne and will then be transferred to Brazos County, Texas.

The Texas A&M University System and the Research Valley Partnership will be collaborating with the City of Bastogne and Idelux on the Visiting Exhibition. The objective of the Visiting Exhibition is to highlight the story of 5 Aggies and their role in the Battle of the Bulge during WWII.

**THE FOLLOWING HAS THEREFORE BEEN AGREED on the terms and conditions set out below:**

**Article 1 – Purpose and Understandings**

§1. The purpose of this agreement is to set forth the obligations of Parties of this collaboration to develop the Visiting Exhibition to be housed and viewed by the general public in Bastogne, Belgium and Brazos County, Texas.

§2. Each Party undertakes to contribute its expertise, knowledge and endeavours to the accomplishment of the object of this agreement, as stipulated below.

§3. TAMUS and RVP understand that the City of Bastogne and Idelux will be using Tempora to perform and complete one or more of the City of Bastogne's and Idelux's obligations under this Agreement.

### **Article 2 – The Show**

§1. The City of Bastogne and Idelux will be responsible for developing "The Show." The Show will consist of a video projected on the Mardasson memorial that is mapped to architectural features of Mardasson memorial for viewing and effect. The Show will be shown at least during the Memorial Day period and the commemoration of the 70<sup>th</sup> anniversary of the Battle of the Bulge period in December 2014 and made available to TAMUS & RVP for showing in Brazos County and elsewhere.

### **Article 3 – The Visiting Exhibition**

§1. The Visiting Exhibition shall be presented in Bastogne, Belgium and Brazos County, Texas. The exhibition shall be open to the general public in December 2014 in Bastogne. The exhibition's opening ceremony shall be held during the 'Nuts Days' (December 12, 13, and 14), with the grand opening ceremony being held on December 13 for the Parties to officially open the Museum and Exhibit. The Visiting Exhibition will be moved to Brazos County, Texas no later than December 2016.

§2. The Visiting Exhibition shall be staged in premises made available by the City of Bastogne in the Van Geluwe building for a minimum total exhibition area of 500 square meters approximately 5000 square feet.

§3. The Visiting Exhibition shall be presented in a total area of 500 square meters.

§4. The Visiting Exhibition documentation shall be produced in French, Dutch and English for the exhibition in Belgium, but only in English for the exhibition in Texas, it being understood that the basic text shall be drafted either in English or French and translated into the other two languages.

### **Article 4 – Services Provided by the City of Bastogne and Idelux**

§1. *The Show's historical and scenographic*

- a. Developing the show's historical content.
- b. Producing the story board.
- c. Establishing the final show project.
- d. Obtain approval from TAMUS for historical content, story board and final show.

## *§2. Production of The Show*

- a. Producing the multimedia montage and interactive content, including the sound system.
- b. Renting the multimedia and electrotechnical equipment needed to produce the show in accordance with the final project (local companies)
- c. In situ testing.

## *§3. Presentation of The Show*

- a. Providing staff to manage the staging of the show.
- b. Visitor services (ticketing, bookings, information line).
- c. Insurance cover for the rented equipment and civil liability.
- d. Public relations (awareness-raising campaign, website, etc.).
- e. Targeted communication initiatives, if applicable, aimed at specific target groups.
- f. Press contacts (press kit, press release, press conference, etc.).

## *§4. The Visiting Exhibition's historical and scenographic design*

- a. Developing the exhibition's historical content.
- b. Producing an exhibition outline.
- c. Establishing the final exhibition project, on the basis of the outline.
- d. Drafting the exhibition documentation.
- e. Translating the exhibition documentation.
- f. Providing general project management assistance to TAMUS..

## *§5 Production of the Visiting Exhibition*

- a. Drawing up the exhibition implementation plans (furniture, graphics, lighting, sound system, multimedia, interactive services, signs).
- b. Producing the multimedia and interactive elements, including the related texts.
- c. Manufacturing the furniture and scenographic modules in its workshop, in accordance with the exhibition implementation plans.
- d. Supplying the multimedia and electrotechnical equipment needed to produce the exhibition in accordance with the exhibition implementation plans.

## *§6. Assembly and maintenance of the Visiting Exhibition in Bastogne*

- a. On-site delivery of the exhibition components.
- b. On-site assembly and installation of the exhibition components, in accordance with the exhibition implementation plans.
- c. Training the management teams, with responsibility for the day-to-day maintenance of the installations and troubleshooting, which do not require specialist technical expertise.
- d. Exhibition maintenance services during the period that the exhibition is open to the general public.
- e. Dismantling the exhibition at the end of its presentation to the general public in approximately two years

*§7. Assistance provided to TAMUS and RVP for the Visiting Exhibition*

- a. Assistance to dismantle the exhibit at the end of its presentation to the general public in Bastogne.
- b. Assistance in shipping of the exhibit components.
- c. Assistance for the on-site assembly and installation of the exhibit components, in accordance with the exhibition implementation plans.
- d. Training the management teams, with responsibility for the day-to-day maintenance of the installations and troubleshooting, which do not require specialist technical expertise.

*§8. Management of the Visiting Exhibition in Bastogne*

- a. Providing staff to manage the exhibition.
- b. Visitor services (ticketing, bookings, information line).
- c. Exhibition cleaning services.
- d. Minor maintenance work on scenographic installations, in accordance with Tempora's recommendations.
- e. Insurance cover for the exhibition, its works, exhibition areas and the manager's civil liability.
- f. Training guides on the exhibition's content.
- g. Public relations (awareness-raising campaign, website, etc.).
- h. Targeted communication initiatives, if applicable, aimed at specific target groups
- i. Press contacts (press kit, press release, press conference, etc.).
- j. Organising the exhibition's opening ceremony.

**Article 5 – Services provided by Texas A&M University System**

- a. Providing the historical artifacts needed for the design of the exhibition. This does not include any large vehicles or similar pieces.
- b. Approval of the design phases, working in accordance with the deadlines fixed between the Parties.
- c. Historical management of the project. Final design approval will be made by TAMUS.

**Article 6 – Exhibit Area provided by the City of Bastogne and Idelux**

Provision of the exhibition area in the Van Geluwe building, including the cost of utilities and other building upkeep to support the visiting exhibition.

**Article 7 – Exhibition production schedule**

§1. The exhibition will be opened to the public in December 2014. The exhibition's opening ceremony will be held on December 13, 2014.

§2. The Parties undertake to ensure that this schedule is respected.

## **Article 8 – Ownership rights**

TAMUS and RVP shall retain full ownership of the exhibition, including the intellectual property rights in respect of the creations, works and discoveries of the exhibition. City of Bastogne and Idelux will have rights to use the exhibit approved by TAMUS and RVP in the Van Geluwe building.

TAMUS and RVP undertake to inform each other if the exhibition is re-used for subsequent presentations and to include all logos on all advertising related to the exhibition within the framework of subsequent presentations.

The Parties agree that each Party shall retain full ownership of their own logo, and any of the other Parties must obtain prior written approval to use a Party's logo on or in any advertising.

## **Article 9 – Responsibility and support committee**

§1. Given that the exhibition is being produced in partnership between the Parties, each of the Parties shall be responsible for the tasks assigned to it.

§2. Support committees shall be set up to supervise and coordinate the activities of the Parties. The committees shall meet whenever a meeting is necessary and at least three times in the first year of the agreement. These meetings may be held telephonically.

§3. The financial committee shall be composed of the representatives of TAMUS, RVP, Idelux, the City of Bastogne and representatives of external agencies contributing to the financing of the project.

For The Texas A&M University System:  
Brett Cornwell, Associate Vice Chancellor for Commercialization

For RVP:  
Todd McDaniel, President & CEO

For the City of Bastogne:  
Benoît Lutgen, Mayor, Bastogne

For AWEX/WBI:  
Philippe Lachapelle  
Director, Business Development and Strategic Partnerships  
Wallonia Export & Investment Agency

For the Luxembourg province/IDELUX:  
Fabian Collard, CEO, Idelux

§4. The historical committee approving the final exhibit shall include representatives of TAMUS and RVP who will validate the content of both the show and exhibition.

#### **Article 10 – Reporting Obligation**

Parties undertake to keep each other informed on a regular basis of progress in the work, any problems encountered in connection with the design, production, management or promotion of the exhibition, and the steps taken to remedy any such issues.

#### **Article 11 – Visiting Exhibit Fee**

§1. TAMUS agrees to pay \$375,000 (US) dollars and the RVP agrees to pay \$375,000 (US) dollars for the total of \$750,000 (US) dollars to the Bastogne Memorial Association.

§2. RVP will pay its Visiting Exhibit fee of \$375,000 (US) dollars based on the following milestones:

- a. At the completion of Article 4, §1 and §2 for The Show, RVP will pay \$187,500 (US) dollars to the Bastogne Memorial Association.
- b. At the completion of Article 4, §4 (a-c), RVP will pay \$187,500 (US) dollars to the Bastogne Memorial Association.

#### **Article 12 – Intellectual Property Rights**

§1. This agreement does not entail the assignment of any intellectual property rights belonging to one of the Parties to another Party.

§2. The Exhibition's graphic production shall include the respective logos/distinctive signs/names of TAMUS, Texas A&M University, RVP, Idelux, the City of Bastogne and representatives of external agencies contributing to the financing of the project, but no other use will be allowed without prior written approval of the owner of such logo, distinctive sign, or name.

#### **Article 13 – Force majeure**

§1. In the event of the occurrence of one or more acts constituting a case of force majeure or another ground for exemption affecting one or more of the obligations of one or both Parties to this agreement, the Party or Parties must notify the other Party of the occurrence of a ground for exemption as soon as it or they become aware of it, preferably by registered letter or, failing that, by any appropriate means.

The notice must state the nature, the start date and projected the end date and the projected impact of the act of force majeure or other ground for exemption on the performance of the obligations of the affected Party. As soon as the ground for exemption no longer exists, the Party whose obligations have been affected must notify the other Party promptly of the precise end date of the said ground for exemption and its actual impact on performance, and enclose the relevant proof of such.

#### **Article 14 – Non-assignment**

§1. This agreement is concluded on an intuitu personae basis by each of the Parties and may not be assigned without prior written approval of each of the Parties.

#### **Article 15 – Duration**

§1. This agreement is concluded for a fixed period, commencing on the date of its signature and ending when the visiting exhibit is returned to Brazos County, Texas and completion of the obligations under assembly assistance per Article 4, §7, which is to be completed in approximately two years.

#### **Article 16 – Breach and Disputes**

§1. Each Party shall be entitled to terminate this agreement at any time, by registered letter, if any of the Parties commits a material breach of its contractual obligations and fails to remedy the situation within 30 days after receipt of a first formal notice sent by registered letter. The Party that terminates this agreement shall not waive its right to institute proceedings for compensatory damages.

#### **Article 17 – Governing Law and Competent Jurisdiction**

§1. The Parties undertake not to institute legal proceedings without prior formal notice.

§2. This Agreement shall be construed under the Constitution and laws of the State of Texas, USA.

§3. The Parties agree that the competent jurisdiction and venue for any claim arising under this Agreement shall be in Harris County, Texas.

#### **Article 18 – State Agency**

TAMUS is an agency of the State of Texas and nothing in this Agreement waives or relinquishes TAMUS's right to claim any exemptions, privileges, and immunities as may be provided by the Constitution and/or laws of the State of Texas.

#### **Article 19 – No Waiver; Severability**

If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. No waiver of any breach of this Agreement shall constitute a waiver of any other breach of the same or other provision of this Agreement and no waiver shall be effective unless made in writing.

#### **Article 20 – Headings**

Headings appear solely for convenience of reference. Such headings are not part of, and shall not be used to construe, this Agreement.

**Article 21 – Entire Agreement**

This Agreement contains the entire understanding of the Parties with respect to the Purpose set forth in Article 1, and supersedes all other written and oral agreements between the Parties with respect to the Purpose set forth in Article 1. It may be modified only by a written amendment or agreement signed by the Parties.

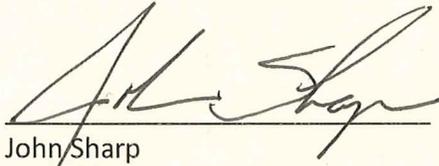
**Exhibits:**

Exhibit A – Agreed upon flow of the exhibit

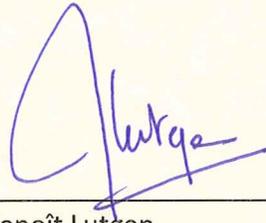
Exhibit B – Texas Aggies go to War – Aggies to be Highlighted Document

Executed in College Station, in one original for each Party, on February 24, 2014.

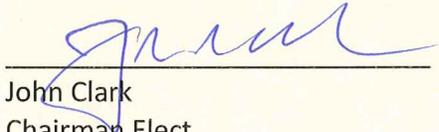
Each Party hereby acknowledges receipt of its original.



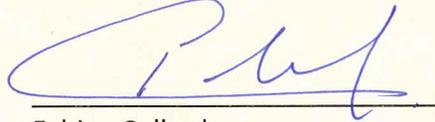
John Sharp  
Chancellor  
The Texas A&M University System



Benoît Lutgen  
Mayor  
City of Bastogne



John Clark  
Chairman Elect  
The Research Valley Partnership



Fabian Collard  
CEO  
Idelux



Legislation Details (With Text)

<b>File #:</b>	14-382	<b>Version:</b>	1	<b>Name:</b>	TAMU Student Housing Resolution
<b>Type:</b>	Presentation	<b>Status:</b>		<b>Status:</b>	Consent Agenda
<b>File created:</b>	4/7/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	4/24/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action, and discussion regarding approval of a resolution authorizing the Mayor to approve the Plan of Finance, the Issuance of New Hope Cultural Education Facilities Finance Corporation Student Housing Revenue Bonds and the project to be acquired with the proceeds of such bonds.				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Certificate of Mayor (College Station)-TEFRA Approval - unsigned by Mayo....pdf</a> <a href="#">College Station TEFRA Resolution.pdf</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of a resolution authorizing the Mayor to approve the Plan of Finance, the Issuance of New Hope Cultural Education Facilities Finance Corporation Student Housing Revenue Bonds and the project to be acquired with the proceeds of such bonds.

**Relationship to Strategic Goals:**

1. Financially Sustainable City

**Recommendation:** Staff recommends approval of the resolution.

**Summary:** The City has received a request from New Hope Cultural Education Facilities Finance Corporation to approve a resolution, a non-profit corporation affiliated with Texas A&M University for the issuance of bonds for the construction of student housing for the benefit of Texas A&M University students on land ground leased to it from the Texas A&M University System, on the Texas A&M University campus. The project was originally going to be a \$460 million 4,088 bed project. The project has been downsized and is in 2 phases. The initial phase is expected to be \$112 million 1,262 bed facility. The second phase is expected to be similar in size.

In order for certain entities to issue tax-exempt bonds, such entities are required to obtain the approval of either the highest elected official of the local jurisdiction or the governing body of the local jurisdiction. None of the City of College Station, the Mayor nor the City Council will have any liability for the bonds or the project being financed. The approval requirement is part of the Tax Equity and Fiscal Responsibility Act (TEFRA). Basically, under TEFRA, in order to issue tax exempt bonds, the applicant is required to post notice of a public hearing in the local jurisdiction, wait 15 days, hold the public hearing, and then obtain the approval of the Mayor or the City Council. The notice has been posted, and the required public hearing was held on March 19, 2014. One member of the public attended the hearing, and was neither in favor of, or opposed to, the project and the bonds.

**Budget & Financial Summary:** Approval of this resolution does not create any financial liability to the City of College Station.

**Reviewed and Approved by Legal:** Yes.

**Attachment:**

1. Resolution
2. Certificate

**CERTIFICATE OF THE MAYOR OF THE CITY OF COLLEGE STATION, TEXAS**

The undersigned Mayor of the City of College Station, Texas, (the “City”) hereby certifies with respect to the issuance by the New Hope Cultural Education Facilities Finance Corporation (the “Corporation”) of its Student Housing Revenue Bonds (the “Bonds”), that:

1. This certificate is based upon the **CERTIFICATE OF PUBLIC HEARING OFFICER REGARDING PUBLIC HEARING** attached hereto as **Exhibit A** relating to the public hearing conducted on March 19, 2014, by the duly appointed hearing officer of the Corporation in accordance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”); and

2. Solely for purposes of the approval requirements of the aforesaid Section 147(f) of the Code, and for no other purposes, in my capacity as Mayor, I hereby approve the plan of finance, the Bonds and the facilities to be financed with the proceeds of the Bonds; provided, however, THAT THIS APPROVAL SHALL NOT BE CONSTRUED AS (1) A REPRESENTATION OR WARRANTY BY THE CITY, THE MAYOR OF THE CITY, THE STATE OF TEXAS OR ANY OTHER AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS THAT THE BONDS WILL BE PAID OR THAT ANY OBLIGATIONS ASSUMED BY ANY OF THE PARTIES UNDER THE INSTRUMENTS DELIVERED IN CONNECTION WITH THE BONDS WILL IN FACT BE PERFORMED; (2) A PLEDGE OF FAITH AND CREDIT OF THE CITY OR THE STATE OF TEXAS OR ANY AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS OR THE CITY; OR (3) A REPRESENTATION OR WARRANTY BY THE CITY CONCERNING THE VALIDITY OF THE CORPORATE EXISTENCE OF THE CORPORATION OR THE VALIDITY OF THE BONDS.

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Mayor, City of College Station

Date: \_\_\_\_\_, 2014

**EXHIBIT A**

**CERTIFICATE OF PUBLIC HEARING OFFICER REGARDING PUBLIC HEARING**

Re: *New Hope Cultural Education Facilities Finance Corporation Student Housing Revenue Bonds*

The undersigned, Timothy V. Coffey, designated Hearing Officer of New Hope Cultural Education Facilities Finance Corporation (the “*Issuer*”), the Issuer of the above-referenced bonds (the “*Bonds*”), called the Public Hearing of the Issuer held in Conference Room 208 in the Moore/Connally Building located at 301 Tarrow, College Station, Texas 77840, on March 19, 2014 to order at 10:00 a.m.

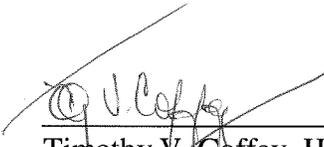
I declared that a Public Hearing required under Section 147(f) of the Internal Revenue Code of 1986 was open for purposes of discussing the Bonds and the projects to be financed, refinanced or constructed with the proceeds of the Bonds (the “*Projects*”) by CHF – Collegiate Housing College Station I, L.L.C., an Alabama limited liability company.

I declared that the required notice of the Public Hearing for the Projects was published in *The Bryan-College Station Eagle*, being a newspaper of general circulation in the City of College Station, Texas, as evidenced by an Affidavit of Publication attached hereto as **Schedule I**.

I proceeded to hold the Public Hearing. Comments from the public are reflected on **Schedule II** hereto.

After sufficient time was given for any member of the public to make their comments with respect to the Bonds and the Projects, I declared the Public Hearing closed at 10:20 a.m.

DATED: March 19, 2014.

  
\_\_\_\_\_  
Timothy V. Coffey, Hearing Officer  
New Hope Cultural Education Facilities  
Finance Corporation

SCHEDULE I

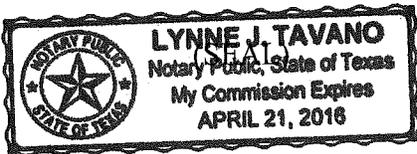
AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS                   §  
COUNTY OF BRAZOS                   §  
CITY OF COLLEGE STATION           §

BEFORE ME, a notary public in and for the above named County, on this day personally appeared the person whose name is subscribed below, who, having been duly sworn, says upon oath that he or she is a duly authorized officer or employee of *The Bryan-College Station Eagle*, which is a newspaper of general circulation in the City of College Station, Texas, devoting not less than 25% of its total column lineage to the carrying of items of general interest, published not less frequently than once each week, entered as second-class postal matter in the county where published, and having been published regularly and continuously for not less than 12 months prior to the making of any publication; and that a true and correct copy of the NOTICE OF PUBLIC HEARING, a clipping of which is attached to this Affidavit, was published in said Newspaper on February 26, 2014.

*Wendy Green*  
\_\_\_\_\_  
Authorized Officer or Employee

SUBSCRIBED AND SWORN TO BEFORE ME on the 26<sup>th</sup> day of February, 2014.



*Lynne J. Tavano*  
\_\_\_\_\_  
Notary Public

# **NOTICE OF PUBLIC HEARING**

Wednesday, February 26, 2014

The Eagle • theeagle.com

## **NOTICE OF PUBLIC HEARING**

The New Hope Cultural Education Facilities Finance Corporation (the "*Issuer*") will hold a public hearing at 10 o'clock a.m. on March 19, 2014 in Conference Room 208 in the Moore/Connally Building located at 301 Tarrow, College Station, Texas 77840. Among items to be discussed will be a proposal for issuance by the Issuer of its Student Housing Revenue Bonds (the "*Bonds*"), which will be issued in one or more series in an aggregate principal amount not to exceed \$460,000,000. The Bonds will be issued to provide funds to finance the cost of the acquisition, development, renovation, rehabilitation, financing, construction, furnishing and equipping of an approximately 4,088-bed student housing facility including the buildings and related facilities on the property, along with associated site development and various related amenities and improvements, to fund interest on the Bonds, to fund a debt service reserve fund for the Bonds, and to pay the costs of issuing the Bonds (collectively, the "*Project*"). The Project will be owned by CHF - Collegiate Housing College Station I, L.L.C., an Alabama limited liability company, the sole member of which is Collegiate Housing Foundation, an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "*Code*"), and managed by Texas A&M University, a member of The Texas A&M University System. The Project is located at and adjacent to the southeast corner of Discovery Drive and Raymond Stotzer Parkway and the northeast corner of Discovery Drive and Horticulture Street on the Texas A&M University Campus in College Station, Texas. Members of the public may attend or submit written comments prior to the hearing regarding the Project or the Bonds to the Issuer c/o Joseph E. Eckert, McCall, Parkhurst & Horton L.L.P., 717 North Harwood, Suite 900, Dallas, Texas 75201. This notice is published and the hearing is to be held to satisfy the requirements of Section 147(f) of the Code.

2-26-14

## **SCHEDULE II**

### **Comments of the Public**

Mr. Richard Keough attended the hearing. He asked general questions about the location and phasing of the Projects and the participants in the financing. He was neither in favor of nor opposed to the Bonds and the Projects, although he did indicate an interest in being a participant in future financings.

**CITY OF COLLEGE STATION, TEXAS**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, AUTHORIZING THE MAYOR TO APPROVE THE PLAN OF FINANCE, THE ISSUANCE OF NEW HOPE CULTURAL EDUCATION FACILITIES FINANCE CORPORATION STUDENT HOUSING REVENUE BONDS AND THE PROJECT TO BE ACQUIRED WITH THE PROCEEDS OF SUCH BONDS**

**WHEREAS**, the New Hope Cultural Education Facilities Finance Corporation (the “*Issuer*”) was created pursuant to the Cultural Education Facilities Finance Corporation Act, Article 1528m, Vernon’s Revised Civil Statutes, as amended (the “*Act*”), and has the power, authority and rights to issue revenue bonds for the purpose of aiding any accredited institutions of higher education, secondary schools, and primary schools, and authorized charter schools in financing or refinancing educational facilities and housing facilities and facilities that are incidental, subordinate, or related thereto or appropriate in connection therewith;

**WHEREAS**, CHF – Collegiate Housing College Station I, L.L.C., a single member Alabama limited liability company (the “*Borrower*”), has requested that the Issuer issue, and the Issuer proposes to approve the issuance of, its Student Housing Revenue Bonds (the “*Bonds*”), pursuant to the Act and pursuant to a Trust Indenture between the Issuer and Regions Bank, as trustee (the “*Indenture*”), and to loan the proceeds of the Bonds to the Borrower, pursuant to a Loan Agreement between the Issuer and the Borrower (the “*Loan Agreement*”) for the purpose of providing funds to finance the cost of acquisition, development, financing, construction, furnishing and equipping of an approximately 4,088-bed student housing facility including the buildings and related facilities on the property, along with associated site development and various related amenities and improvements to be located on the campus of Texas A&M University, to fund interest on the Bonds during the period of construction and up to six months thereafter, to fund a debt service reserve fund for the Bonds, and to pay the costs of issuing the Bonds (collectively, the “*Project*”);

**WHEREAS**, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “*Code*”), requires that the plan of finance, the Bonds and the Project be approved by the “applicable elected representative” of the governmental unit in which the Project is located after a public hearing following reasonable public notice; and

**WHEREAS**, the Mayor of the City of College Station, Texas (the “*City*”) has been requested to approve, as the applicable elected representative of the City, the plan of finance, the issuance of the Bonds and the Project in accordance with the requirements of the Code, and will be furnished with an affidavit of publication of notice of such hearing which shall be published in a newspaper of general circulation available to residents within the boundaries of the City and minutes of the public hearing to be conducted in connection therewith once such hearing has been held; and

**WHEREAS**, the City Council desires to hereby authorize the Mayor to approve the issuance of the Bonds and the Project; and

**WHEREAS**, the actions of the Issuer with respect to the plan of finance, the Project and the Bonds (including the issuance of the Bonds and the execution and delivery of the Indenture and Loan Agreement) and the action of the Mayor and the City Council with respect to the matters described herein will create no liability for the City and the City Council desires to authorize the Mayor to execute the required approval in connection with the issuance of the Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, THAT:**

**SECTION 1**

The Mayor of the City of College Station, Texas, is hereby authorized to approve the plan of finance, the issuance of the Bonds and the Project, for the limited purposes stated herein, and to execute and deliver such approval as requested.

**SECTION 2**

The authorization to approve the plan of finance, the Bonds and the Project is made for the sole purpose of satisfying the requirements of Section 147(f) of the Code, and for no other purpose and shall not be construed as a representation, warranty or other undertaking of any kind by the Mayor, the City or the City Council in respect of the plan of finance, the Bonds or the Project. The Bonds shall not constitute obligations of the City or a pledge of its faith and credit, and the City shall not be obligated to pay the Bonds or the interest thereon or otherwise incur any liability in respect thereof.

**SECTION 3**

The Mayor and City Secretary of the City and other officers of the City are hereby authorized to execute and deliver such instruments, certificates or documents necessary or advisable to carry out the intent and purpose of this resolution.

**SECTION 4**

This Resolution shall take effect immediately upon its passage and shall continue in force and effect from the date hereof.

**PASSED, APPROVED, AND ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2014.**

\_\_\_\_\_

\*\*\*\*\*

**ATTEST:**

\_\_\_\_\_

\*\*\*\*\*

**APPROVED AS TO FORM AND LEGALITY:**

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Legislation Details (With Text)

**File #:** 14-385      **Version:** 1      **Name:** (BVWACS) Operating Budget for FY 15  
**Type:** Agreement      **Status:** Consent Agenda  
**File created:** 4/7/2014      **In control:** City Council Regular  
**On agenda:** 4/24/2014      **Final action:**

**Title:** Presentation, possible action, and discussion regarding approval of the Brazos Valley Wide Area Communications System (BVWACS) Operating Budget for FY 15 and authorizing the City’s quarterly payments of approximately \$53,602 for an annual total of \$214,406; and approval of the BVWACS Capital Equipment Replacement Reserve Fund Budget for FY 15 and payment of the City’s share in the amount of \$63,329.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding approval of the Brazos Valley Wide Area Communications System (BVWACS) Operating Budget for FY 15 and authorizing the City’s quarterly payments of approximately \$53,602 for an annual total of \$214,406; and approval of the BVWACS Capital Equipment Replacement Reserve Fund Budget for FY 15 and payment of the City’s share in the amount of \$63,329.

**Relationship to Strategic Goals:**

- Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval.

**Summary:**

On August 22, 2013, Council approved the First Restatement of the ILA establishing the BVWACS and the ILA appointing the Brazos Valley Council of Governments (BVCOG) to act as the Managing Entity for the BVWACS. In accordance with the BVWACS ILA a Proposed Operating Budget and a Proposed Capital Equipment Replacement Reserve Fund Budget for FY 15 was reviewed and approved by the Governing Board on April 16, 2014.

Each of the BVWACS Parties (Bryan, College Station, Brenham, Washington County, Brazos County, Texas A&M University) has 30 days to review the proposed budgets. If any BVWACS Party does not agree with the proposed BVWACS Budgets as presented, it must provide the Governing Board with a detailed explanation of its issues with the draft Budget within 30 days after receipt.

**Budget & Financial Summary:**

If approved by Council funding for the City’s share of the BVWACS FY 15 Operating Budget and Capital Equipment Replacement Reserve Fund Budget will be included in the Information Technology FY 15 Operating Budget.

**Attachments:** N/A



Legislation Details (With Text)

<b>File #:</b>	14-400	<b>Version:</b>	1	<b>Name:</b>	CDBG Neighborhood Sidewalk Project
<b>Type:</b>	Contract	<b>Status:</b>		<b>Status:</b>	Consent Agenda
<b>File created:</b>	4/15/2014	<b>In control:</b>		<b>In control:</b>	City Council Regular
<b>On agenda:</b>	4/24/2014	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Presentation, possible action, and discussion on awarding a bid to Vox Construction, LLC. in the amount of \$256,955.82 for the 2014 CDBG Neighborhood Sidewalk Project.				
<b>Sponsors:</b>	Debbie Eller				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Contract.pdf</a> <a href="#">Attachment 2 - Map.pdf</a> <a href="#">Attachment 3 - Bid Tab.pdf</a> <a href="#">Surety Assignment.pdf</a>				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion on awarding a bid to Vox Construction, LLC. in the amount of \$256,955.82 for the 2014 CDBG Neighborhood Sidewalk Project.

Relationship to Strategic Goals: (Select all that apply)

- Financially Sustainable City
- Core Services and Infrastructure
- Neighborhood Integrity

Recommendation(s): Staff recommends approval of this construction contract with Vox Construction, LLC. contingent upon receipt of acceptable bonds and authorization for the City Manager to execute the Surety Assignment on behalf of the City.

Summary:

This contract includes the construction and/or improvement of sidewalks in three low-to-moderate income neighborhoods. These projects are eligible for Community Development Block Grant (CDBG) funds. These projects were identified in the Bicycle, Pedestrian, & Greenways Master Plan, the Eastgate Neighborhood Plan, Central College Station Neighborhood Plan, and to ensure ADA accessibility compliance.

On April 3, 2014, five sealed competitive bids were received in response to ITB 12-048. The ITB separated the project into five sections of sidewalk for construction and/or improvement in the three low- to moderate-income neighborhoods. This contract includes construction of four of those sections: 1) Dominik Drive from Texas Avenue to George Bush Drive, 2) Dominik Drive from George Bush Drive to Stallings, 3) Westridge/San Pedro, and 4) Park Place at Texas Avenue. Due to budget restraints, one section of sidewalk, Dominik Drive from Stallings to Munson, will be recommended for

construction in the future.

As a condition of SureTec Insurance Company to issue performance and payment bonds on this project, the City of College Station is required to sign a Surety Assignment agreeing to issue contract payments to Vox Construction, LLC. C/O SureTec Information Systems.

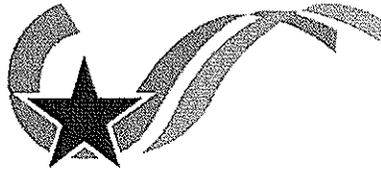
**Attachments:**

Attachment 1: Construction Contract (On file with City Secretary's Office)

Attachment 2: Map

Attachment 3: Bid Tab

Attachment 4: Surety Assignment



CITY OF COLLEGE STATION

Home of Texas A&M University\*

1101 Texas Ave \* College Station, TX 77840 \* (979) 764-3555

[www.cstx.gov](http://www.cstx.gov)

**ADDENDUM # 2**

**BID # 14-048**

Date: March 31, 2014  
To: All Interested Parties  
From: Heather Pavelka, Buyer

**Bid # 14-048 – 2014 CDBG Neighborhood Sidewalk Project**

The following additions, deletions or clarifications to Bid # 14-048 are hereby made a part of the Bid Documents for the above referenced project as fully and as completely as though the same were included therein.

**Question 1:** Although the estimate on the project that is currently posted on the website is \$265,500; during the pre-bid meeting the amount given by the engineer was \$372,000. Can you confirm the correct estimated amount for this project?

**Answer 1:** The project estimate was changed after the initial estimate was posted. Please use the estimate of \$372,000 as given by the engineer at the pre-bid meeting.

**Question 2:** Can you specify the material to be used at the TXDOT C1 Curb fascia? The local specified supplier (Boral) has informed that the specified product does not exist. According to them, limestone texture is for stucco and not cultured stone.

**Answer 2:** This issue has been addressed with the vendor. Boral is aware that the Limestone texture is correct for the Cultured Stone. However, due to a supply issue, the color of the stone is being changed to Bucks County. **Please consider all color references to this item in the specs and drawings to be changed to Buck County per this addendum.**

Please acknowledge receipt of this addendum with signature and date and return with completed bid. Failure to do so may cause your Bid to be considered non-responsive.

*Receipt of this Addendum No. 2 is hereby acknowledged*

  
\_\_\_\_\_  
Authorized Signature

04/03/14  
Date

Vox Construction, LLC  
Company Name



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[www.cstx.gov](http://www.cstx.gov)

**ADDENDUM # 1**  
**BID # 14-048**

Date: March 26, 2014  
To: All Interested Parties  
From: Heather Pavelka, Buyer  
Re: **Bid # 14-048 – 2014 CDBG Neighborhood Sidewalk Project**

The following additions, deletions or clarifications to Bid # 14-048 are hereby made a part of the Bid Documents for the above referenced project as fully and as completely as though the same were included therein.

**Date Change:**

- The site visit has been rescheduled to Friday, March 28, 2014 at 10:00 a.m., and will be at the location of Stallings and Dominik. This is not mandatory.

**Bid Sheet Updates:**

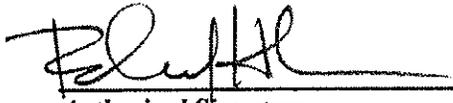
- The description of Item 10 has been updated to “TxDOT Type C1 Curb (H=0 to 24”) w/masonry fascia”. This affects the bid sheets for:
  - o Park Place at Texas Avenue
  - o George Bush to Stallings
  - o Texas Avenue to George BushThe corrected Bid Sheets are attached.
- A sidewalk drain has been added to the Bid Sheet for Stallings to Munson as Item 13. The corrected Bid Sheet is attached.

**Plan Updates:**

- Drawings C1.1, C1.2, C1.3 have been revised and are attached.

Please acknowledge receipt of this addendum with signature and date and return with completed bid. Failure to do so may cause your Bid to be considered non-responsive.

*Receipt of this Addendum No. 1 is hereby acknowledged*

  
\_\_\_\_\_  
*Authorized Signature*

04/23/14  
*Date*

VOX Construction, LLC  
*Company Name*

**BID DOCUMENTS**

**FOR**

**2014 CDBG  
Neighborhood Sidewalk Project**



**CITY OF COLLEGE STATION**  
*Home of Texas A&M University®*

**BID NO. 14-048  
PROJECT NO. CD-8010**

**DUE DATE:  
APRIL 3, 2014 @ 2:00 P.M.**

City of College Station, Texas  
Purchasing Division – City Hall  
PO Box 9960  
1101 Texas Avenue  
College Station, Texas 77842  
979-764-3555  
[www.cstx.gov](http://www.cstx.gov)

## Attention Contractor

The project you are bidding on is funded partially or wholly by federal funds from the U.S. Department of Housing and Urban Development (HUD). All construction work performed in relation to it is subject to the *Davis-Bacon Act*, *Copeland Anti-Kickback Act*, *Contract Work Hours Safety Standards Act*, and the *Fair Labor Standards Act*. Compliance will be monitored by the City of College Station Community Development Office.

**The Davis-Bacon Act** requires conformance to the attached wage decision for all construction workers on the site. All wages paid by prime and sub contractors to construction workers involved in this project must meet or exceed those wages listed on the decision. If a worker's classification does not fit any for those shown, notify the City of College Station Community Development Office immediately. The payment of wages will be verified by submittal of weekly payrolls to the Community Development Office. If underpayment occurs, corrections will be made as specified by the Act.

**The Copeland Anti-Kickback Act** prohibits kickbacks from employees to employers on federal projects. Compliance is monitored by requiring contractors to submit their weekly payrolls to the College Station Community Development Office. All deductions from employee payrolls other than Social Security and Income Taxes must be authorized in writing by the employee affected. This includes deductions for medical care and retirement plans. Payroll Deduction Authorization Forms are available from the Community Development Office for this purpose. **All payrolls must be submitted no more than seven days after the pay period covered.**

**The Fair Labor Standards Act** sets requirements for payment of minimum wages, maximum hours, overtime pay, child labor standards and prohibits wage discrimination on the basis of race, religion or gender. When in conflict with the Davis-Bacon Act, the Davis-Bacon Act takes priority.

**Section 3 of the 1968 Housing and Urban Development Act** mandates that opportunities for training and employment generated by HUD programs be targeted to low income persons "to the greatest extent possible." Contractors and Sub contractors will be required to certify they are equal opportunity employers and they do not maintain segregated facilities. The City of College Station strongly urges contractors to employ low-income workers from within College Station City Limits.

The College Station Community Development Office is available to any contractor or sub contractor who has questions concerning the above material. All regulations outlined above apply to both prime and sub contractors, although the prime contractor bears full responsibility for compliance by any sub contractors. Any failure to comply with the above acts may delay or prohibit payment for work in place.

Direct Questions to:                   Debbie Eller  
  City of College Station  
  Community Development Office  
  P. O. Box 9960  
  1207 Texas Avenue S.  
  College Station, Texas 77842  
  (979) 764-3778

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**INSTRUCTION TO BIDDERS**

## INSTRUCTIONS TO BIDDERS

### 1.0 ADVERTISEMENT

Sealed bids addressed to the City of College Station, Texas will be received for 2014 CDBG Neighborhood Sidewalk Project:

Bid Number 14-048  
Project No. CD-8010

until 2:00 p.m., Thursday, April 3, 2014 after which time all qualified bids will be opened and read. Bids received after that time will be returned unopened. Bids will be received at the office of:

City of College Station  
Purchasing Division – City Hall  
PO Box 9960  
1101 Texas Avenue  
College Station, Texas 77842

### LOCATION AND DESCRIPTION OF PROJECT

The project involves the construction of sidewalks along: Dominik Dr. from Texas to George Bush, George Bush to Stallings and Stallings to Munson; along Park Place at Texas; and along Westridge and San Pedro.

A **Mandatory** Pre-bid Meeting will be held at the second floor conference room, City Hall, College Station, Texas at **10:00 a.m. on Wednesday, March 26, 2014**. Vendors are required to attend to have their bid submissions considered.

Questions and inquiries about this request for proposals shall be submitted in writing via the Q&A feature available through Brazos Valley Online Bidding System at <https://brazosbid.cstx.gov> . The deadline for written questions is **Monday, March 31, 2014 at 12:00 p.m.**

### COPIES OF BIDDING DOCUMENTS

A complete set of Bidding Documents can be downloaded off of the City's website at <https://brazosbid.cstx.gov> .

Purchasing Division – City Hall  
PO Box 9960  
1101 Texas Avenue  
College Station, Texas 77842  
(979) 764-3555  
Monday through Friday from 8:30 a.m. to 5:00 p.m.

Five (5) percent bid security is required.

**END ADVERTISEMENT**

## **2.0 DEFINITION OF TERMS**

In order to simplify the language throughout this bid, the following definitions and those defined in the Contract Documents shall apply:

**BIDDER** - A contractor who submits a Bid directly to the City.

**BIDDING DOCUMENTS** - the Advertisement, Instructions to Bidders, the Proposal, Special Provisions, Technical Specifications and the proposed Contract Documents (including all Addenda issued prior to the receipt of Bids).

**CITY OF COLLEGE STATION** – Same as City.

**CITY COUNCIL** – The elected officials of the City of College Station, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and Laws.

**CONTRACT** – An agreement between the City and a Supplier to furnish supplies and/or services over a designated period of time during which repeated purchases are made of the commodity specified.

**CONTRACTOR** – The successful Bidder(s) of this bid request.

**CITY** – The government of the City of College Station, Texas.

**SUB-CONTRACTOR** – Any contractor hired by the Contractor or Supplier to furnish materials and services specified in this bid request.

**SUCCESSFUL BIDDER** - the lowest, qualified, responsible and responsive Bidder to whom the City (on the basis of the City's evaluation as hereinafter provided) makes an award.

**SUPPLIER** – Same as Contractor.

## **3.0 COPIES OF BIDDING DOCUMENTS**

A complete set of Bidding Documents can be downloaded off of the City's website at <https://brazosbid.cstx.gov>.

Complete sets of Bidding Documents must be used in preparing Bids; the City assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

## **4.0 MANDATORY PREBID CONFERENCE**

A Mandatory Pre-bid Meeting will be held at the second floor conference room, City Hall, College Station, Texas at 10:00 a.m. on Wednesday, March 26, 2014. Vendors are required to attend to have their bid submissions considered.

Representatives of the Owner and Engineer will be present to discuss the project. Bidders are highly encouraged to attend and participate in the conference. Owner's Representative will transmit to all prospective bidders of record such Addenda as he considers necessary in response to questions arising at the conference.

## 5.0 GENERAL BID PROVISIONS

- a. The Invitation to Bid as advertised will be considered an inclusion of the specifications and conditions.
- b. The term "Owner" as used throughout these documents will mean The City of College Station, Texas.
- c. Bid proposals will be submitted on the forms provided by Owner. All figures must be written in ink or typewritten. However, mistakes may be crossed out, corrections inserted adjacent thereto and initialed in ink by the person signing the proposal.
- d. Formal advertised bids indicate date and time by which the bids must be received in the Purchasing division. Bids received after that time will be returned unopened to the bidder.
- e. The bidder will note any exceptions to the conditions of this bid. If no exceptions are stated, it will be understood that all general and specific conditions will be complied with, without exception.
- f. Bidders may request withdrawal of a posted sealed proposal prior to the scheduled bid opening time, provided the request for withdrawal is submitted to the Purchasing Division in writing. Owner reserves the right to reject any and all bids by reason of this request.
- g. In the event there are inconsistencies between the general provisions and other bid terms or conditions contained herein, the former will take precedence.
- h. If it becomes necessary to revise any part of this bid, a written addendum will be provided to all bidders. Owner is not bound by any oral representations, clarifications, or changes made in the written specifications by Owner's employees, unless such clarification of change is provided to bidders in written addendum form from the Purchasing Division.
- i. All bids will be awarded to the lowest responsible bidder. The determination of the lowest responsible bidder may involve all or some of the following factors: price, conformity to specifications, financial ability to perform the contract, previous performance, facilities and equipment, availability of repair parts, qualifications and experience, delivery promise, payment terms, compatibility as required, other costs, and other objectives and accountable factors which are reasonable.
- j. Owner may give an environmental preference to products or services that have a lesser or reduced effect on human health and the environment when compared with competing products and services that serve the same purpose. This comparison may consider raw materials acquisition, product, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service;
- k. Bidders may be disqualified and rejection of proposals may be recommended to the Owner for any (but not limited to) of the following causes: 1) Failure to use the proposal form furnished by the Owner; 2) Lack of signature by an authorized representative on the proposal form; 3) Failure to properly complete the proposal; 4) Evidence of collusion among proposers; 5) Omission of a certified personal or company check as a proposal guarantee (if Bid Bond required); 6) Unauthorized alteration of bid form; 7) Lack of appropriate qualifications and experience relative to the size and scope of the work proposed; 8) Unsatisfactory performance; or 9) Failure to complete projects. Owner reserved the right to waive any minor informality or irregularity.

- l. Whenever in this invitation, any particular materials, process and/or equipment are indicated or specified by patent, proprietary or brand name, or by name of manufacture, such wording will be deemed to be used for the purpose of facilitating description of the material, process and/or equipment desired and will be deemed to be followed by the words "or equal."
- m. Samples of items shall be furnished, if requested by the Owner, without charge, and if not destroyed, shall be returned upon request at the bidder's expense.
- n. It is agreed that the successful bidder will not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same, or any part thereof, without previous written consent of Owner and any sureties.
- o. Contractor must provide audited financial statements, if requested, to the City.
- p. Prices should be itemized. Unit prices shall be set to no more than four (4) decimal places. The Owner reserves the right to award by item or by total bid. If there are discrepancies between unit prices and extension, the unit price will prevail.
- q. No freight or delivery charges will be accepted unless shown on bid.
- r. Discounts for prompt payment offered may be taken into consideration during bid evaluation. Terms of payment offered will be reflected in the space provided on the bid proposal form. All terms of payment (cash discounts) will be taken and computed from the date of delivery of acceptable material or services, or the date of receipt of invoice, whichever is later.
- s. Owner is exempt from State Retail Tax and Federal Excise Tax. The price bid must be net, exclusive of taxes.
- t. All bidders will comply with all Federal, State, and local laws relative to conducting business in the City of College Station. The laws of the State of Texas will govern as to the interpretation, validity, and effect of this bid, its award and any contract entered into.
- u. The successful bidder agrees by entering into this contract, to defend, indemnify and hold Owner harmless from any and all causes of action or claims of damages arising out of or related to bidder's performance under this contract.
- v. Advanced disclosures of any information to any particular bidder which gives that particular bidder any advantage over any other interested bidder in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the governing body or an employee or representative thereof, will operate to void all proposals of that particular bid solicitation or request.
- w. Minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, or national origin in consideration for an award.
- x. If unable to bid, please sign and return this form by return mail, advising reason for not submitting quotation.

## **6.0 QUALIFICATIONS OF BIDDERS**

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of City's request, written evidence, such as financial data, previous experience, present commitments and other such data as may be called for below. Each Bid must contain evidence of the Bidder's qualifications to do business in the State of Texas or covenant to obtain such qualification prior to award of the contract.

In determining a bidder's qualifications, the following factors will be considered:

- A. Work previously completed by the bidder and whether the bidder:
  - a. maintains a permanent place of business,
  - b. has adequate plant and equipment to do the work properly and expeditiously,
  - c. has paid or settled all claims for payment promptly,
  - d. has appropriate technical experience,
  - e. has job references for work of similar size and scope to the project bid herein; and
  - f. satisfactory performance and completion of public, or comparable, projects.
- B. The safety record of the Bidder, of the corporation, partnership, or institution represented by the Bidder, or of any one acting for such firm, corporation, or partnership.

Each Bidder may be required to show that he has properly completed similar type work and that no claims are now pending against such work. No bid will be accepted from any bidder who is engaged in any work that would impair his ability to fully execute, perform or finance this work. The General/Sub-Contractors Experience Data Sheet following the proposal must be filled out and submitted with the bid for consideration. Failure to include a completed Data Sheet may result in the rejection of the bid.

#### **7.0 EXAMINATION OF CONTRACT DOCUMENTS AND SITE**

- A. It is the responsibility of each Bidder before submitting a Bid, to:
  - a. examine the Contract Documents thoroughly,
  - b. visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work,
  - c. consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work,
  - d. study and carefully correlate Bidder's observations with the Contract Documents, and
  - e. notify Owner's Representative of all conflicts, errors or discrepancies in the Contract Documents.
  - f. visit with local utilities, including cable companies, and other entities that may have underground or above-ground infrastructure in the work area for infrastructure location.
- B. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site is based upon information and data from the Owner's files for its underground facilities and information and data furnished by owners of other underground facilities. Owner does not assume responsibility for the accuracy or completeness thereof.
- C. Before submitting a Bid each Bidder will be responsible to make or obtain such explorations, at bidders expense and not to be added into cost of bid if accepted (tests and data concerning physical conditions - surface, subsurface and underground facilities - at or contiguous to the site, or otherwise) which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

- D. On request in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.
- E. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment or disposal of spoil are to be provide by Contractor. Contractor is responsible for obtaining all permits required for any of the before mentioned purposes prior to beginning work in accordance with the Standard Form Of Agreement, paragraph 35 Permits and Licenses.
- F. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this section, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work. No pleas of ignorance of conditions that may be encountered in their execution of the Work under this contract, that is a result of failure to make the necessary examinations and investigations herein above indicated, will be accepted as an excuse for the failure or omission on the part of the Contractor to fulfill in every detail all the requirements of the Contract Documents. In no event shall a claim for extra compensation or for an extension of time be allowed for failure to thoroughly examine all requirements of Contract Documents.

#### **8.0 INTERPRETATIONS and ADDENDA**

All questions about the meaning or intent of the Contract Documents are to be directed to the City Purchasing Department. Interpretations or clarification considered necessary by Owner's Representative in response to such questions will be issued by Addenda and mailed or otherwise delivered to all parties recorded by Owner's Representative as having received the Bidding Documents. Questions received less than 48 hours prior to opening of Bids will not be answered. Only questions answered by a formal written Addenda will be binding. No oral and other interpretations or clarification will be considered official or binding.

Addenda may also be issued to modify the Bidding Documents as deemed advisable by the City.

To properly qualify his bid, each Bidder shall, prior to filing his Bid, check the receipt of all Addenda or letters of clarification issued and acknowledge such receipt on the Proposal Form or on a separate attachment to the bid. Bids without such acknowledgment of all issued Addenda and letters of clarification may cause your bid to be considered non-responsive. Such Addenda and letters of clarification shall become a part of the executed contract and modify the contract documents accordingly.

#### **9.0 BID SECURITY**

Bidders must submit with their Bids a Cashier's Check or a Certified Check in the amount of five (5%) percent of the maximum amount of Bid payable without recourse to the City of College Station, Texas, or a bid bond in the same amount from a surety company holding permit from the State of Texas to act as a surety, as a guarantee that Bidder will enter into a contract and execute

bond and guarantee forms within fifteen (15) days after notice of award of contract. Bids without checks, as stated above, or acceptable bid bond may not be considered.

Bid Security shall be in effect from the opening of the Bid and will be retained until a Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid Security will be returned. A Bidder may withdraw its Bid at any time until the Agreement is signed. However, it will forfeit its Bid Security in doing so if no material mistake was made in the Bid.

The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required contract security, whereupon the Bid Security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen (15) days after the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until 5 days after the Agreement is executed whereupon Bid Security furnished by such Bidders will be returned. Bid Security with Bids which are not competitive will be returned within seven days after the Bid opening.

#### **10.0 CONTRACT TIME**

The times for Substantial Completion and Final Completion are set forth in the Special Provisions and will be included in the Agreement. It will be necessary for the Successful Bidder to satisfy City of Bidder's ability to achieve Substantial Completion and Final Completion within the times designated in the Special Provisions.

#### **11.0 LIQUIDATED DAMAGES**

**TIME IS OF THE ESSENCE IN THIS CONTRACT.** Failure to meet Substantial or Final Completion dates will result in damages to the city in an amount specified in City's Standard Form of Agreement, Item 23.

#### **12.0 SUBSTITUTE OR "OR EQUAL" ITEMS**

The materials and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless written request for approval has been submitted by the Bidder and has been received by Owner's Representative at least seventy-two (72) hours prior to the date for receipt of Bids or until after the contract for the work has been signed. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The Owner's Representative's decision of approval or disapproval of a proposed substitution shall be final. If Owner's Representative approves any proposed substitution before the date for receipt of bids, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

### **13.0 BID FORM**

The Bid Form is included with the Bidding Documents; additional copies may be obtained from the Purchasing Department, City of College Station, 1101 Texas Avenue, College Station, Texas 77840.

All blanks on the Bid Form must be completed in ink or by typewriter. Unfilled blanks may result in the bid being disqualified.

Bids by corporations must be executed in the corporate name by the corporate officer authorized to sign for the corporation, accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and accompanied by evidence of authority to sign. The fiscal address of the partnership must be shown below the signature.

All names must be typed or printed below the signature.

The Bid shall contain an acknowledgment of receipt of all Addenda. The numbers and dates of which must be filled in on the Bid Form or on a separate attachment to the Bid. The address and telephone number(s) for communication regarding the Bid must be shown.

All of the data on the GENERAL/SUB-CONTRACTORS EXPERIENCE AND DATA INFORMATION sheet must be completely filled in.

### **14.0 SUBMISSION OF BIDS**

A Bid shall be submitted at the time and place indicated in the Advertisement. It shall be enclosed in an opaque sealed envelope, marked with the project title, name and address of the Bidder. The Bid shall be accompanied by the Bid Security and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

Each Bidder should, prior to filing his Bid check the receipt of all Addenda or letters of clarification issued and acknowledge such receipt on the outside of the envelope containing his Bid proposal.

### **15.0 MODIFICATION AND WITHDRAWAL OF BIDS**

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

If prior to the award of the contract by the City Council, any Bidder files a duly signed, written notice with Owner's Representative and promptly thereafter demonstrates to the reasonable satisfaction of Owner's Representative that there was a material mistake in the preparation of his Bid, that Bidder may withdraw his Bid and the Bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

**16.0 OPENING OF BIDS**

Properly prepared Bids will be opened publicly and read aloud. A summary of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids. A tabulation of the Bids which are read will be available upon request as soon as it has been assembled and verified.

Bids received after the specified time of the opening will be returned unopened.

**17.0 BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

All bids will remain subject to acceptance, for 90 days after the date of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

**18.0 AWARD OF CONTRACT**

Owner reserves the right to reject any and all Bids, to waive any and all informalities and irregularities not involving price, time or changes in the Work and to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, time of construction, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

Owner may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted as provided. Owner may also consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

If the contract is to be awarded, it will be awarded to the lowest responsible Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.

If the contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within 90 days after the day of the Bid opening.

Bid prices may be compared after adjusting for differences in the time designated in the Bid for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Standard Form of Agreement for liquidated damages indicated for Substantial Completion for each day after the desired date appearing in City's Standard Form of Agreement, Item 23.

**19.0 CONTRACT SECURITY**

Paragraph 28 BOND PROVISIONS of the Standard Form of Agreement set forth Owner's requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required performance and payment Bonds.

**20.0 SIGNING OF AGREEMENT**

The Successful Bidder shall execute the Contract and provide proof of insurance as detailed in the Standard Form of Agreement based on Staff recommendation prior to Council action. Within 15 days of Council approval, all required Bonds shall be delivered to Owner. A fully executed contract will be presented to Successful Bidder with a City of College Station Purchase Order.

**21.0 PERSONAL INTEREST**

College Station City Charter Article XII: General Provision; Section 116. Members of the City Council and officers and employees of the City shall comply with state law pertaining to conflicts of interest of local government officials, including TEXAS LOCAL GOVERNMENT CODE, Chapter 171.

**CONTRACTOR'S PROPOSAL**

**CONTRACTOR'S PROPOSAL**

**BID SUMMARY  
BID NO. 14-048**

<b>Project Description</b>	<b>Construction Cost</b>
Texas Avenue to George Bush	\$ 35,680.35
George Bush to Stallings	\$ 82,793.33
Stallings to Munson	\$ 59,542.24
Park Place at Texas Avenue	\$ 3365.38
Westridge & San Pedro	\$ 135,116.76
<b>Total Construction Cost</b>	<b>\$ 316,498.06</b>

\* The City reserves the right to award by project or by lump sum

TOTAL number of calendar days to substantial completion      90 Days

Number of Addenda is hereby acknowledged      2

**City of College Station  
2014 CDBG Sidewalk Project  
Texas to George Bush  
Bid Proposal Worksheet**

Item No.	Description	Unit	Unit Price	Quantity	Total Cost
1	Mobilization	EA	4993	1	4993
2	Traffic Control	EA	500	1	500
3	Stormwater Pollution Prevention Plan	EA	200	1	200
5	Remove Existing Concrete (all flatwork)	SF	5.35	911	4873.85
7	Concrete Sidewalk	SF	2.70	3,983	10754.10
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	2.94	911	2587.24
9	Ambulatory Ramp (all types)	EA	347.75	8	2782
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	26.32	60	1579.20
11	Dowel to existing sidewalk or driveway	EA	111.28	8	890.24
12	Saw cut existing concrete	LF	3.75	8	30
13	Sidewalk drain	EA	1265	1	1265
22	Relocate fire hydrant	EA	3210	1	3210
23	Adjust manhole lid	EA	56.18	1	56.18
24	Adjust water valve box	EA	56.18	2	112.36
25	Adjust sewer clean-out	EA	56.18	1	56.18
29	Relocate signs/obstructions	EA	133.75	4	535
31	Bermuda Grass Sod	SY	3.14	400	1256
<b>Estimated Construction Cost</b>					<b>35,680.35</b>

**City of College Station  
2014 CDBG Sidewalk Project  
George Bush to Stallings  
Bid Proposal Worksheet**

Item No.	Description	Unit	Unit Price	Quantity	Total Cost
1	Mobilization	EA	8,497	1	8,497
2	Traffic Control	EA	750	1	750
3	Stormwater Pollution Prevention Plan	EA	1,200	1	1,200
4	Remove Existing Concrete (curb & gutter)	LF	7.95	106	842.70
5	Remove Existing Concrete (all flatwork)	SF	5.35	4,239	22,678.65
6	ST 1-01 Concrete Curb and Gutter	LF	5.35	100	535
7	Concrete Sidewalk	SF	2.70	7,165	19,345.50
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	2.84	2,102	5,969.68
9	Ambulatory Ramp (all types)	EA	347.75	12	4,173
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	26.32	105	2,763.60
11	Dowel to existing sidewalk or driveway	EA	111.28	5	556.40
12	Saw cut existing concrete	LF	3.75	1	3.75
16	SW 1-01 Pedestrian Guardrail	LF	7.12	36	256.32
18	Remove & replace headwall for 66" RCP w/dissapator blocks)	LS	3,424	1	3,424
19	Concrete channel lining	SF	8.03	115	923.45
20	Rock rip-rap	SF	20.87	410	8,556.70
24	Adjust water valve box	EA	56.18	1	56.18
29	Relocate signs/obstructions	EA	133.75	2	267.50
31	Bermuda Grass Sod	SY	3.14	635	1,993.90
<b>Estimated Construction Cost</b>					<b>82,793.33</b>

**City of College Station  
2014 CDBG Sidewalk Project  
Stallings to Munson  
Bid Proposal Worksheet**

Item No.	Description	Unit	Unit Price	Quantity	Total Cost
1	Mobilization	EA	9372	1	9,372
2	Traffic Control	EA	1000	1	1,000
3	Stormwater Pollution Prevention Plan	EA	1200	1	1,200
4	Remove Existing Concrete (curb & gutter)	LF	7.95	25	198.75
5	Remove Existing Concrete (all flatwork)	SF	5.35	876	4686.60
6	ST 1-01 Concrete Curb and Gutter	LF	5.35	25	133.75
7	Concrete Sidewalk	SF	2.70	6,487	17514.90
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	2.84	737	2093.08
9	Ambulatory Ramp (all types)	EA	347.75	10	3477.50
11	Dowel to existing sidewalk or driveway	EA	111.28	6	667.68
12	Saw cut existing concrete	LF	3.75	10	37.50
13	Sidewalk drain	EA	1265.81	1	1265.81
14	TxDOT Type F2 Curb (H=24") w/masonry fascia	LF	131.61	60	7896.60
15	TxDOT Type F3 Curb (H=60") w/masonry fascia	LF	131.61	12	1579.32
16	SW 1-01 Pedestrian Guardrail	LF	7.12	72	512.64
23	Adjust manhole lid	EA	56.18	1	56.18
24	Adjust water valve box	EA	56.18	2	112.36
26	Adjust water meter box	EA	56.18	1	56.18
27	Match & reconnect wooden walkways	EA	185.11	4	740.44
28	Remove stumps and/or trees	EA	160.50	1	160.50
29	Relocate signs/obstructions	EA	133.75	5	668.75
30	1" PVC Electrical Conduit (30" deep, structural backfill)	LF	95.23	50	4761.50
31	Bermuda Grass Sod	SY	3.14	430	1350.20
<b>Estimated Construction Cost</b>					<b>59,542.24</b>

**City of College Station  
2014 CDBG Sidewalk Project  
Park Place @ Texas Avenue  
Bid Proposal Worksheet**

Item No.	Description	Unit	Unit Price	Quantity	Total Cost
1	Mobilization	EA	915	1	915
2	Traffic Control	EA	500	1	500
3	Stormwater Pollution Prevention Plan	EA	100	1	100
7	Concrete Sidewalk	SF	2.70	117	315.90
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	26.32	40	1052.80
11	Dowel to existing sidewalk or driveway	EA	111.28	2	222.56
12	Saw cut existing concrete	LF	3.75	8	30
21	Repair & repaint existing handrail	LF	7.79	1	7.79
24	Adjust water valve box	EA	56.18	1	56.18
29	Relocate signs/obstructions	EA	133.75	1	133.75
31	Bermuda Grass Sod	SY	3.14	10	31.40
<b>Estimated Construction Cost</b>					<b>3365.98</b>

**City of College Station  
2014 CDBG Sidewalk Project  
Westridge & San Pedro  
Bid Proposal Worksheet**

Item No.	Description	Unit	Unit Price	Quantity	Total Cost
1	Mobilization	EA	23,083	1	23,083
2	Traffic Control	EA	750	1	750
3	Stormwater Pollution Prevention Plan	EA	500	1	500
5	Remove Existing Concrete (all flatwork)	SF	5.35	11,417	61,080.95
7	Concrete Sidewalk	SF	2.70	8,891	24,005.70
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	2.84	5,752	16,335.68
9	Ambulatory Ramp (all types)	EA	417.01	8	3,336.08
11	Dowel to existing sidewalk or driveway	EA	111.28	12	1,335.36
12	Saw cut existing concrete	LF	3.75	450	1,687.50
13	Sidewalk drain	EA	1,265.81	1	1,265.81
17	Remove existing headwall structure (West Ridge)	LS	267.5	1	267.5
24	Adjust water valve box	EA	56.18	1	56.18
31	Bermuda Grass Sod	SY	3.14	450	1,413
<b>Estimated Construction Cost</b>					<b>135,116.76</b>

**CONTRACTOR DATA SHEET**

**GENERAL/SUB-CONTRACTOR'S EXPERIENCE  
AND  
DATA INFORMATION**

Name of Company: VOX Construction, LLC

Company Years in Business: 3+ years

List Municipal Projects  
(Similar Projects in Size and Scope Completed in Last Five Years)

Project	Municipality	\$ Amount	Type	Date
Northgate Pkg Garage Repairs	City of CS	1,246	Public	Feb '14
Central Park Batting Cages	City of CS	\$12.5K	Public	Feb '14
University Drive Sidewalks	City of CS	\$171K	Public	Aug '13
Hollenman & Roberts Sidewalks	City of CS	\$117K	Public	Aug '12
Creekside Park	City of CS	\$383K	Public	May '14
Emergency Generator	City of Palestine	\$61K	Public	Oct '12

**Superintendent & Project Manager Information**

Include Superintendent proposed for the project, years of experience as superintendent, project manager proposed for the project, and years experience as project manager

Superintendent	Years Experience	Projects
Brandon Denk	20+ yrs	see attached resume

Project Manager	Years Experience	Projects
Rachel Henderson	18+ yrs	see attached resume

# RACHEL BENING HENDERSON

PHONE: 979.204.7999 • E-MAIL: RHENDERSON@VOXTX.COM  
1118 ASHBURN AVENUE • COLLEGE STATION, TX 77840

## PROFESSIONAL EXPERIENCE

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### **VoX Construction, LLC**

**July 2010 to Present**

*VoX Construction, LLC is a minority, woman-owned small business offering general contracting services to commercial, educational/institutional, medical/lab facilities and residential customers in the Brazos Valley.*

#### **Manager, President**

Bryan, TX

Focuses on soliciting clients, marketing, promotion and all daily aspects of the business and business development. Also responsible for preparation of contract documents, procurement, project document review and administrative support for VoX Construction.

### **TEXAS A&M UNIVERSITY – Facilities Services**

**March 2008 to July 2010**

*Texas A & M University Facilities Services (formerly Physical Plant) provides safe, functional facilities and utilities allowing the members of the Texas A & M University System located in College Station to perform their missions in an environment of excellence. Facilities Services has approximately 420 employees and an annual budget of \$53 million.*

#### **Assistant Director of Construction & Renovation**

College Station, TX

*Administer construction and renovation projects across College Station campus*

Manage over 120 employees with an annual operating budget of more than \$34 million. Direct the work of four Senior Project Managers and the Superintendent for Construction & Renovation, conducting more than 80 active projects simultaneously. Administer work requests from university clients; balancing customer needs/wants with university procedures and regulations. Maintain small-scope project compliance and ensure successful project completion within defined budgets. Evaluate delivery methods for construction operations. Planned and instituted re-organization of construction and renovation group, implementing new reporting structure and updating processes and procedures with best in industry practices. Coordinate pre-construction planning, construction, and completion processes with design team, contractors, and University administration. Provide construction progress reports to Director for Facilities and Vice President of Facilities. Serve on Texas A&M University Design Review Board—advising University administration on the future construction and expansion of the Texas A&M College Station campus.

### **BRYAN INDEPENDENT SCHOOL DISTRICT**

**April 2005 to March 2008**

*On February 26, 2005, City of Bryan voters approved a \$104.25 million Bryan ISD Bond Referendum consisting of two propositions. Proposition I, at \$98.75 million, was to provide for the construction of a second high school in the district, a fourth middle school, and a new elementary school, as well as renovates and upgrade eleven other campuses and facilities. Proposition II, at \$5.5 million, was to provide for a natatorium, a gymnastics competition facility, and repairs and renovations to Viking Field House and athletic complex.*

#### **Director of Construction**

Bryan, TX

*\$104.25MM multiple building construction and renovations*

Manage up to \$93MM concurrent construction and renovation projects, including the currently in-progress building of the \$51MM Rudder High School and the \$21MM Middle School. Supervised the two-year construction of and transition to a new \$11MM Bonham Elementary School in August 2007. Administer design guidelines and outline specifications; and ensure on-going communication between all parties. Develop timelines and critical path scheduling, including phasing to facilitate ongoing school activities. Create requests for qualifications and requests for proposals. Instituted grading system for the evaluation of proposals and qualifications within state criteria. Orchestrate consultant and contractor selection, as well as review and negotiate contracts for professional services. Coordinate pre-construction planning, construction, and completion processes with design team, contractors, and school administration. Oversee on-site construction observations and attend job site progress meetings, conducting regular reviews of schematic, design, and construction documents. Review payment applications and change order requests, and approve for payment. Maintain communications with Chief Financial Officer regarding project budgets and projected costs for future bond planning. Provide construction progress reports to Bryan ISD School Board and administration. Facilitate building startup and commissioning, including furniture, fixtures, and equipment buy-out. Coordinate training of building users and maintenance staff on use of building systems.

## ALPHA BUILDING COMPANY

July 2001 to April 2005

*Alpha Building Corporation is a woman-owned Texas General Contractor. Since 1969, Alpha has performed Construction Services for the military, the private sector, municipalities, and educational institutions throughout the southern United States. Alpha was under a Work Order Requirements Contract with Texas A&M University. Work was accomplished by issuing individual "job orders" for each project ranging in size and scope from \$2,000 to \$500,000.*

### Project Engineer

College Station, TX

*Texas A&M University – Work Order Requirements Contract*

Oversaw estimating team that achieved a company record \$10 million in work contracted during the 2004-2005 fiscal year. Served as the customer liaison performing job walks and defining scope of work to be performed—identifying building requirements, specifying appropriate materials and equipment, selecting qualified subcontractors, and preparing bid packages. Monitored project costs, enforcing expenditure controls, and ensuring WORC contract exceeded State of Texas HUB requirements and reporting. Managed numerous projects, including the \$706,000 renovation of the Cain residence hall into a multipurpose office building.

## GILBANE BUILDING COMPANY

November 1997 to April 2001

*Based in Providence, Rhode Island, Gilbane is a nationally leading commercial general contractor in the development of education, health care, and government buildings. In the year 2000, Engineering News Record ranked the company fifth among general building contractors in the United States with \$2.2 billion in annual revenues.*

### Project Controls Manager

Tomball, TX

*Tomball College – \$13MM addition and renovation*

Implemented a contractor quality control program that reduced cost overruns and schedule delays. Reviewed and approved contractor's pay requisitions. Processed contract amendments, back charges, and purchase orders. Oversaw material deliveries and presented routing material status reports.

### Assistant Project Controls Manager

Bedford, TX

*HEB Junior High and Elementary Schools – \$13MM addition and renovation*

Performed drawing reviews and audited specifications. Coordinated subcontractors and scheduling of project activities. Supervised project bid packages, invitations to bid, and all proposal documents. Negotiated contractor scope reviews.

### Office Engineer

Bryan, TX

*Bryan High School Project – \$30MM addition and renovation*

Supervised on-site operational management of project, ensuring client objectives and architect intentions were surpassed. Streamlined coordination between superintendents and contractors to better meet project goals, deadlines, and budget restraints.

## EDUCATION

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### B.S. in Construction Science

1997

Texas A&M University, College Station, TX

## SKILLS INVENTORY

---

Proficient with the following industry tools: J.D. Edwards Accounting System; Prolog Manager; SureTrack Scheduling Software; Facility Focus Estimating Software; AIA Standard Documents; Finance Plus Accounting system; Microsoft Office applications; MS Outlook and FirstClass Electronic mail systems.

## REFERENCES

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Professional and personal references available upon request.

# Brandon Denk

## EDUCATION

Texas A&M University 2002  
Bachelor of Science in Agriculture Development  
Emphasis in Construction Science

## WORK EXPERIENCE

VoX Construction, LLC, Bryan, Texas

July 2010 - Present

*Corporate Secretary, Vice President*

Provides field supervision and project management  
Performs quality control/quality assurance and safety inspections  
Prepares estimates and budgets for construction projects  
Conducts constructability reviews

Texas A&M University Physical Plant, College Station, Texas

2008-2010

*Senior Construction Project Manager*

Met with Physical Plant customers to insure that projects met expectations  
Prepared estimates and budgets for construction projects  
Oversaw projects in various phases of construction  
Managed project team

Bryan Independent School District, Bryan, TX

2008

*Director of Construction*

Reviewed and negotiated professional service contracts  
Made recommendations in project delivery and contract award designation process  
Coordinated project completion, collection of close-out documents  
Processed final and partial payments  
Responsible for reviewing contract and agreement documents  
Developed timelines and critical path scheduling  
Oversaw on-site construction observations and document process  
Reviewed scopes of various projects and assisted in developing budgets

Bryan Independent School District, Bryan, TX

2006-2008

*Project Manager*

Responsible for the management of \$98M worth of construction projects  
Worked closely with architects, consultants, and contractors to complete projects  
Coordinated with various departments to insure that facility needs were met  
Assisted in the review of schedule of values and pay applications  
Participated in planning meetings with design professionals and maintenance staff  
Reviewed construction schedules and projects to ensure substantial completion

Bryan Independent School District, Bryan, TX

2001- 2006

*Electrician I*

Performed maintenance fundamentals and duties  
Retrofitted older buildings with wide-area network controls to improve efficiency  
Involved with all aspects of Mechanical/Electrical/Plumbing department  
Developed plan to detect utility outages through integration of new monitoring system  
Performed district wide annual infrared testing on all mechanical and electrical devices

Brazos Valley Electric, College Station, TX

1995-2001

*Electrician*

Trained new laborers  
Supervised the wiring of new residences  
Provided in-home consultations regarding electrical problems  
Monitored electrical crews

## **CERTIFICATIONS**

Trane Air Conditioning Fundamentals Training

2005

State Licensed Journeyman Electrician License # 12774

since 2004

References: Name 5 projects of similar work, giving owner's name, representative's name, project engineers name, and telephone numbers for each

1. University Drive  
Sidewalks  
City of College Station

Ed McDonald  
979/764-3528  
emcdonald@costx.gov

2. Holleman & Pedernales  
Neighborhood Sidewalks  
City of College Station

Charles Michalewicz  
979/764-3186  
cmichalewicz@costx.gov

3. Georgie K Fitch Park  
Improvements  
City of College Station

Pete Vanecek  
979/764-3412  
pvanecek@costx.gov

4. BTU Exterior Improvements  
Bryan Texas Utilities

Allen Wood  
979/821-5782  
awood@btutilities.com

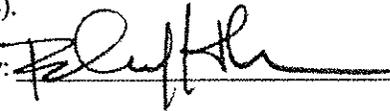
5. Kemp Sidewalk Repairs  
Bryan Independent School  
District

Bobby Mosley  
979/209-7101  
bobby.mosley@bryanisd.org

## CERTIFICATION

**CERTIFICATION OF BID**

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other bidder, and that the contents of this bid have not been communicated to any other bidder prior to the official opening of this bid. Additionally, the undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement (if applicable).

Signed By:  Title: manager

Typed Name: Rachel Henderson Company Name: Vox Construction, LLC

Phone No.: 979/485-1026 Fax No.: 866/385-4999

Email: rhenderson@voxtx.com

Bid Address: 1118 Ashburn Ave College Station, TX 77840  
P.O. Box or Street City State Zip

Order Address: N/A  
P.O. Box or Street City State Zip

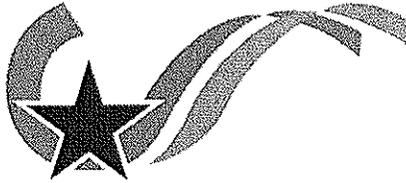
Remit Address: N/A  
P.O. Box or Street City State Zip

Federal Tax ID No.: 27-3097198

DUNS No.: 009656285

Date: 04/03/14

**END OF BID #14-048**



CITY OF COLLEGE STATION  
Home of Texas A&M University\*

1101 Texas Ave \* College Station, TX 77842 \* (979) 764-3823  
[www.cstx.gov](http://www.cstx.gov)

2014 CDBG Neighborhood Sidewalk Project  
BID # 14-048

CERTIFICATION

The undersigned acknowledges that this project is federally funded utilizing American Recovery and Reinvestment Act (ARRA) 2009 Funds and further affirms that to the greatest extent practicable, all equipment and products purchased and utilized in the Neighborhood Sidewalk Improvements project should be American-made or in the case of manufactured goods that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed.

Signed By: [Signature] Title: manager  
Typed Name: Rachel Henderson Company Name: VOX Construction, LLC  
Phone No.: 979/485-1026 Fax No.: 866/385-4999  
Email: rhenderson@voxtxc.com  
Bid Address: 1118 Ashburn Ave College Station, TX 77840  
P.O. Box or Street City State Zip  
Order Address: N/A  
P.O. Box or Street City State Zip  
Remit Address: N/A  
P.O. Box or Street City State Zip  
Federal Tax ID No.: 27-3097198  
Date: 04/03/14

BID # 14-048

**SECTION 3 BID REQUIREMENTS PACKET  
CITY OF COLLEGE STATION**

**INTRODUCTION**

The objective of community development programming for the City of College Station is to benefit low- and moderate-income residents by: encouraging the expansion and accessibility of human services; expanding and improving public facilities and infrastructure where needed; expanding economic opportunities in the community; supporting City programs and non-profit and for-profit partners to provide an adequate supply of decent, safe, and affordable housing.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3), as amended by the Housing and Community Development Act of 1994, requires that, to the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low- and very low-income residents. 24 CFR Part 135 establishes the standards and procedure to be followed in order to ensure that the requirements of Section 3 are met.

Section 3 requirements apply to all recipients of HUD Community Planning and Development funding exceeding \$200,000.

Section 3 covered projects are those in which a combined (or aggregate) amount of covered funding exceeding \$200,000, is invested into activities involving housing construction, demolition, rehabilitation, or other public construction – i.e. roads, sewers, community center, etc.

Contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with Section 3 regulations in the same manner as direct recipients. Section 3 covered contracts do not include contracts for purchase of supplies and materials unless the contract includes the installation of the materials.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3 Business concern. (Refer to What is a Section 3 Business Concern?). The Section 3 Business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8).

Contractors who do not qualify as Section 3 Business concerns, but who enter into contracts with the City of College Station must agree to comply with certain general conditions (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 Businesses, must comply with these general conditions. Included in these conditions is the requirement the Contractor complete a Section 3 Opportunities Plan and that each contractor and subcontractor submit with each pay request a report of Section 3 compliance (refer to Section 3 Compliance

Report). Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts (refer to Sanctions for Contractors Noncompliance).

Please direct any questions you may have regarding this information to:

Debbie Eller, Community Development Manager  
Planning & Development Services Department  
City of College Station  
979-764-3771 or [deller@cstx.gov](mailto:deller@cstx.gov)

### **WHO IS A SECTION 3 RESIDENT?**

For purposes of the City of College Station (CoCS), a Section 3 Resident is:

- A public housing resident.
- A resident who currently maintains a voucher for housing assistance.
- An individual who lives within the CS-B MSA and whose income falls within the guidelines for low- or very low-income.

NOTE: A resident seeking to qualify as a Section 3 Resident shall certify and submit evidence that the resident meets one of the guidelines stated above. (Refer to Section 3 Resident Certification Form - *Exhibit 1*)

### **WHAT IS A SECTION 3 BUSINESS CONCERN?**

A Section 3 Business Concern is a business concern, as defined in this section –

- That is fifty-one percent (51%) or more owned by Section 3 residents, or
- Whose permanent, full time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award for all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) and (2) above.

NOTE: A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above. (Refer to Certification for Business Concerns Seeking Section 3 Preferences in Contracting and Demonstration of Capability Form- *Exhibit 2*). To assist in the determination to certify as a Section 3 Business Concern, please refer to the Section 3 Certification Worksheet - *Exhibit 3*.

## **WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?**

The City of College Station will, *to the greatest extent feasible*, offer contracting opportunities to Section 3 Business concerns. However, in the event of no Section 3 Business bids on a contract, or bids but is not able to demonstrate to the City of College Station's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions, including Section 3, of the proposed contract through the competitive bidding process.

## **WHO RECEIVES ECONOMIC OPPORTUNITIES UNDER SECTION 3?**

For training and employment:

- Persons in public and assisted housing;
- Persons residing in the area where the HUD financial assistance is expended; and
- Participants in HUD Youth-build programs.

For contracting:

- Businesses which fit the definition of a Section 3 business in 24 CFR 135.5.
- For Developers, contractors, and subcontractors seeking contracting preferences as a Section 3 business concern, the CoCS will certify these businesses as Section 3 business concerns.

## **ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT**

Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the following order of priority:

- Category 1- Section 3 Resident - Residents of the neighborhood or surrounding area in which the contract will be expended.
- Category 2- Section 3 Resident - Residents of other areas within the College Station-Bryan area.
- Category 3- Section 3 Resident - Participants in HUD Youthbuild program being carried out.
- Category 4- Section 3 Resident - All other residents (including Section 8 recipients) of the College Station-Bryan MSA who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

### **HOW TO COMPLY WITH SECTION 3**

Contractors and subcontractors are required to fulfill Section 3 requirements. To the greatest extent feasible, attempt to either:

- Employ or train Section 3 residents.
- Award ten percent (10%) of the total dollar amount of the contract for building trades work and three percent (3%) of other contracts to certified Section 3 business concerns.

All contractors responding to this bid must submit a completed Contractor Section 3 Certification Form – *Exhibit 5*.

### **SECTION 3 OPPORTUNITIES PLAN**

A Section 3 Opportunities Plan (SOP) from the contractor and subcontractors must be submitted to the COCS Community Development Division and approved immediately following the notice of award of the contract and prior to the start of construction. The SOP can be amended at any time after approval if necessary to ensure compliance. Contractors and subcontractors must maintain documentation of activities and outreach attempts. A sample SOP can be found as *Exhibit 4*.

Contractors and subcontractors must submit monthly reports regarding their Section 3 activities. The forms required for reporting are found in the SOP. A final, cumulative Section 3 report is required to be submitted within 5 days of project completion. All reports will be submitted to the CoCS Section 3 Compliance staff.

### **SECTION 3 CLAUSE**

AS PER 24 CFR 135.38, All Section 3 covered contracts and subcontracts must include a Section 3 Clause. This clause can be found as *Exhibit 6*.

### **NOTICE OF COMMITMENT**

A Notice of Commitment to comply with Section 3 must be posted on the worksite when you start your Section 3 Plan. The required notice can be found as *Exhibit 7*.

### **MONITORING AND ENFORCEMENT AUTHORITY AND RESPONSIBILITY**

CoCS will monitor all Section 3 contractors and subcontractors. Monitoring will include review of SOP, selected contracts, payrolls and other supportive documentation. Additionally, CoCS

may conduct on-site interviews of workers, contractors and subcontractors.

The function of compliance of Section 3 will be carried out by the Section 3 Coordinator, as specified in the Contractor Section 3 Compliance Certification form submitted with the bid.

### **CONTRACTOR AND SUBCONTRACTOR RESPONSIBILITIES**

Each contractor and subcontractor is required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

Implementing procedures to notify Section 3 resident and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;

- Notifying potential contractors and subcontractors working on Section 3 covered projects of their responsibilities;
- Incorporating the Section 3 Clause into all covered solicitations and contracts (see 24 CFR Part 135.38);
- Facilitation of the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
- Assisting and actively cooperating with the City to ensure compliance by:
  - Completing a Section 3 Opportunities Plan;
  - Submitting regular reports including information on new hires, trainees, and award of contracts and subcontracts;
  - Refraining from entering into contracts with contractors/subcontractors that are in violation of Section 3 regulations;
  - Documenting actions taken to comply with Section 3; and
  - If notified of non-compliance, correcting non-compliance within allowable time period.

### **SECTION 3 SPECIAL CONDITIONS**

The City of College Station has initiated efforts to enhance resident hiring in the Bryan College Station Metropolitan Statistical Area (MSA). These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractor's hiring of College Station residents, other low income and/or very low income residents residing in the City of College Station.

### **PROCUREMENT DOCUMENTS**

Each bidder/proposer must submit the Contractor Section 3 Compliance Certification with their bid. If a bidder/proposer fails to submit a Contractor Section 3 Compliance Certification such

bid/proposal will be declared as “non-responsive”.

For invitations for Bids (“IFB”) where awards are made to the lowest, responsive and responsible bidder, the bidder’s commitment to satisfy College Station resident hiring requirements will be a factor used in determining whether the bidder is “responsive”.

For RFQ’s, RFP’s and IFB’s, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost labor (person hours and dollar amounts).

## **ENFORCEMENT**

The CoCS will monitor contractor compliance over the life of the contract as follows:

- Review compliance monthly and cumulatively
- Monitor contractor response to deficiencies in compliance

The contractor shall provide a status report identifying its progress in meeting the Section 3 goals, as established, on a monthly basis throughout the contract period. The monthly status report shall be submitted no later than 15 days after the end of each calendar month of the contract (i.e. April 15 for March). For any goal not met, the report shall identify any other economic opportunities which the contractor has provided or intends to provide to CoCS residents. This report will provide the CoCS with all information required to monitor compliance with its Section 3 plan including, but not limited to, new hires, core employees, certified payroll, workforce utilization and other relevant data to be specified.

## **SECTION 3 COMPLAINTS**

Section 3 residents, businesses or their representatives may file a complaint, in writing, with the local HUD field office. Complaints must be received no later than 180 days from the date of action or omission. If more information is needed, HUD staff shall request it from the person making the complaint. If requested information is not provided within 60 days, the complaint may be closed.

A determination is made regarding the legitimacy of the complaint within 10 days. If the complaint is determined to be legitimate, the recipient/grantee has 60 days to resolve the issue. If the complaint is not resolved after 60 days, the complaint may be referred to the office of the Assistant Secretary for Fair Housing and Equal Opportunity.

Written complaints should contain the following information:

- Name and address of complainant
- Name and address of subject of complaint
- Description of acts or omissions in alleged violation of Section 3 requirements
- Statement of corrective action sought



Exhibit 2

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3**

Business Name:	Business Type:
Mailing Address:	Contact Name:
Telephone Number:	Email:

I claim status as a Section 3 Business as the type indicated below:

This is a self certification process however the documentation listed by each type should be stored as evidence of status and available for review.

\_\_\_\_\_ Type 1: Section 3 resident-owned enterprise (51% or more of owners are Section 3 residents):

- |  |  |
|--|--|
| _____ Copy of resident lease   | _____ Copy of receipt of public assistance |
| _____ Copy of evidence of participation in a public assistance program | _____ Other evidence                       |

\_\_\_\_\_ Type 2: At least 30 percent (30%) of employees (permanent, full-time) are currently Section 3 residents or were Section 3 eligible residents within 3 years to date of first employment with the business:

- |  |  |
|--|--|
| ___ List of all current full-time employees                            | ___ List of employees claiming Section 3 status                                  |
| ___ PHA/IHA Residential lease less than 3 years from day of employment | ___ Other evidence of Section 3 status less than 3 years from date of employment |

\_\_\_\_\_ Type 3: Business subcontracts 25 percent of the dollar awarded to qualified Section 3 businesses:

- \_\_\_ List of subcontracted Section 3 business(es) and subcontract amount

Additional documentation:

- |   |  |
|---|--|
| _____ Copy of Articles of Incorporation                                       | _____ Certificate of Good Standing             |
| _____ Assumed Business Name Certificate                                       | _____ Partnership Agreement                    |
| _____ List of owners/stockholders and % ownership of each                     | _____ Corporation Annual Report                |
| _____ Organization chart with names and titles and a brief Function Statement | _____ Latest Board minutes appointing officers |
|   | _____ Additional documentation                 |

You must provide a self-certification that the information you provide is true to the best of your knowledge. Additionally, if asked, you will need to verify certification and understand that you may be asked to do this. All information is kept confidential for records keeping and reporting requirements. No information will be released without the written consent of the individual.

"I certify that all information provided on this application is true to the best of my knowledge. I also understand that, if asked, I will provide verification of Certification."

\_\_\_\_\_  
Authorized Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Exhibit 3

**SECTION 3 BUSINESS CERTIFICATION WORKSHEET**

Does Your Firm Meet The Definition of a Section 3 Business?

If you answer yes to any of the questions below, your firm is considered a Section 3 Business!

1. Is 51% of Your Business Owned By Section 3 Residents\*?

a. Total Number of Business Owners:

b. Number of Business Owners That Meet the Definition of a Section 3 Resident:

Percentage:

2. Does 30% of Your Current Full-Time Staff Meet the Definition of a Section 3 Resident?

a. Total Number of Full-Time Employees:

b. Number of Full-Time Employees That Currently Meet the Definition of a Section 3 Resident:

c. Number of Full-Time Employees That May Have Met the Definition of a Section 3 Resident Within The Last 3 years:

Percentage:

3. Does Your Business have Evidence of Firm Commitment(s)\*\* to Provide 25% of the Total Dollar Amount of Subcontracts to Section 3 Businesses?

a. Total Dollar Amount of Subcontracts To Be Awarded With HUD Funds:

b. Total Dollar Amount of HUD-Funded Subcontracts To Be Awarded To Section 3 Businesses:

Percentage:

Based on the responses above, your business qualifies for Section 3 certification

YES/NO
--------

\*Section 3 Residents are: 1) Public Housing residents or recipients of Housing Choice (Section 8) Vouchers or 2) Low- or Very Low-Income Persons that reside within the metropolitan area or non-metropolitan county of the project site.

\*\*Acceptable evidence of firm commitment would include a binding letter to specific existing Section 3 firms conditioned upon the award of contract.

Exhibit 4

**INSTRUCTIONS FOR COMPLETEING THE SECTION 3 OPPORTUNITES PLAN  
(CONSTRUCTION & PROFESSINAL CONTRACTS)**

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed towards low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income person.

The Section 3 Opportunities Plan is to be completed for construction and professional contracts. There are four ways in which Section 3 can be fulfilled. They are listed in order of preference:

- Contracting company is owned by 51% or more certified Section 3 Residents.
- Subcontract or joint venture with a resident owned business. The business must be 51% or more owned by low- and very low-income individuals, or subcontractor/joint venture with a business that employs full-time 30% or more low- and very low-income individuals within the City of College Station MSA, or
- Direct hiring and employment of at least 30% of low- or very low-income neighborhood residents, or
- Incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth. Such training shall be determined after consultation with the Section 3 Coordinator of the City of College Station.

If a prime contractor is unable to satisfy College Station resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project.

**Part 1: Opportunities Plan**

Option 1: Indicate that contracting company is owned by 51% or more certified Section 3 Residents.

Option 2: Indicate if the (sub) contractor has identified a resident owned business or a business which employs 30% or more Section 3 Residents. This paragraph is to be completed by indicating the number of resident owned businesses that will be used on the project shown at the end of the paragraph.

Option 3: Indicate if the (sub)contractor plans to hire Section 3 Residents to work for its company, paragraph 2 must be completed with the contract/spec number and the percentage of compliance in hiring the residents. For example, if your contract amount is \$100,000, the Section 3 dollar amount that must be expended is 10% of your labor dollars or \$10,000. If the whole amount is to be expended on the resident's salary, then 100% is to be inserted on the percent line. If a percentage amount less than 100% will be expended on the resident's salary, that amount must be inserted on the line and the remaining percentage must be expended through subcontracting/joint venturing with a resident owned business or a business that employs 30% or more residents, in which case, the corresponding paragraph must be completed.

### **Part 2: Subcontracting Survey**

This part of the Opportunities Plan will include information on anticipated subcontracts indicating how the Section 3 goals will be met.

- 1) Indicate the Project Name
- 2) Indicate the Contract Number
- 3) Indicate the Total Contract Amount
- 4) Indicate all types of subcontracts to be awarded (anticipated)
- 5) Indicate the total number of subcontracts to be awarded (anticipated)
- 6) Indicate the total dollar amount of subcontracts to be awarded (anticipated)
- 7) Indicate the total number of subcontracts to be awarded to Section 3 Business Concerns (anticipated)
- 8) Indicate the total dollar amount of subcontracts to be awarded to Section 3 Business Concerns (anticipated)

### **Part 3: Labor Survey**

This part of the Opportunities Plan will include current employees and information on anticipated new hires indicating how the Section 3 goals will be met.

- 1) Indicate the Project Name
- 2) Indicate the Contract Number
- 3) Indicate all job titles that will be needed to complete this project
- 4) Include the total number of positions needed to complete this project
- 5a) Indicate the number of positions that are currently filled (at time of bid/proposal submission)
- 5b) Indicate the number of positions that are currently filled with certified Section 3 Residents
- 6a) Indicate the number of positions that will need to be filled to complete this project
- 6b) Indicate the number of positions that will be filled with certified Section 3 Residents

#### **Part 4: Efforts to Comply with Section 3 Hiring and Contracting Goals Narrative**

Please describe in a narrative the efforts you plan to make or have already made in order to comply with Section 3 Hiring and Contracting goals. A bulleted list of voluntary efforts that will be undertaken should be included.

Section 3 Compliance Activity Reporting - Part 5, Part 6 and Part 7 include reports that must be submitted on a monthly basis. A final cumulative report must be submitted within 5 days of project completion.

#### **Part 5: Subcontracting Report (Monthly and Cumulative Final)**

This report is to be completed after the subcontracts have been awarded. This list is to be included with the monthly Section 3 report and a final cumulative report that must be submitted within 5 days of project completion.

- 1) Indicate the Project Name
- 2) Indicate the Contract Number
- 3) Indicate the Total Contract Amount
- 4) Indicate the Reporting Period
- 5) Indicate all types of subcontracts to be awarded (actual)
- 6) Indicate the total number of subcontracts to be awarded (actual)
- 7) Indicate the total dollar amount of subcontracts to be awarded (actual)
- 8) Indicate the total number of subcontracts to be awarded to Section 3 Business Concerns (actual)
- 9) Indicate the total dollar amount of subcontracts to be awarded to Section 3 Business Concerns (actual)

#### **Part 6: Resident List – Hiring Report (Monthly and Cumulative Final)**

This report is to be completed after the contract has been awarded; interviews have taken place and residents have been hired. This list is to be included with the monthly Section 3 report and a final cumulative report that must be submitted within 5 days of project completion.

- 1) Indicate the project name
- 2) Indicate the contract number
- 3) Indicate the reporting period
- 4) Indicate the job title
- 5) Indicate the Section 3 new hire's name

- 6) Indicate the new hire's address including street, city and zip code.
- 7) Include the employee's identification number (this can be the last 4 numbers of social security or an assigned number)
- 8) Indicate what business hired this employee

**Part 7: Actual Efforts Completed to Comply with Section 3 Hiring and Contracting Goals Narrative**

Please describe in a narrative the ACTUAL efforts you completed in order to comply with Section 3 Hiring and Contracting goals. A bulleted list of all efforts should be included.

**Part 8: Acknowledgment**

The final Section 3 Opportunities Plan must be signed and include the title of the person executing the plan.

The Section 3 Opportunities Plan must be completed immediately upon notice of award and submitted to the Section 3 Coordinator prior to final execution of the contract. *The Section 3 Compliance staff with the City of College Station can provide assistance in completing this plan.*

**Section 3 Best Practices & Techniques for Section 3 Compliance:**

- 1) Advertisement of opportunities in general circulation media, Section 3 targeted median and minority and women focused media; HUD Youthbuild programs, to provide disadvantaged youth opportunities for employment, education, leadership development and training.
- 2) Directing written solicitations to Section 3 Residents and Section 3 Business Concerns for specific contracting opportunities when possible.
- 3) Identifying portions of work where Section 3 Residents or Section 3 Business Concerns are likely to be successful.
- 4) Providing specific reasons for non-utilization of unsuccessful Section 3 Residents or Section 3 Business Concerns.
- 5) Establishing programs to assist Section 3 Residents or Section 3 Business Concerns to meet insurance, bonding, and other contracting requirements.
- 6) Employing joint venture agreements whenever feasible.
- 7) Erection of signage at project sites soliciting Section 3 Residents and Section 3 Business Concerns.
- 8) Maintain records (including copies of correspondence, memoranda) that document the process and steps followed to encourage utilization of Section 3 job training,

employments, contracting and economic opportunities by Section 3 Residents and Section 3 Business concerns.

- 9) Inclusion of Section 3 Plans of the Recipient and its Contractors and Subcontractors in bid documents or other contract solicitations.
- 10) Contact resident councils and community organization in the housing development or developments where Section 3 residents reside to request assistance in notifying residents of the employment and training positions to be filled.
- 11) Entering contracts on a negotiated rather than a bid basis whenever possible.
- 12) Maintain assistance to the Chamber of Commerce Small Business Development to assist Section 3 businesses with the development of a business profile and other administrative activities.
- 13) When feasible, holding job information meetings and workshops to assist Section 3 residents in completing applications.
- 14) Arranging to conduct interviews in the housing development or developments or the neighborhood service area of a project.
- 15) Appoint or recruit an executive official of a company or agency as Equal Opportunity Officer to coordinate the implementation of the Section 3 plan.

**SECTION 3 OPPORTUNITIES PLAN**

Project Name:	Business Name:
Contract Amount:	Developer:
Principal Contact Name:	Principal Contact Telephone:
Subcontractor: Yes <input type="checkbox"/> No <input type="checkbox"/>	Certified Section 3 Business Concern: Yes <input type="checkbox"/> No <input type="checkbox"/>

**PLAN GOALS:**

I intend to comply with the requirements of SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968:

**PART 1: OPPORTUNITIES PLAN**

\_\_\_ Option 1:

The Contracting company is owned by 51% or more certified Section 3 Residents.

\_\_\_ Option 2:

The Contractor has committed to employ or train College Station low and very low-income area residents in order to comply with its Section 3 requirements. \_\_\_ (30% or more) of its new hires during the term of the contract will be Section 3 residents. The Contractor affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under the contract.

\_\_\_ Option 3:

The Contractor has identified certified Section 3 business(es) to comply with its Section 3 requirements under the contract. The contractor agrees to contract \$\_\_\_\_\_ of the \$\_\_\_\_\_ (total contract award) to Section 3 Business Concerns. Twenty-five (25%) percent may be awarded for building trades work and three percent (3%) of all other Section 3 covered contracts.

**PART 2: SUBCONTRACTING WITH SECTION 3 BUSINESS CONCERNS:**

<b>SUBCONTRACTING SURVEY</b>				
(1) PROJECT NAME			(2) CONTRACT NUMBER	
(3) CONTRACT AMOUNT:				
(4) Types of Contract	(5) Total # of Contracts	(6) Total Estimated Dollar Amount	(7) Estimated # of Contracts to Section 3 Business Concerns	(8) Estimated Dollar Amounts to Section 3 Business Concerns

**PART 3: LABOR SURVEY**

<b>LABOR SURVEY</b>					
(1) PROJECT NAME			(2) CONTRACT NUMBER		
(3) JOB TITLE	(4) TOTAL # OF EMPLOYEES NEEDED FOR THIS PROJECT	NUMBER OF POSITIONS			
		(5) CURRENTLY FILLED		(6)HIRING GOAL	
		(a) TOTAL	(b) # of SECTION 3 RESIDENTS	(a) TO BE HIRED	(b) # of SECTION 3 RESIDENTS

**PART 4: EFFORTS TO COMPLY WITH SECTION 3 HIRING AND CONTRACTING GOALS NARRATIVE**

Please describe in a narrative the efforts you plan to make or have already made in order to comply with Section 3 Hiring and Contracting goals. A bulleted list of voluntary efforts that will be undertaken should be included.


**PART 5: SUBCONTRACTING REPORT (MONTHLY AND CUMULATIVE FINAL REPORT)**

<b>SUBCONTRACTING REPORT</b>				
(1) PROJECT NAME			(2) CONTRACT NUMBER	
(3) CONTRACT AMOUNT:			(4) REPORTING PERIOD	
(5) Types of Subcontracts	(6) Total # of Subcontracts	(7) Total Dollar Amount	(8) Total #. of Contracts to Section 3 Business Concerns	(9) Total Dollar Amounts to Section 3 Business Concerns

**PART 6: RESIDENT LIST – HIRING REPORT (MONTHLY AND CUMULATIVE FINAL REPORT)**

<b>RESIDENT LIST – HIRING REPORT</b>				
(1) PROJECT NAME			(2) CONTRACT NUMBER	
(3) REPORTING PERIOD:				
(4) JOB TITLE	(5) SECTION 3 RESIDENT NAME	(6) ADDRESS	(7) EMPLOYEE ID NUMBER	(8) CONTRACTOR/ SUBCONTRACTOR

**PART 7: ACTUAL EFFORTS COMPLETED TO COMPLY WITH SECTION 3 HIRING AND CONTRACTING GOALS NARRATIVE**

Please describe in a narrative the ACTUAL efforts you completed in order to comply with Section 3 Hiring and Contracting goals. A bulleted list of all efforts should be included.


**PART 8: AUTHORIZATION OF SECTION 3 OPPORTUNITIES PLAN**

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1. The Contractor commits to conduct aggressive outreach and notification to potential Section 3 Residents and Section 3 Business Concerns of hiring opportunities and contracting opportunities.

Contractor agrees to include the "Section 3 Clause" in all its contracts in connection with work to be performed in Section 3 covered contracts. The Contractor agrees to require all subcontractors to submit a Section 3 Opportunities Plan including goals and the specific steps planned to accomplish those goals and required monthly reports and final reports.

The failure of the contractor to comply with the above-approved plan shall be a material breach of the contract.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

EXHIBIT 5

CONTRACTOR SECTION 3 COMPLIANCE CERTIFICATION -Must be submitted with bid

NAME OF PRIME CONTRACTOR:

Vox Construction LLC

CONTRACTOR QUALIFIES AS A SECTION 3 BUSINESS CONCERN: (YES) NO (circle one)

PROJECT:

2014 CDBG Neighborhood Sidewalk Project

BID NUMBER:

14-048

CONTRACTOR'S SECTION 3 COORDINATOR:

NAME:

Rachel Henderson

TITLE:

Manager

CONTACT INFORMATION:

979/204-7999

NOTICE: THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION OR LABOR RELATED PROJECTS.

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.38.3 requirements.

The contractor hereby agrees to submit its Section 3 Opportunities Plan upon notice of award of the contract and prior to final execution of the contract.

The Contractor and subcontractor(s) shall provide status reports identifying its progress in meeting the Section 3 goals established in this Section 3 Opportunities and Utilization Plan on a per draw basis throughout the contract period.

Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts.

Acknowledged by:

[Signature]

(President or Authorized Officer)

Date: 01/03/2014

**EXHIBIT 7**

**SECTION 3 NOTICE OF COMMITMENT**

TO: Residents of College Station and surrounding areas

The following project named \_\_\_\_\_ located at \_\_\_\_\_ is a Section 3 covered project pursuant to Section (C) of 24 CFR 135.38, of Section 3 of the Housing and Urban Development Act of 1968, which received funding from the City of College Station.

This project may require the hiring of qualified low-income residents (Section 3 Residents) or contracting with low-income businesses (Section 3 Business Concerns).

The following economic opportunities are available:

Positions	Training	Contracting

Please contact \_\_\_\_\_ regarding these opportunities at the following number \_\_\_\_\_.

The anticipated date the work shall begin is \_\_\_\_\_.

If you apply for a job as a Section 3 Resident you may be required to submit information verifying your income and family size. Section 3 Residents wishing to receive hiring preferences on Section 3 covered projects should refer to the order of priority listed below. Businesses wishing to receive preferences as a Section 3 Business Concern must be certified with the City of College Station prior to being awarded preferences as a Section 3 Business Concern.

If you have any questions, please contact the City of College Station (CoCS) at 979-764-3778.

Employment Preferences Order of Priority	
Category 1:	Residents of or in the area of the CoCS funded project who meet the low and very-low income limits.
Category 2:	Public Housing residents in the College Station-Bryan MSA.
Category 3:	HUD Youthbuild program participants – for projects carried out in the project boundary area.
Category 4:	Residents of Section 8 and all other residents meeting the income guidelines for Section 3 preference.

Contracting Preferences Order of Priority	
Category 1:	Business concerns that are 51 percent or more owned by residents of the development or whose; permanent workforce includes 30% of these persons as employees for a business located in the immediate area where the construction work is performed.
Category 2:	HUD Youthbuild programs being carried out in the CoCS in which Section 3 covered assistance is expended
Category 3:	Business concerns that are 51 percent or more owned by a Section 3 resident(s), or whose permanent, full-time workforce includes no less than 30 percent Section 3 residents; or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

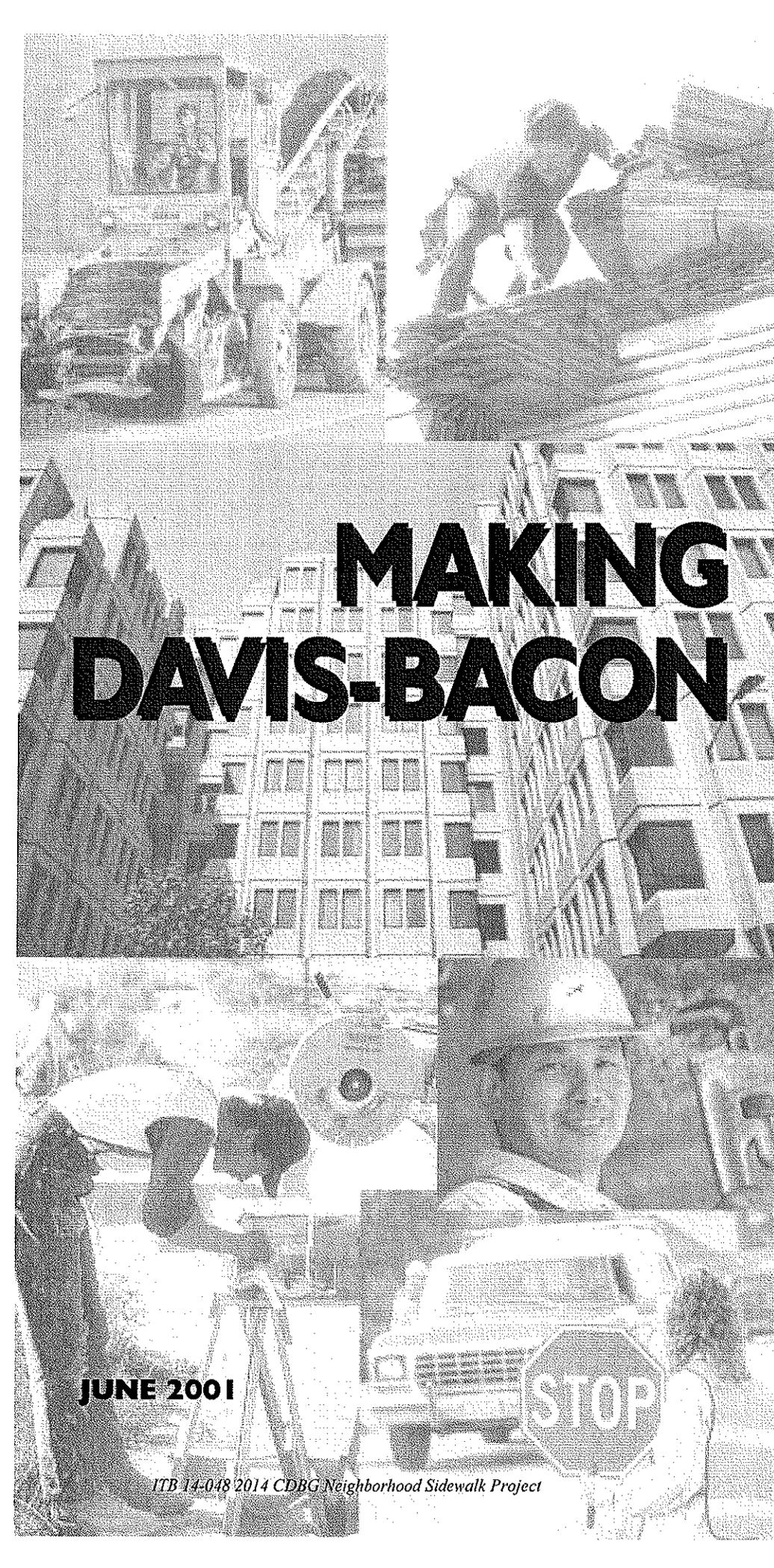
**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.



# MAKING DAVIS-BACON

*A Contractor's  
Guide to  
Prevailing  
Wage  
Requirements  
for  
Federally-Assisted  
Construction*

**JUNE 2001**

*ITB 14-048 2014 CDBG Neighborhood Sidewalk Project*





# Introduction

This Guide has been prepared for you as a contractor performing work on construction projects that are **assisted** by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide **does not** address contractor requirements involved in **direct** Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to **any** Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide which is simple and non-bureaucratic yet comprehensive and which will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Labor Relations worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor which has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

There are three chapters in this Guide. The first chapter offers a brief description of the laws and regulations associated with Federal labor standards administration and enforcement and discusses both what's in your contract that requires Davis-Bacon compliance and your responsibilities. The second chapter deals with labor standards and payroll reporting requirements. The third chapter discusses what can happen in the event there is a dispute about the wage rates that should be (or have been) paid and any back wages that may be due.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Relations Field staff for your area. If you don't know which staff to contact, a list of Labor Relations field offices and their geographic areas and telephone numbers can be found on HUD's Home Page at the address below.

Visit the Office of Labor Relations  
on the World Wide Web HUD Home Page at:  
**<http://www.hud.gov/offices/olr>**

Obtain additional copies of this Guide and other publications at our web site or by telephone from HUD's Customer Service Center at (800) 767-7468.

*ITB 14-048 2014 CDBG Neighborhood Sidewalk Project*

# MAKING DAVIS-BACON WORK

*A Contractor's Guide  
to Prevailing  
Wage Requirements  
for Federally-Assisted  
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# CHAPTER I.

## Laws, Regulations, Contracts and Responsibilities

The following paragraphs describe what the labor standards laws and regulations actually say and what they mean to you on HUD projects:

### I-1 Davis-Bacon and Other Labor Laws

#### a. The Davis-Bacon Act (DBA)

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

Most HUD construction work *is not* covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if Davis-Bacon wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1937, the National Housing Act, the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the **Davis-Bacon and Related Acts or DBRA**.

#### b. The Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts **except** where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty (\$10/day per violation). Intentional violations of CWHSSA standards can be considered for Federal criminal prosecution.

CWHSSA does not apply to *prime contracts* of \$100,000 or less. In addition, some HUD projects are not covered by CWHSSA because some HUD programs only provide loan guarantees or insurance. CWHSSA also does not apply to construction or rehabilitation contracts that are not subject to Federal prevailing wage rates (e.g., Davis-Bacon wage rates, or HUD-determined rates for operation of public housing and Indian block grant-assisted housing). However, even though CWHSSA overtime pay is not required, Fair Labor Standards Act (FLSA) overtime pay is probably still applicable. (See also Labor Relations Letter *SL-95-01*, *CWHSSA Coverage threshold for overtime and health and safety provision*, available on-line at the HUD Labor Relations Library at: [www.hud.gov/olr/olr.html](http://www.hud.gov/olr/olr.html))

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DOL Regulations are available on-line on the World Wide Web:  
<http://www.dol.gov/dol/esa/public/regs/cfr/whdcfr.htm>.

HUD program labor standards forms are available on-line at:  
[www.hudclips.org/subscriber/html/forms.htm](http://www.hudclips.org/subscriber/html/forms.htm)



## c. The Copeland Act (Anti-Kickback Act)

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to *kickback* (i.e., give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.

## d. The Fair Labor Standards Act (FLSA)

The FLSA contains Federal minimum wage rates, overtime (O/T), and child labor requirements. These requirements generally apply to any labor performed. The DOL has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD projects.

## I-2 Davis-Bacon Regulations

The Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in **Title 29 CFR Parts 1, 3, 5, 6 and 7**. *Part 1* explains how the DOL establishes and publishes DBA wage determinations (*aka wage decisions*) and provides instructions on how to use the determinations. *Part 3* describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. *Part 5* covers the labor standards provisions that are in your contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. *Part 6* provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Last, *Part 7* sets parameters for practice before the Administrative Review Board (*formerly Wage Appeals Board*). These regulations are used as the basis for administering and enforcing the laws.

## I-3 Construction Contract Provisions

Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally bound into the contract specifications.

### a. The Labor Standards Clauses

The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-2554, Supplementary Conditions to the Contract for Construction, which is issued primarily for FHA multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG and HOME projects, and the HUD-5370, General Conditions of the Contract for Construction – Public and Indian Housing Program.

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## b. Davis-Bacon Wage Decisions

The Davis-Bacon wage decision (or wage determination) is a listing of various construction work classifications, such as Carpenter, Electrician, Plumber and Laborer, and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

Davis-Bacon wage decisions are established by the DOL for various types of construction (e.g., residential, heavy, highway) and apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is "locked-in" and no future modifications are applicable to the contract or project involved.

All current Davis-Bacon wage decisions can be accessed on-line at no cost at:

<http://www.access.gpo.gov/davisbacon>

## I-4 Responsibility of the Principal Contractor

The principal contractor (also referred to as the **prime or general contractor**) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See *Contract Administrator, below.*)

To make this Guide easier to understand, the term "**prime contractor**" will mean the principal contractor; "**subcontractor**" will mean all subcontractors including lower-tier subcontractors; and the term "**employer**" will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

## I-5 Responsibility of the Contract Administrator

The **contract administrator** is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. We use this term to represent the person (or persons) who will provide labor standards advice and support to you and other project principals (e.g., the owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see ¶12-1, **The Wage Decision**) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see ¶12-6, **Compliance Reviews**) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. *For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Relations field staff.* But many HUD-assisted projects are administered by local contracting agencies such as Public Housing Agencies (PHAs),



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Indian tribes and tribally-designated housing entities (TDHEs), and States, cities and counties under HUD's Community Development Block Grant (CDBG) and HOME programs. In these cases, the *contract administrator* will likely be local agency staff. In either case, the guidance for you remains essentially the same.

The DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.



# CHAPTER 2. How to Comply with Labor Standards and Payroll Reporting Requirements

## Where to start?

Now that you know you're on a Davis-Bacon project and you know some of the legal and practical implications, what's next?

### SECTION I — THE BASICS

#### 2-1 The Wage Decision

Davis-Bacon labor standards stipulate the wage payment requirements for *Carpenters, Electricians, Plumbers, Roofers, Laborers, and other construction work classifications* that may be needed for the project. The **Davis-Bacon wage decision** that applies to the project contains a schedule of work classifications and wage rates that must be followed. If you don't have it already (and by now you should), you'll want to get a copy of the applicable **Davis-Bacon wage decision**.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See §1-3, *Construction Contract Provisions*.

##### a. The Work Classifications and Wage Rates

A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. You'll want to make sure that the work classification(s) you need are contained in the wage decision and make certain you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. Contact the *contract administrator* (HUD Labor Relations field staff or local agency staff) if you have any trouble reading the wage decision or finding the work classification(s) you need.

To make reading lengthy wage decisions easier for you, the contract administrator may prepare a Project Wage Rate Sheet. This Sheet is a one-page transcript that will show only the classifications and wage rates for a particular project. A blank copy of a Project Wage Rate Sheet is provided for you in the appendix. Contact the contract administrator monitoring your project for assistance with a Project Wage Rate Sheet.

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## b. Posting the Wage Decision

If you are the prime contractor, you will be responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet) and a copy of a DOL poster called *Notice to Employees* (Form WH-1321) at the job site in a place that is easily accessible to all of the construction workers employed at the project and where the wage decision and poster won't be destroyed by wind or rain, etc. The *Notice to Employees* poster is available on-line at HUDClips (see address in the Appendix) and can also be obtained in Spanish text through the contract administrator.

## 2-2 Additional "Trade" Classifications and Wage Rates

**What if the work classification you need isn't on the wage decision?** If the work classification(s) that you need doesn't appear on the wage decision, you will need to request an **additional classification and wage rate**. This process is usually very simple and you'll want to start the request right away. Basically, you identify the classification you need and recommend a wage rate for DOL to approve for the project. There are a few rules about additional classifications; you'll find these rules in the DOL regulations, Part 5, and in the labor clauses in your contract. The rules are summarized for you here:

### a. Additional Classification Rules

Additional classifications and wage rates can be approved if:

- 1) The requested classification is used by construction contractors in the area of the project. (The area is usually defined as the *county* where the project is located).
- 2) The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision you can't request another Electrician classification and rate.)
- 3) The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. (For example, the wage rate proposed for a trade classification such as Electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision.) And,
- 4) The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representatives, must agree with the proposed wage rate.

### b. Making the Request

A request for additional classification and wage rate must be made in writing through the contract administrator. (If the contract administrator is a local agency, the agency will send the request to the HUD Labor Relations staff.) If you are a subcontractor, your request should also go through the prime contractor. All you need to do is identify the work classification that is missing and recommend a wage rate (usually the rate that employer is already paying to the employees performing the work) for that classification. You may also need to describe the work that the new classification will perform.



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### c. HUD Review

The HUD Labor Relations field staff will review the requested classification and wage rate to determine whether the request meets the DOL rules outlined in paragraph 2-2(a), above. If additional information or clarification is needed, the staff will contact the prime contractor (or contract administrator for local agency projects) for more information, etc. If the Labor Relations review finds that the request meets the rules, the staff will give preliminary approval on the request and refer it to the DOL for final approval. The staff will send to you a copy of the preliminary approval/referral letter to the DOL.

If the HUD Labor Relations staff doesn't think the request meets the rules and if agreement can't be reached on the proper classification or wage rate for the work described, the HUD Labor Relations staff will *not* approve the request. In this case, the staff will send your request to the DOL with an explanation why HUD believes that the request shouldn't be approved. The DOL still has final decision authority. You will receive a copy of the disapproval/referral letter to the DOL.

### d. DOL Decision

The DOL will respond to HUD Labor Relations in writing about the additional classification and wage rate request. HUD Labor Relations will notify you of the DOL decision in writing. If the DOL approves the request, the prime contractor must post the approval notice on the job site with the wage decision.

If the DOL *does not* approve the request, you will be notified about what classification and wage rate should be used for the work in question. You will also receive instructions about how to ask for DOL reconsideration if you still want to try to get your recommendation approved.

It's always a good idea to talk to the contract administrator before submitting an additional classification and wage rate request. The contract administrator can offer suggestions and advice that may save you time and increase the likelihood that DOL will approve your request. Usually, the contract administrator can give you an idea about what the DOL will finally decide.

## 2-3 Certified Payroll Reports

You'll need to submit a weekly certified payroll report (CPR) beginning with the first week that your company works on the project and for every week afterward until your firm has completed its work. It's always a good idea to number the payroll reports beginning with #1 and to clearly mark your last payroll for the project "Final."

### a. Payroll Formats

The easiest form to use is DOL's WH-347, **Payroll**. A sample copy of the WH-347 is included in the back of this Guide. Also, the contract administrator can provide a few copies of the WH-347 that you can reproduce.

You are *not required* to use Payroll Form WH-347. You are welcome to use any other type of payroll, such as computerized formats, as long as it contains all of the information that is required on the WH-347.



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If you number your payroll reports consecutively, you *do not* need to submit “no work” payrolls!

## b. Payroll Certifications

The weekly payrolls are called *certified* because each payroll is signed and contains language certifying that the information is true and correct. The payroll **certification** language is on the reverse side of the WH-347. If you are using another type of payroll format you may attach the certification from the back of the WH-347, or you can use the WH-348, **Statement of Compliance** (same certification language as on WH-347), or any other format which contains the same certification language on the WH-347 (reverse) or WH-348. A copy of the WH-348 is included in the back of this Guide. Copies of the WH-348 are also available from the contract administrator.

DOL's website has Payroll Instructions, and Payroll Forms WH-347 and WH-348 in “fillable” PDF formats at this address:  
[www.dol.gov/dol/esa/public/forms/whd/index.htm](http://www.dol.gov/dol/esa/public/forms/whd/index.htm)

## c. “No Work” Payrolls

“No work” payrolls may be submitted whenever there is a temporary break in your work on the project, for example, if your firm is not needed on the project right now but you will be returning to the job in a couple of weeks. (See *Tip Box, below, for “no work” payroll exemption!*) However, if you know that your firm will not be working on the project for an extended period of time, you may wish to send a short note to the contract administrator to let them know about the break in work and to give an approximate date when your firm will return to the project. If you send a note, you do not need to send “no work” payrolls.

## d. Payroll Review and Submission

The prime contractor should **review** each subcontractor’s payroll reports for compliance **prior** to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid *and* for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the contract administrator *through* the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments and protect itself from financial loss should underpayments occur.

## e. Payroll Retention

Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records such as time cards, tax records, evidence of fringe benefit payments, for a



# A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects

Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor (including subcontractors) for at least 3 years after completion of the project.

## f. Payroll Inspection

In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or from DOL.

## 2-4 Davis-Bacon Definitions

Before we discuss how to complete the weekly payroll forms, we need to review a couple of definitions. These definitions can help you understand what will be required of you:

### a. Laborer or Mechanic

“Laborers” and “mechanics” mean anyone who is performing construction work on the project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.), apprentices, trainees and, for CWHSSA purposes, watchmen and guards. “Laborers” and “mechanics” are the two groups of workers that must be paid not less than Davis-Bacon wage rates.

- 1) **Working foremen.** Foremen or supervisors that regularly spend **more** than 20% of their time performing construction work and do not meet the exclusions in paragraph 2 below are covered “laborers” and “mechanics” for labor standards purposes for the time spent performing construction work.
- 2) **Exclusions.** People whose duties are primarily administrative, executive or clerical are not laborers or mechanics. Examples include superintendents, office staff, timekeepers, messengers, etc. (Contact the contract administrator if you have any questions about whether a particular employee is excluded.)

### b. Employee

Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must make sure that the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

### c. Apprentices and Trainees

The only workers who can be paid less than the wage rate on the wage decision for their work classification are “apprentices” and “trainees” registered in approved apprenticeship or training programs, including *Step-Up* apprenticeship programs designed for Davis-Bacon construction work. Approved programs are those

For more information about working subcontractors, ask the contract administrator or your HUD Labor Relations Field Staff for a copy of Labor Relations Letter LR-96-01, *Labor standards compliance requirements for self-employed laborers and mechanics*. Labor Relations Letters and other helpful Labor Relations publications are available at HUD's Labor Relations web site (see the list of web site addresses in the *Appendix*).

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which have been registered with the DOL or a DOL-recognized State Apprenticeship Agency (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example, 0-6 months: 65%; 6 months – 1 year: 70%; etc. The percentage is applied to the journeyman's wage rate. On Davis-Bacon projects, the percentage must be applied to the journeyman's wage rate on the applicable wage decision for that craft.

- 1) **Probationary apprentice.** A "probationary apprentice" can be paid as an apprentice (less than the rate on the wage decision) if the DOL or SAC has certified that the person is eligible for probationary employment as an apprentice.
- 2) **Pre-apprentice.** A "pre-apprentice", that is, someone who is not registered in a program and who hasn't been DOL- or SAC-certified for probationary apprenticeship is **not** considered to be an "apprentice" and must be paid the full journeyman's rate on the wage decision for the classification of work they perform.
- 3) **Ratio of apprentices and trainees to journeymen.** The maximum number of apprentices or trainees that you can use on the job site can not exceed the ratio of apprentices or trainees to journeymen allowed in the approved program.

#### d. Prevailing Wages or Wage Rates

Prevailing wage rates are the wage rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Some wage decisions include fringe benefits which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate *unless* you provide bona fide fringe benefits for your employees.

- 1) **Piece-work.** Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung, a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates **provided** the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. *Accurate time records must be maintained for any piece-work employees.* If the weekly piece rate earnings are not sufficient, the employer must recompute weekly earnings based upon the actual hours worked and the rate on the wage decision for the work classification(s) involved.



**e. Fringe Benefits**

Fringe benefits can include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well as some contributions to training funds. Fringe benefits **do not** include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

**Note** that the *total* hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) may be no less than the total wage rate (basic wage or basic wage plus fringe benefits) on the wage decision for their craft. If the value of the fringe benefit(s) you provide is less than the fringe benefit rate on the wage decision, you will need to add the balance of the wage decision fringe benefit rate to the basic rate paid to the employee. For example, if the wage decision requires \$10/hour basic rate plus \$5/hour fringe benefits, you must pay no less than that total (\$15/hour) in the basic rate or basic rate plus whatever fringe benefit you may provide. You can meet this obligation in several ways: you could pay the base wage and fringe benefits as stated in the wage decision, or you could pay \$15 in base wage with no fringe benefits, or you could pay \$12 basic plus \$3 fringe benefits. You can also *off-set* the amount of the base wage if you pay more in fringe benefits such as by paying or \$9 basic plus \$6 fringe benefits; as long as you meet the total amount. The amount of the base wage that you may off-set with fringe benefits is limited by certain IRS and FLSA requirements.

**f. Overtime**

Overtime hours are defined as all hours worked on the contract in excess of 40 hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

Referring to our example above where the wage decision requiring a \$15 total wage obligation (\$10 basic wage plus \$5 fringe benefits) was met by paying \$9 base wage plus \$6 fringe benefits: Note that overtime rates must be based on one and one-half times the basic rate *as stated on the wage decision*. In the above example, the employer must pay for overtime: \$15/hr (\$9 basic + \$6 fringe) plus \$5 (one-half of \$10, the wage decision basic rate) for a total of \$20 per hour.

**g. Deductions**

You may make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" (i.e., give up) any of their earnings. Allowable deductions which do not require prior DOL permission include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally-permissible deduction authorized by the employee. Deductions may also be made for payments on judgements and other financial obligations legally imposed against the employee.

# MAKING DAVIS-BACON WORK

## h. Proper Designation of Trade

You must select a work classification on the wage decision for each worker based on the actual type of work he/she performed and you must pay each worker no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters even if they aren't considered by you to be fully trained as a Carpenter. **Remember**, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

1) **Split-classification.** If you have employees that perform work in more than one classification, you can pay the wage rates specified for each classification **only** if you maintain accurate time records showing the amount of time spent in each classification of work. If you do not maintain accurate time records, you must pay these employees the highest wage rate of all of the classifications of work performed.

## i. Site of Work

The "site of work" is where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. "Site of work" can also include other adjacent or virtually adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site that is dedicated exclusively, or nearly so, to the project.

## SECTION II REPORTING REQUIREMENTS

### 2-5 Completing a Payroll Report

#### What information has to be reported on the payroll form?

The weekly payroll form doesn't ask for any information that you don't already need to keep for wage payment and tax purposes. For example, you need to know each employee's **name**, **address** and **social security number**; his or her **work classification** (who is working for you and what do they do?), the hours worked during the week, his or her **rate of pay**, the **gross amount earned** (how much did they earn?), the amounts of any **deductions** for taxes, etc., and the **net amount paid** (how much should the paycheck be made out for?). No more information than you need to know in order to manage your work crew and make certain they are paid properly. And, certainly, no more information than you need to keep for IRS, Social Security and other tax and employment purposes.

You are required to submit certified payrolls to illustrate and document that you have complied with the prevailing wage requirements. The purpose of the contract administrator's review of your payrolls is to verify your compliance. Clearer and complete payroll reports will permit the contract administrator to complete reviews of your payroll reports quickly.

For many contractors,  
the Weekly Certified  
Payroll is the only  
Davis-Bacon paperwork  
you need to submit!



# A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects

## a. Project and Contractor/Subcontractor Information

Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Indicate the *week dates* in the spaces provided. Numbering payrolls is optional but strongly recommended.

## b. Employee Information

The first payroll on which each employee appears must contain the employee's name, address and Social Security Number. Afterward, the address and Social Security Number only need to be reported if there is a change in this information.

## c. Work Classification

Each employee must be classified in accordance with the wage decision based on the type of work they actually perform.

1) **Apprentices or Trainees.** The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.

2) **Split classifications.** For employees in split classifications, list the employees once for each classification, distributing the hours of work accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

## d. Hours Worked

The payroll should show **ONLY** the regular and overtime hours worked on this project. Show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours *should not* be reported on the payroll. In these cases, you should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for *all projects*. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

## e. Rate of Pay

Show the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and you **do not** participate in approved fringe benefit programs, **add** the fringe benefit rate to the basic hourly rate of pay. Also list the overtime rate if overtime hours were worked.

1) **Piece-work.** For any piece-work employees, the employer **must** compute an *effective hourly rate* for each employee each week based upon the employee's piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours.



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Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.

The effective hourly rate must be reflected on the certified payroll and the hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the overtime rate is computed at one and one-half times the *basic* rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be:  
 $(\$10 \times 1\frac{1}{2}) + \$5 = \$20/\text{hour}$ .

## f. Gross Wages Earned

Show the gross amount of wages earned for work performed on this project. *Note:* For employees with work hours and earnings on other projects, you may show gross wages for this project over gross earnings all projects (for example, \$425.40/\$764.85) and base deductions and net pay on the “all projects” earnings.

## g. Deductions

Show the amounts of any deductions from the gross earnings. “Other” deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears.

## h. Net Pay

Show the net amount of wages paid.

## i. Statement of Compliance

The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347) or on form WH-348. Be sure to complete the identifying information at the top, particularly if you are attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, you must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that you are paying required fringe benefits to approved plans or programs; and 4(b) indicates that you are paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If you are paying a portion of the required fringe benefit to programs and the balance directly to the employee, explain those differences in box 4(c).

Only one Statement of Compliance is required for each employer’s weekly payroll no matter how many pages are needed to report the employee data.



**j. Signature**

Make sure the payroll is **signed** with an original signature. The payroll must be signed by a principal of the firm (owner or officer such as the president, Treasurer or Payroll Administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent.

## **SECTION III PAYROLL REVIEWS AND CORRECTIONS**

### **2-6 Compliance Reviews**

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. The DOL may also independently conduct its own reviews (see ¶11-5). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. You will be notified by the contract administrator if these reviews find any discrepancies or errors. You will be given instructions about what steps must be taken to correct any problems.

**a. On-Site Interviews**

Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative, or HUD or DOL representative. The interviews are confidential and the employee will be asked about the kind of work they perform and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The interviewer will record the interview information, usually on a form HUD-11, *Record of Employee Interview*, and forward the interviews to the contract administrator.

**b. Project Payroll Reviews**

The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days, work classification and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; apprentice and trainee certifications are submitted (where needed); employee or other authorizations for other deductions are submitted (where needed); etc.

### **2-7 Typical Payroll Errors and Required Corrections**

The following paragraphs describe common payroll errors and the corrective steps you must take.

# MAKING DAVIS-BACON WORK

## a. Inadequate Payroll Information

If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate, e.g., does not contain all of the necessary information that would be on the optional form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.

## b. Missing Addresses and Social Security Numbers

If the first payroll on which an employee appears does not contain the employee's address and Social Security Number, the employer will be asked to supply the missing information. A short note providing the information is all that is needed.

## c. Incomplete Payrolls

If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a corrected payroll.

## d. Classifications

If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision **or** the employer may request an **additional classification and wage rate** (See ¶12-2). If reclassification results in underpayment (i.e., the wage rate paid on the payroll is less than the rate required for the new classification), the employer will be asked to pay **wage restitution** to all effected reclassified employees. (See ¶12-8 for instructions about wage restitution.)

## e. Wage Rates

If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all effected employees.

## f. Apprentices and Trainees

If a copy of the employee(s) registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is *not* registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.

## g. Overtime

If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

- 1) If the project is subject to *CWHSSA overtime* requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project (overtime hours worked at other projects are not subject to *CWHSSA*). The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. Or,



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2) If the project is **not** subject to CWHSSA, the employer will be notified of the possible *FLSA overtime* violations. Also, the Labor Relations staff may refer the violations to the DOL for further review.

## h. Computations

If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

## i. Deductions

If there are any "Other" deductions that are not identified, or if employee authorization isn't provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of certified payroll reports that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.

## j. Fringe Benefits

If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) nor 4(b) is marked on the payroll form], the employer may be asked to submit corrected payrolls **and** will be required to pay wage restitution if underpayments occurred. *However*, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate *plus* the fringe benefit rate), no correction is necessary.

## k. Signature

If the payroll *Statement of Compliance* is not signed or is missing, the employer will be asked to submit a signed *Statement of Compliance* for each payroll effected.

## l. On-Site Interview Comparisons

If the comparison of on-site interviews to the payrolls indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a corrected payroll report.

## 2-8 Restitution for Underpayment of Wages

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the effected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.

### a. Notification to the Prime Contractor

The contract administrator will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will describe the underpayments and



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In most cases, HUD no longer requires employers to submit checks or copies of checks (certified, cashiers, canceled or other) to correct underpayments. Restitution payments are reported and certified by the employer on a correction payroll.

provide instructions for computing and documenting the restitution to be paid. The prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

## **b. Computing Wage Restitution**

Wage restitution is simply the difference between the wage rate paid to each effected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the *adjustment rate*. The adjustment rate times the number of hours involved equals the gross amount of restitution due.

## **c. Correction Payrolls**

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification; the total number of work hours involved (daily hours are usually not applicable for restitution); the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions and the net amount to be paid. A signed Statement of Compliance must be attached to the correction payroll.

## **d. Employee Signature**

Each employee who has received restitution signs the correction payroll or other form of receipt as evidence that they have received the additional payment.

## **e. Review of Correction CPR**

The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a supplemental correction payroll within 30 days.

## **f. Unfound Workers**

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. In these cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for 3 years after the completion of the project. After 3 years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD.



## **CHAPTER 3. Labor Standards Disputes, Administrative Reviews, Withholding, Deposits and Escrow Accounts, and Sanctions**

**W**hat happens when things go wrong?

### **3-1 Introduction**

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, "things going wrong" usually means there's a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before the DOL; or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of what you may expect and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

### **3-2 Administrative Review on Labor Standards Disputes**

As mentioned in the Introduction above, a dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in your contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

#### **a. Additional Classifications and Wage Rates**

Additional classification and wage rate requests are sometimes denied by the DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

- 1) **Reconsideration.** The DOL normally identifies the reasons for denial in its response to the request. Any interested person (*for example*, the contract administrator, employer, representatives of the employees) may request reconsideration of the decision on the additional classification request. The request for reconsideration must be made in writing and must thoroughly



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address the denial reasons identified by the DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to the DOL. (See §12-2(d), and also DOL Regulations 29 CFR 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through the HUD Headquarters Office of Labor Relations.

- 2) **Administrative Review Board.** Any interested party may request a review of the Administrator's decision on reconsideration by the **Administrative Review Board** (formerly, *Wage Appeals Board*). DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR 1.9.)

## b. Findings of Underpayment

Compliance reviews and other investigations may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due and, of course, to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with you to reach such agreements. You will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies.

If informal exchanges do not result in agreement, the final determination and schedule of wages due will be presented to you in writing and you will be permitted 30 days in which to correct the underpayment(s) or to request a hearing on the matter before the DOL. The request for hearing must be made in writing through the contract administrator and must explain what findings are in dispute and the reasons. In such cases, HUD is required to submit a report to DOL for review and further consideration. All requests for DOL hearing must be submitted through the HUD Headquarters Office of Labor Relations.

- 1) **DOL review.** The DOL will review the contract administrator's report and the arguments against the findings presented in the hearing request. The DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by the DOL of the results of its review; you will be given an opportunity to correct any underpayments or to request a hearing before a DOL Administrative Law Judge (ALJ). (See DOL Regulations 29 CFR 5.11 (b) and 29 CFR Part 6, *Rules of Practice for Administrative Proceedings*.)

- 2) **Administrative Review Board.** Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

## 3-3 Withholding

The contract administrator shall cause withholding from payments due to the prime contractor to ensure the payment of wages which are believed to be due and unpaid, for example, if wage underpayments or



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other violations are not corrected within 30 days after notification to the prime contractor. DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is considered to be serious and is not taken unless warranted. If withholding is deemed necessary, you will be notified in writing. Only the amounts needed to meet the contractor's (and/or subcontractors') liability shall be withheld.

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See ¶1-4, *Responsibility of the Principal Contractor*, and ¶2-8, *Restitution for underpayment of wages*.

## 3-4 Deposits and Escrows

In every case, we attempt to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, we allow projects to proceed to final closing and payments **provided** the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a special account. The deposit or *escrow account* is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- a. Where the parties have agreed to amounts of wage restitution that are due *but* the employer hasn't furnished evidence yet that all of the underpaid workers have received their back wages, e.g., some of the workers have moved and could not be located. The amount of the deposit is equal to the total amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who can not be located are held in the deposit/escrow account for three years and disbursed as described in ¶2-8(f) of this Guide.
- b. Where underpayments are suspected or alleged and an investigation has not yet been completed. The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to the workers will be disbursed from the escrow account in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described above (See ¶2-8(f) and 3-4(a)).

If the parties *do not* agree and an administrative hearing is requested, the escrow will be maintained as explained in ¶3-4(c), below.



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- c. Where the parties are waiting for the outcome of an administrative hearing that has been or will be requested contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

## 3-5 Administrative Sanctions

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

### a. DOL Debarment

Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Related Acts (DBRA) will be ineligible (**debarred**) to participate in any DBRA or Davis-Bacon Act contracts for up to 3 years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or can be initiated by the DOL. Debarment proceedings are described in DOL regulations 29 CFR 5.12.

### b. HUD Sanctions

HUD sanctions may include Limited Denials of Participation (LDPs), debarments and suspensions.

- 1) **LDPs.** HUD may issue to the employer a limited denial of participation (LDP) which prohibits the employer from further participation in HUD programs for a period up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDP's are found at 24 CFR 24.700-24.714.
- 2) **Debarment and suspensions.** In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications) or may initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.

## 3-6 Falsification of Certified Payroll Reports

Contractors and/or subcontractors that are found to have willfully falsified payroll reports (Statements of Compliance) may be subject to civil or criminal prosecution. Penalties may be imposed of \$1,000 and/or one year in prison for each false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).



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# MAKING DAVIS-BACON WORK

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# Acronyms and Symbols

CDBG	– Community Development Block Grant
CFR	– Code of Federal Regulations
CPR	– Certified Payroll Report
CWHSSA	– Contract Work Hours and Safety Standards Act
DBA	– Davis-Bacon Act
DBRA	– Davis-Bacon and Related Acts
DOL	– Department of Labor
FHA	– Federal Housing Administration
FLSA	– Fair Labor Standards Act
HUD	– Housing and Urban Development (Department of)
IHA	– Indian Housing Authority
LCA	– Local Contracting Agency
LDP	– Limited Denial of Participation
O/T	– Overtime
PHA	– Public Housing Agency
S/T	– Straight-time
SAC	– State Apprenticeship Council/Agency
TDHE	– Tribally-Designated Housing Entity
§	– Section
¶	– Paragraph

## Davis-Bacon – Related Web Sites

HUD Office of Labor Relations:

[www.hud.gov/offices/olr](http://www.hud.gov/offices/olr)

HUD Regulations:

[www.access.gpo.gov/nara/cfr/cfr-table-search.html](http://www.access.gpo.gov/nara/cfr/cfr-table-search.html)

HUDClips (Forms):

[www.hudclips.org/subscriber/html/forms.htm](http://www.hudclips.org/subscriber/html/forms.htm)

DOL Davis-Bacon and Related Acts Homepage:

[www.dol.gov/dol/esa/public/programs/dbra/index.html](http://www.dol.gov/dol/esa/public/programs/dbra/index.html)

DOL Regulations:

[www.dol.gov/dol/esa/public/regs/cfr/whdcfr.htm](http://www.dol.gov/dol/esa/public/regs/cfr/whdcfr.htm)

Davis-Bacon Wage Decisions:

[www.access.gpo.gov/davisbacon](http://www.access.gpo.gov/davisbacon)

DOL Forms:

[www.dol.gov/dol/esa/public/forms/whd/index.htm](http://www.dol.gov/dol/esa/public/forms/whd/index.htm)

*ITB 14-048 2014 CDBG Neighborhood Sidewalk Project*

*A Contractor's Guide  
to Prevailing  
Wage Requirements  
for Federally-Assisted  
Construction Projects*



# PROJECT WAGE RATE SHEET

**Project Name:** \_\_\_\_\_ **Wage Decision:** \_\_\_\_\_

**Project Number:** \_\_\_\_\_ **County:** \_\_\_\_\_

<u>CLASSIFICATION</u>	<u>BHR</u>	<u>FB</u>	<u>Total</u>	<u>Laborers – FB:</u>		
Bricklayers	_____	_____	_____	<u>Group</u>	<u>BHR</u>	<u>Total</u>
Carpenters	_____	_____	_____	_____	_____	_____
Cement Masons	_____	_____	_____	_____	_____	_____
Drywall Hangers	_____	_____	_____	_____	_____	_____
Electricians	_____	_____	_____	_____	_____	_____
Iron Workers	_____	_____	_____	_____	_____	_____
Painters	_____	_____	_____	<u>Truck Drivers – FB:</u>		
Plumbers	_____	_____	_____	<u>Group</u>	<u>BHR</u>	<u>Total</u>
Roofers	_____	_____	_____	_____	_____	_____
Sheet Metal Workers	_____	_____	_____	_____	_____	_____
Soft Floor Layers	_____	_____	_____	_____	_____	_____
Tapers	_____	_____	_____	_____	_____	_____
Tile Setters	_____	_____	_____	<u>Operators – FB:</u>		
<u>OTHERS</u>				<u>Group</u>	<u>BHR</u>	<u>Total</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

**ADDITIONAL CLASSIFICATIONS (HUD 4230-A)**

<u>CLASSIFICATION</u>	<u>BHR</u>	<u>FB</u>	<u>Total</u>	<u>Date HUD Approved</u>	<u>Date DOL Confirmed</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

PAYROLL  
(For Contractor's Optional Use; See Instruction, Form WH-347 Inst.)

NAME OF CONTRACTOR _____ OR SUBCONTRACTOR _____		ADDRESS _____										
PAYROLL NO.		PROJECT AND LOCATION		PROJECT OR CONTRACT NO.								
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) # OF EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE		(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS		(9) NET WAGES PAID FOR WEEK	
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HOURS WORKED EACH DAY												
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## STATEMENT OF COMPLIANCE

Date \_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_ do hereby state:  
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on \_\_\_\_\_ the:  
(Contractor or Subcontractor)

that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned that no rebates have been or will be made either directly or indirectly to or on behalf on said \_\_\_\_\_ from the full weekly wages earned by any person and that no deductions have been made either  
(Contractor or Subcontractor)

directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as Amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

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

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll payments of fringe benefits as listed in the contract have been or will be made to appropriated programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each Laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTIONS (CRAFT)	
Remarks	
Name and Title	Signature

The wilful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See section 1001 of title 18 and section 231 of title 31 of the United States code.

U.S. Department of Housing and Urban Development  
Office of Labor Relations  
Washington, DC 20410

Official Business  
Penalty for Private Use \$300

STANDARD MAIL  
POSTAGE & FEES PAID  
HUD

Labor Relations Desk



## **CONDITIONS OF AGREEMENT**

## **CONDITIONS OF AGREEMENT**

### **CONTRACT DOCUMENTS**

#### **STANDARD SPECIFICATIONS FOR CONSTRUCTION--CITY OF COLLEGE STATION**

The City of College Station has adopted standards for streets and water and sewer construction. These City standards are hereby made a part of these technical specifications. Copies of the City's most recent edition of the "B/CS Unified Water and Sewer Specifications" and the most recent edition of the City's "Standard Specifications for Street Construction" may be purchased from Development Services office at 1101 Texas Avenue in College Station.

Any discrepancies between the City standards and these specifications shall be clarified per the instructions in Paragraph 8.0, "INTERPRETATIONS AND ADDENDA" in the instructions to Bidders.

#### **GENERAL CONDITIONS OF AGREEMENTS**

The Standard Form of Agreement between Owner and Contractor shall be governing conditions of this contract.

#### **SPECIAL PROVISIONS OF AGREEMENT**

- A. **USE OF THE SPECIFICATIONS:** These specifications shall be used in conjunction with the City of College Station's Standard Specifications of Water and Sewer Construction and Street Construction as outlined above.
- B. **MEASUREMENTS:** All work not specifically set forth as a pay item in the Proposal shall be considered a subsidiary obligation of the Contractor and all costs in connection therewith shall be included in the various unit prices listed in the Proposal.
- C. **QUANTITIES:** Where unit quantities are shown on each bid item of the Proposal, they shall be construed to represent approximate quantities of Work to be completed. Final quantities will be determined by measurement on the site of the completed Work. Work performed outside of specified limits will not be included in final measurement. Bidders are hereby notified that no incidental items of the Work will be paid for unless it is listed in the Proposal form as a pay item.
- D. **EXPLOSION, COLLAPSE AND UNDERGROUND HAZARDS (XCU):** Contracts where trenching depths exceed twelve (12) feet shall require additional coverage for the following General Liability hazards:

<u>Explosion</u>	Applies to blasting operations
<u>Collapse</u>	Applies to excavation and grading work adjacent to structure
<u>Underground</u>	Applies to excavation, burrowing, trenching, tunneling, etc. For example, severing an electrical line during excavation operations.

An additional premium may be assessed by contractors insurance provider. Successful contractor is responsible for assessing depth based on plans and specifications contained herein.

### **TRAFFIC CONTROL**

The Contractor shall submit to the City Engineer a traffic control plan for each public right-of-way he enters prior to the pre-construction meeting. This plan shall be in conformance to the Texas Manual on Uniform Traffic Control Devices. Once reviewed, the plans will be returned to the Contractor with comments.

Approved Traffic Control Plans shall be in the possession of the contractor on site during all work within the designated right of way.

### **CONTRACT FORMS, BONDS AND CERTIFICATES**

The Standard Form of Agreement bond forms listed below will be made a part of the executed contract documents and are made a part of these specifications:

CITY OF COLLEGE STATION STANDARD FORM OF AGREEMENT BETWEEN  
THE OWNER AND THE CONTRACTOR

PERFORMANCE BOND

PAYMENT BOND

These forms are not to be filled in by the bidder at the time of submitting his proposal.

**STANDARD FORM OF AGREEMENT FOR CONSTRUCTION**

**CITY OF COLLEGE STATION  
STANDARD FORM OF CONSTRUCTION AGREEMENT**

**CONTRACT NO. 14-244**

This Agreement is entered into by and between the **City of College Station**, a Texas home-rule municipal corporation (the "City") and **Vox Construction, LLC**, a corporation (the "Contractor"), for the construction and/or installation of 2014 CDBG Neighborhood Sidewalk Project.

**1. DEFINITIONS**

- 1.01. Calendar Day. A "calendar day" is any day of the week or month, no days being excepted.
- 1.02. City. Whenever the word "City" is used, it shall mean and be understood as referring to the City of College Station, Texas.
- 1.03. City's Representative. Whenever the words "City's Representative" or "Representative" are used, it shall mean and be understood as referring to the City Manager or his delegate, who shall act as City's agent. The City's Representative may inspect and issue instructions but shall not directly supervise the Contractor.
- 1.04. Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices times the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City.
- 1.05. Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.
- 1.06. Contractor. Whenever the word "Contractor" is used, it shall mean the person(s), partnership, or corporation who has agreed to perform the work embraced in this Agreement and the other Contract Documents.
- 1.07. Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing *prior* to the work being done by the Contractor.
- 1.08. Final Completion. The term "Final Completion" shall mean that all the work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.
- 1.09. Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.
- 1.10. Nonconforming work. The term "nonconforming work" shall mean work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.
- 1.11. Parties. The "parties" are the City and the Contractor.

1.12. Project. The term "Project" shall mean and include all that is required to obtain a final product that is acceptable to the City. The term "work" shall have like meaning.

1.13. Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contact with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.

1.14. Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.15. Work. The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The term "Project" shall have like meaning. This Project includes the following:

Construction of sidewalks along: Dominik Dr. from Texas to George Bush, George Bush to Stallings; along Park Place at Texas; and along Westridge and San Pedro.

1.16. Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

## 2. CONTRACT DOCUMENTS

2.01. The Contract Documents and their priority shall be as follows:

- 2.01.01. This signed Agreement
- 2.01.02. Addendum to this Agreement
- 2.01.03. General Conditions
- 2.01.04. Special Conditions
- 2.01.05. Technical specifications
- 2.01.06. Drawings
- 2.01.07. Instructions to Bidders and any other notices to Bidders or Contractor
- 2.01.08. Performance bond, Payment bonds, Bid bonds and Special bonds
- 2.01.09. Contractor's Proposal

2.02. Where applicable, the Contractor will be furnished three (3) sets of plans, drawings, specifications, and related Contract Documents for its use during construction. Plans and specifications provided for use during construction shall be furnished directly to the Contractor only.

2.03. The Contractor shall distribute copies of the plans and specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the plans and specifications accessible at the work site with the latest revisions noted thereon. For proper execution of the work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

2.04. All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the plans and specifications and "as built" drawings, are to be returned to the City on request at the completion of the work. All Contract Documents, models, mockups, or other representations are the property of the City. In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions

of this Clause 2.04, however, shall not relieve the Contractor of any of the obligations set forth in Paragraphs 8.01. and 8.02.

### 3. AWARD OF CONTRACT

3.01. Upon the award of the contract by the City Council, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02. **Time is of the essence of this Agreement.** Accordingly, the Contractor shall be prepared to perform the work in the most expedient and efficient possible manner in order to complete the work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the notice to proceed. The notice to proceed may be given by oral notification or set by City's Representative at the post-contract award conference. **The notice to proceed may not be given, nor may any work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Paragraphs 27 and 28 (Insurance & Bonds).**

3.03. **Contract Amount.** Except in the event of a duly authorized change order approved by the City as provided in this Contract, and in consideration of the Contractor's final completion of all work in conformity with this Contract, the City shall pay the Contractor an amount not to exceed **Two Hundred Fifty Six Thousand Nine Hundred Fifty Five and 82/100 Dollars (\$256,955.82).**

### 4. CITY'S REPRESENTATIVE

4.01. The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02. The City's Representative may periodically review and inspect the work of the Contractor.

4.03. The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the work performed under this Agreement and ensure that said work is performed in accordance with the plans and specifications.

4.04. The Contractor shall regard and obey the directions and instructions of City's Representative, any subordinate supervisors or inspectors appointed by the City provided such directions and instructions are consistent with the obligations of this Agreement.

4.05. Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

## 5. INDEPENDENT CONTRACTOR

5.01. In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the work on the Project. The Contractor shall have ultimate control over the execution of the work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02. The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the work and fulfillment of this Agreement. The subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project during the progress of the work a competent Project Manager and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.03. Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the work by the Contractor. It shall be the responsibility of the Contractor to furnish a completed work product that meets the requirements of the City. Any additional work, material, or equipment needed to meet the intent of this specification shall be supplied by the Contractor *without* claim for additional payment, even though not specifically mentioned herein.

5.04. Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

## 6. DISORDERLY EMPLOYEES

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the work are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the work and shall not again be re-employed on the site or the Project without City's Representative's written permission.

## 7. HOURS OF WORK

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

## 8. NATURE OF THE WORK

8.01. It is understood and agreed that the Contractor has, by careful examination, studied and compared the various Drawings and other Contract Documents, satisfied itself as to the nature and location of the

work, the conditions of the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the work, the time needed to complete the work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any work on the Project that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03. If the Contractor fails to perform the obligations of Paragraphs 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

## **9. POST-AGREEMENT AWARD MEETINGS**

9.01. Prior to the commencement of the work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

- (a) Schedules of work contemplated, including the starting and ending date, as well as an indication of the completion of stages of work hereunder.
- (b) The names and addresses of all proposed subcontractors in writing.
- (c) Schedules of the starting and ending dates of subcontractors and the scope of work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02. The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

## 10. PROGRESS OF WORK

10.01. Unless otherwise specifically provided, the Contractor shall prosecute its work at such time and sessions, in such order of precedence, and in such manner as shall be most conducive to the economy of the Project; provided, however, that the order and time of prosecution shall be such that the Project shall be Substantially Completed in accordance with this Agreement, the plans and specifications, and within the time of completion designated in the schedules agreed upon by the parties.

10.02. Further, the parties shall be subject to the following:

(a) The Contractor shall submit a progress schedule and payment schedule of the work contemplated by this Agreement at the initial post-agreement award meeting and subsequent meetings.

(b) City's Representative shall be entitled to make objections to the Contractor's schedule submitted herein. The Contractor shall promptly resubmit a revised schedule to City's Representative.

(c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.

(d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the work with dates at which the Contractor will start the several parts of the work and the estimated dates of completion of the several parts.

(e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

(f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the work is not in accordance with the approved progress and payment schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03. The process of approving Contractor's schedules and updates to Contractor's schedules shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Contractor's schedules. Approval of a contractor's schedules does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a Claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance

with the requirements of the construction schedules and shall promptly advise the City of any delays or potential delays. In the event any schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04. **Work Stoppage.** If in the judgment of either the City or City's Representative any of the work or materials furnished is not in strict accordance with this Agreement or any portion of the work is being performed so as to create a hazardous condition, they may, in their sole discretion, order the work of the Contractor or any sub contractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

## 11. SITE CONDITIONS AND MANAGEMENT

11.01. Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02. The Contractor shall be responsible for all power, light, and water required to perform the work.

11.03. Throughout the progress of the work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04. **Layout of Work.** Except as specifically provided herein, the Contractor shall lay out all work in a manner acceptable to City's Representative in accordance with applicable City of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all work in accordance with the plans and specifications.

11.05. **Lines and Grades.** All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06. **Contractor's Structures.** The building or locating of structures for housing men or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.07. The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.08. City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. Although Contractor should anticipate some delays and interference to its sequence of Work because of work by other contractors and utilities, and will not be entitled to either an extension of time or additional compensation because of them, in the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.

11.09. When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work at the Project site be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

## 12. MATERIALS

12.01. Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02. All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other

agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03. Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04. **Materials and supplies shall be new and of good quality.** Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05. Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

### 13. ENTRY, OBSERVATION, TESTING & POSSESSION

13.01. The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02. The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the work will be ready for observation.

13.03. The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the plans, specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if the work is in accordance with the plans, specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04. City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement. Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

#### **14. REJECTED WORK**

14.01. All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02. If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

- (a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.
- (b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

#### **15. SUBCONTRACTING & SUBCONTRACTORS**

15.01. The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02. Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement.

Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

## 16. PAYMENT

16.01. The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Contract. The Contractor shall issue exemption certificates to its suppliers and Subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02. **Progress Payment Applications.** The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require. This schedule, unless objected to by the City, shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15<sup>th</sup> day of each month, the Contractor shall submit to City's Representative, for approval or modification, a statement showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the work.

16.03. **Progress Payments.** On or before the 30<sup>th</sup> calendar day following the City's receipt of a progress payment application made in conformity with Paragraph 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

16.04. **Retainage.** From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than \$400,000.00, and five percent (5%), where the full contract amount is \$400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

16.05. If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06. Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any re-stocking charges actually incurred by the

Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07. The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08. The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09. Unless otherwise provided in the Contract Documents:

- (a) allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances;
- (c) whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 16.9(b).

16.10. **Suspension of Payments.** The City, at any time, may suspend monthly progress payments on the work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

16.11. **Withhold Funds.** Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Paragraph 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

- (a) Defective work.
- (b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (g) City's determination of an amount of liquidated damages.
- (h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.

- (i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Paragraph.

## 17. EXTRA WORK CHARGES

17.01. No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid for except upon the written order from authorized personnel of the City.

17.02. For "Extra Work", as defined in Paragraph 1.07 and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original contract price may not be increased by more than **twenty-five percent (25%)**. Written change orders that do not exceed **twenty-five percent (25%)** of the original contract amount may be made or approved by the City Manager or his delegate if the change order is less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non included cost.

17.03. The Contractor shall complete all work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the work shall not excuse the Contractor from performing all the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the work and the Contractor shall assume and pay the costs of the performance of the work as contracted.

- (a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.
- (b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.
- (c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its performance, then the Contractor shall proceed with the work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.
- (d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or  
Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost of the work.

(e) **Method A - Unit Prices.** The Contractor agrees to perform Extra Work for the unit prices in the Contractor's Proposal. The Contractor also agrees and warrants that when it is necessary to construct units not shown in the Contract Documents, it shall construct such units for a price arrived at as follows:

- (1) The cost of materials shall be determined by the invoices;
- (2) The cost of labor shall be the reasonable cost thereof, as determined by the City, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio. Provided, however, that the ratio shall be calculated for only those units that are similar to the new unit for which a price is to be determined.

(f) **Method B - Lump Sum.** The lump sum shall be reasonably close to the amount for similar work previously done or combinations of similar units. Invoices for materials used shall be provided in support of the agreed lump sum.

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, worker's compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All damages must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned manloading to actual manloading, or any other analysis that is used to show damages indirectly.
- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent

an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

## **18. TIME OF COMPLETION**

18.01. The date of beginning, the time for Substantial Completion and Final Completion of work as specified in this Agreement are of the essence of this Agreement.

18.02. The work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed may be given orally or set by the City's Representative at the post-award conference.

18.03. The work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor bid **90** calendar days for the time within which it shall reach Substantial Completion of the Project.

18.04. The work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

## **19. SUBSTANTIAL COMPLETION**

19.01. The Contractor shall notify City's Representative when, in the Contractor's opinion, the contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the work has been Substantially Completed, City's Representative shall inspect the work for the preparation of a final punch list.

(a) If City's Representative and the City find that the work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the work. City's Representative shall not be required to provide a list of unfinished work.

(b) If the City Representative and City find that the work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

19.02. The Substantial Completion of the work shall not excuse the Contractor from performing all of the work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents.

## **20. FINAL COMPLETION**

20.01. Contractor shall notify the City's Representative when it believes that the work has reached Final Completion as defined in Paragraph 1.08. If the City's Representative and the City accept and deems such work Finally Complete, then Contractor shall be so notified and certificates of completion and acceptance, as provided herein, shall be issued. A complete itemized statement of this Agreement account, certified by the City's Representative as correct, shall then be prepared and delivered to Contractor. Contractor or City, as the case may be, shall pay the balance due as reflected by said statement within thirty (30) calendar days.

20.02. The Contractor shall procure all required certificates of acceptance or completions issued by state, municipal, or other authorities and submit the same to the City. The City may withhold any payments due under this Agreement until the necessary certificates are procured and delivered.

20.03. Neither the final payment nor any acceptance nor certificate nor any provision of this Agreement shall relieve the Contractor of any responsibility for faulty workmanship or materials. At the option of the City, the Contractor shall remedy any defects and pay for any damage to other work which may appear after final acceptance of the work.

## 21. DELAYS

21.01. The Contractor, in undertaking to complete the work within the times herein fixed, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material or workmen or delays arising from inclement weather or otherwise.

21.02. The City may, in its sole discretion, delay the work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event and upon a written request from the Contractor, the City may grant an extension of time pursuant to Paragraph 22 to offset for such stoppage of the work.

21.03. In the event of delays resulting from changes ordered in the work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

## 22. EXTENSIONS OF TIME

The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the work has been delayed by one or more of the following:

- (1) an act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;
- (2) by changes ordered in the work, or reductions thereto approved in writing;
- (3) by "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the Texas A&M University weather service; or
- (4) by other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's proposal or decision to bid.

If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

## 23. LIQUIDATED DAMAGES

23.01. The time for the Substantial and Final Completion of the work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty

in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02. As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement, that the City may permanently withhold from the Contractor's total compensation the sum of **ONE HUNDRED FIFTY AND 00/100 DOLLARS (\$150.00)** for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

## 24. CHARGES FOR INJURY OR REPAIR

24.01. The Contractor shall be liable for any damages incurred or repairs made necessary by reason of its work and/or caused by it. Repairs of any kind required by the City will be made and charged to the Contractor by the City.

24.02. The Contractor shall take the necessary precautions to protect any areas adjacent to its work.

24.03. The work specified consists of all work, materials, and labor required by the City to repair any damage to the property of the City, including but not limited to structures, roadways, curbs, parking areas, and sidewalks.

## 25. WARRANTY

25.01. Upon issuance of a certificate of Final Completion, the Contractor warrants for a period of one (1) year as follows:

**The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative and that all work will be of good quality, free from faults and defects, and in conformance with this Agreement, the other Contract Documents, and recognized industry standards.**

25.02. All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

25.03. This warranty is in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor.

25.04. Where more than a one (1) year warranty is specified for individual products, work, or materials, the longer warranty shall govern.

25.05. This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Agreement.

25.06. **Defective Work Discovered During Warranty Period.** If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly correct the defective work at no cost to the City.

25.07. After receipt of written notice from the City to begin corrective work, the Contractor shall promptly begin the corrective work. The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

25.08. If within ten (10) calendar days after the City has notified the Contractor of a defect, failure, or abnormality in the work, the Contractor has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the Contractor or its surety.

25.09. The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the Contractor or by the surety.

25.10. The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of this Project, whether or not a warranty is specified in the individual section of the Contract Documents that prescribe that particular aspect of the work.

## 26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

26.01. **Wage Rates.** Pursuant to Section 2258.023(a) of the Texas Government Code, wage rates paid by the Contractor and any subcontractor on this Project shall be not less than the general prevailing rate of per diem wages for work of a similar character in this locality as specified in the schedule of general prevailing rates of per diem wages attached hereto as Exhibit A.

26.02. **Statutory Penalty.** Pursuant to Section 2258.023(b) of the Texas Government Code, if the Contractor or any subcontractor violates the requirements of Paragraph 26.01, the Contractor or subcontractor as the case may be shall pay the City **Sixty Dollars (\$60.00)** for each worker employed for each calendar day or part of the day that the worker is paid less than the stipulated wage rates.

26.03. The Contractor and each subcontractors shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.

26.04. No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.

26.05. **Payment of Subcontractors.** The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by

the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

26.06. **Affidavit of Bills Paid.** Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

## 27. INSURANCE

27.01. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, coverages, limits and endorsements required are as set forth in Exhibit B.

## 28. BOND PROVISIONS

28.01. Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$50,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such bonds shall be executed in accordance with all requirements of Article 7.19-1 of the Texas Insurance Code, all other applicable law, and the following:

- (a) The Contractor shall execute performance and payment bonds for the full Contract Amount.
- (b) The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.
- (c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit C, together with valid original powers of attorney, **at the time of execution of this Agreement and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit C**.
- (d) The performance and payment bonds shall remain in effect for a period of one (1) year after Final Completion of the work and shall be extended for any warranty work to cover the warranty period.
- (e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

28.02. The Contractor may make such changes and alterations as the City may require in the work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the work as originally planned, in accordance with the provisions of Article 17.

## 29. SURETY

29.01. If the Contractor has abandoned the Project or the City has terminated the contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the work in compliance with this Agreement, then the City at its option may provide for completion of the work in either of the following manners:

29.01.01. The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to said the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

29.01.02. The City may, after notice published as required by law, accept sealed bids and let this Agreement for the completion of the work under substantially the same terms and conditions that are provided in this Agreement. In case of any increase in cost to the City under the new agreement as compared to what would have been the cost under this Agreement, such increase together with all of the City's damages due to Contractor's abandonment and/or default, including liquidated damages, as provided pursuant to Paragraph 38, entitled "TERMINATION FOR CAUSE" shall be charged to the Contractor and the surety shall be and remain bound therefor. However, should the cost to complete such new agreement prove to be less than that which would have been the cost to complete the work under this Agreement, the Contractor shall be credited therewith after all deductions are made in accordance with this Agreement.

29.02. Should the cost to complete the work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

29.03. In the event the account shows that the cost to complete the work is less than that which would have been the cost to City had the work been completed by the Contractor under the terms of this Agreement, or when the Contractor 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.

## 30. COMPLIANCE WITH LAW

30.01. The Contractor's work and materials shall comply with all state and federal laws, municipal ordinances, regulations, codes, and directions of inspectors appointed by proper authorities having jurisdiction.

30.02. The Contractor shall perform and require all subcontractors to perform the work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

30.03. The Contractor shall follow all applicable state and federal laws, municipal ordinances, and guidelines concerning soil erosion and sediment control throughout the Project and warranty term.

## 31. SAFETY PRECAUTIONS

31.01. All safety measures, policies and precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the College Station Fire Department marked "Attn.: Assistant Chief".

31.02. The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the work as may be necessary.

31.03. The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential hazards created by the performance of the work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

31.04. Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Paragraph 31.07, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Paragraph 31.07). **In the event Contractor engages in any of the activities prohibited in this Paragraph 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this Paragraph 31.04.**

31.05. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

31.06. City and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

31.07. For purposes of this Agreement, the term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which are defined as a hazardous

substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Contractor's responsibility to comply with this Paragraph 31.07 based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

### **32. TRENCH SAFETY**

The Contractor must comply with Texas law regarding trench excavation exceeding five feet in depth and in accordance with the following items:

32.01 The Contractor must comply with the requirements of Tex. Health & Safety Code Ann. §756.022-023 (Vernon 1992), as amended, and the requirements of 29 C.F.R., Sections 1926.650 through 1926.653 inclusive, "Excavation, Trenching and Shoring," of the Occupational Safety and Health Administration Standards, as amended.

32.02 The Contractor must include a separate pay item for trench safety complying with trench safety requirements, stating a unit price per linear foot of trench safety systems, as measured along the centerline of trench including manholes and other line structures.

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty, responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

32.04 The Contractor must provide the City the name of the "competent person" required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

### **33. INDEMNITY**

**33.01. CONTRACTOR SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY FROM ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY OR CAUSES OF ACTION FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY, TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE WORK DONE BY ANY PERSON UNDER THIS CONTRACT. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION SHALL EXTEND TO, AND INCLUDE, ANY AND ALL CLAIMS, CAUSES OF ACTION OR LIABILITY CAUSED BY THE CONCURRENT, JOINT AND/OR CONTRIBUTORY NEGLIGENCE OF THE CITY, AN ALLEGED**

**BREACH OF AN EXPRESS OR IMPLIED WARRANTY BY THE CITY OR WHICH  
ARISES OUT OF ANY THEORY OF STRICT OR PRODUCTS LIABILITY.**

33.02. The indemnifications contained in paragraphs 33.01 shall include but not be limited to the following specific instances:

- (a) In the event the City is damaged due to the act, omission, mistake, fault or default of the Contractor, then the Contractor shall indemnify and hold harmless and defend the City for such damage.
- (b) The Contractor shall indemnify and hold harmless and defend the City from any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.
- (c) The Contractor shall indemnify and hold harmless and defend the City from any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.
- (d) The Contractor shall be responsible for any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.
- (e) The Contractor shall also be responsible for the removal of all related debris.
- (f) The Contractor shall also be responsible for subcontractors hired by it.
- (g) The Contractor shall indemnify, hold harmless, and defend the City from any liability caused by the Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.

33.03. The indemnification obligations of the Contractor under this section shall not extend to include the liability of any professional engineer, the architect, their consultants, and agents or employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the professional engineer, the architect, their consultants, and agents and employees of any of them, provided such giving or failure to give is the primary cause of the injury or damage.

33.04. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 33.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

**34. RELEASE**

The Contractor assumes full responsibility for the work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in

connection with the Contractor's work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City.

**35. PERMITS AND LICENSES**

The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work.

**36. ROYALTIES AND LICENSING FEES**

The Contractor shall pay all royalties and licensing fees. The Contractor shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of patents, materials and methods used in the Project. It shall defend all suits or claims for infringement of any patent rights. Further, if the Contractor has reason to believe that the design, service, process, or product specified is an infringement of a patent, it shall promptly give such information to City's Representative.

**37. BREACH OF CONTRACT & DAMAGES**

37.01. The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate, or terminate the Contractor's obligations under this Agreement.

37.02. Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (a) If the Contractor shall fail to remedy any default after written notice thereof from City's Representative, as City's Representative shall direct; or
- (b) If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or
- (c) If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

**38. TERMINATION FOR CAUSE**

Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to terminate this Agreement in its entirety at any time for any of the following:

38.01. If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law

for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or

38.02. If a receiver, trustee, or liquidator of any of the property or income of the Contractor shall be appointed; or

38.03. If the Contractor shall fail to prosecute the work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or

38.04. If the Contractor shall fail to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or

38.05. If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or

38.06. If the Contractor abandons the Work.

38.07. If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

#### **39. TERMINATION FOR CONVENIENCE**

39.01. The performance of the work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the work is terminated, and the date upon which termination becomes effective.

39.02. In the event of termination for convenience, the Contractor shall only be paid the reasonable value of the Work performed prior to the effective date of the termination notice and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law. In the event of termination for convenience, Contractor Waives and Releases any claim for lost profit, other than profit on Work performed prior to the effective date of such termination.

#### **40. RIGHT TO COMPLETE**

If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

#### **41. CLOSE OUT**

41.01. After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City's Representative, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work

(including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City's Representative, do the following:

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the work as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the work terminated by the notice of termination;
- (d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;
- (f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred; and/or

**42. TERMINATION CONVERSION**

Upon determination of Court of competent jurisdiction that termination of the Contractor pursuant to Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 39 and Contractor's remedy for such termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Paragraph 39.

**43. HIRING**

During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

**44. ASSIGNMENT**

This Agreement and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of the City.

**45. EFFECTIVE DATE**

The effective date of this contract shall be the date of award of the contract.

**46. OTHER TERMS**

46.01. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best

efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

46.02. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

46.03. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations hereunder.

46.04. **Amendment.** No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.05. **Mediation.** After receipt of a Notice of Claim, the Owner may elect to refer the matter to the Architect, Owner's Representative or another party for review. Contractor will attend meetings called to review and discuss the Claims and mitigation of the problem, and shall furnish any reasonable factual backup for the Claim requested. The Owner may also elect to defer consideration of the Claim until the Work is completed, in which case the same review options shall be available to the Owner at the completion of the Work. At any stage, the Owner, at its sole discretion, is entitled to refer a Claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a Claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under Owner's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.06. **Arbitration.** In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.07. **Choice of Law and Place of Performance.** This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.08. **Authority to do business.** The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this contract.

46.09 **Authority to Contract.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.

46.10. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to

have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

46.11. **Headings, Gender, Number.** The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.12. **Agreement Read.** The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

46.13. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

46.14. **Notice of Indemnification.** City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

**VOX CONSTRUCTION, LLC**

By: [Signature]  
Printed Name: Daniel Henderson  
Title: Manager  
Date: 04/07/2014

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
City Attorney  
Date: \_\_\_\_\_

\_\_\_\_\_  
Assistant City Manager/CFO  
Date: \_\_\_\_\_

# EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

## FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

### ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

**Exhibit A**  
**DAVIS BACON WAGE RATES**

General Decision Number: TX140016 01/03/2014 TX16

Superseded General Decision Number: TX20130016

State: Texas

Construction Types: Heavy and Highway

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

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

Modification Number	Publication Date
0	01/03/2014

\* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	\$ 12.94	
Structures.....	\$ 12.87	
LABORER		
Asphalt Raker.....	\$ 12.12	
Flagger.....	\$ 9.45	
Laborer, Common.....	\$ 10.50	
Laborer, Utility.....	\$ 12.27	
Pipelayer.....	\$ 12.79	
Work Zone Barricade Servicer.....	\$ 11.85	
PAINTER (Structures).....	\$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor.....	\$ 12.69	
Asphalt Distributor.....	\$ 15.55	
Asphalt Paving Machine.....	\$ 14.36	
Boom Truck.....	\$ 18.36	

Broom or Sweeper.....	\$ 11.04
Concrete Pavement	
Finishing Machine.....	\$ 15.48
Crane, Hydraulic 80 tons	
or less.....	\$ 18.36
Crane, Lattice Boom 80	
tons or less.....	\$ 15.87
Crane, Lattice Boom over	
80 tons.....	\$ 19.38
Crawler Tractor.....	\$ 15.67
Directional Drilling	
Locator.....	\$ 11.67
Directional Drilling	
Operator.....	\$ 17.24
Excavator 50,000 lbs or	
Less.....	\$ 12.88
Excavator over 50,000 lbs...	\$ 17.71
Foundation Drill, Truck	
Mounted.....	\$ 16.93
Front End Loader, 3 CY or	
Less.....	\$ 13.04
Front End Loader, Over 3 CY.	\$ 13.21
Loader/Backhoe.....	\$ 14.12
Mechanic.....	\$ 17.10
Milling Machine.....	\$ 14.18
Motor Grader, Fine Grade....	\$ 18.51
Motor Grader, Rough.....	\$ 14.63
Pavement Marking Machine....	\$ 19.17
Reclaimer/Pulverizer.....	\$ 12.88
Roller, Asphalt.....	\$ 12.78
Roller, Other.....	\$ 10.50
Scraper.....	\$ 12.27
Spreader Box.....	\$ 14.04
Trenching Machine, Heavy....	\$ 18.48
 Servicer.....	 \$ 14.51
 Steel Worker	
Reinforcing.....	\$ 14.00
Structural.....	\$ 19.29
 TRAFFIC SIGNAL INSTALLER	
Traffic Signal/Light Pole	
Worker.....	\$ 16.00
 TRUCK DRIVER	
Lowboy-Float.....	\$ 15.66
Off Road Hauler.....	\$ 11.88
Single Axle.....	\$ 11.79
Single or Tandem Axle Dump	
Truck.....	\$ 11.68
Tandem Axle Tractor w/Semi	
Trailer.....	\$ 12.81
 WELDER.....	 \$ 15.97

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

=====  
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 union or non-union.

#### Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows 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. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

#### Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the

wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION

1. Payment greater than prevailing wage rate as listed within this document not prohibited per Texas Government Code, Chapter 2258, Prevailing Wage Rates, Subchapter A. General Provisions.
2. Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.
3. The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 & 1/2) times the base hourly rate.
4. The rates listed are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew.

**Exhibit B**  
**INSURANCE REQUIREMENTS**

During the term of this Agreement Contractor's insurance policies shall meet the following requirements:

- I. Standard Insurance Policies Required:
  - A. Commercial General Liability
  - B. Business Automobile Liability
  - C. Umbrella / Excess Liability – required for contract amounts exceeding \$1,000,000
  - D. Workers' Compensation
  - E. Builder's Risk – provides coverage for contractor's labor and materials for a project during construction that involves a structure such as a building or garage. builder's risk policy shall be written on "all risks" form.
  
- II. General Requirements Applicable to All Policies:
  - A. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
  - B. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
  - C. "Claims Made" policies are not accepted.
  - D. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of College Station.
  - E. Upon request, certified copies of all insurance policies shall be furnished to the City of College Station.
  - F. The City of College Station, its officials, employees and volunteers, are to be named as "Additional Insured" to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
  
- III. Commercial General Liability
  - A. General Liability insurance shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
  - B. Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
  - C. Coverage shall be at least as broad as ISO form GC 00 01.
  - D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

- E. The coverage shall include but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

#### IV. Business Automobile Liability

- A. Business Automobile Liability insurance shall be written by a carrier with a "A:VIII" or better rating in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- C. Coverage shall be at least as broad as Insurance Service's Office Number CA 00 01.
- D. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- E. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- F. Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00.

#### V. Excess Liability

Umbrella form excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the contract, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

- VI. Those policies set forth in Paragraphs III, IV, and V shall contain an endorsement naming the City as Additional Insured and further providing that the Contractor's policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City before work commences.

#### VII. Workers Compensation Insurance

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be

used.

B. Workers compensation insurance shall include the following terms:

1. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each employee are required. .
2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
3. Texas must appear in Item 3A of the Workers Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

C. Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

*"A. Definitions:*

*Certificate of coverage ("certificate") – An original certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, 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 governmental entity.*

*Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.*

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*

- E. *The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
- (1) *a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
  - (2) *no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- F. *The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- G. *The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- H. *The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the 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.*
- I. *The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
- (1) *provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
  - (2) *provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
  - (3) *provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
  - (4) *obtain from each other person with whom it contracts, and provide to the Contractor:*
    - (a) *A certificate of coverage, prior to the other person beginning work on the project; and*
    - (b) *A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
  - (5) *retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
  - (6) *notify the governmental entity in writing by certified mail or personal delivery, within 10*

*calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*

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

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

*K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."*

VIII. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

- A. The company is licensed and admitted to do business in the State of Texas.
- B. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
- C. All endorsements and insurance coverages according to requirements and instructions contained herein.
- D. The form of the notice of cancellation, termination, or change in coverage provisions to the City of College Station.
- E. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

**Exhibit C**  
**PERFORMANCE AND PAYMENT BONDS**

PERFORMANCE BOND

Project No. \_\_\_\_\_

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

**THAT WE,** \_\_\_\_\_, as Principal, hereinafter called "Contractor" and the other subscriber hereto \_\_\_\_\_, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Two Hundred Fifty Six Thousand Nine Hundred Fifty Five and 82/100 Dollars (\$256,955.82) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

**THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:**

**WHEREAS,** the Contractor has on or about this day executed a Contract in writing with the City of College Station for \_\_\_\_\_ all of such work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

**NOW THEREFORE,** if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the work done by the Contractor under the Contract. In the event that the City of College Station shall bring

any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party.

**IN WITNESS THEREOF**, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

ATTEST, SEAL: (if a corporation)  
WITNESS: (if not a corporation)

\_\_\_\_\_  
(Name of Contractor)

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

ATTEST/WITNESS (SEAL)

\_\_\_\_\_  
(Full Name of Surety)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

\_\_\_\_\_  
(Address of Surety for Notice)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED  
ON BEHALF OF  
THE CITY OF COLLEGE STATION, TEXAS:

\_\_\_\_\_  
City Attorney's Office

\_\_\_\_\_  
City Manager

TEXAS STATUTORY PAYMENT BOND

Project No. \_\_\_\_\_

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

**THAT WE,** \_\_\_\_\_, as Principal, hereinafter called "Principal" and the other subscriber hereto \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Two Hundred Fifty Six Thousand Nine Hundred Fifty Five and 82/100 Dollars (\$256,955.82) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

**THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:**

**WHEREAS,** Principal has entered into a certain contract with the City of College Station, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2014, for \_\_\_\_\_

\_\_\_\_\_ which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

**NOW THEREFORE,** the condition of this obligation is such that if Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and effect;

**PROVIDED, HOWEVER,** that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Code to the same extent as if it were copied at length herein.

**IN WITNESS THEREOF,** the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

ATTEST, SEAL: (if a corporation)  
WITNESS: (if not a corporation)

\_\_\_\_\_  
(Name of Contractor)

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

ATTEST/WITNESS (SEAL)

\_\_\_\_\_  
(Full Name of Surety)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

\_\_\_\_\_  
(Address of Surety for Notice)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

REVIEWED:

THE FOREGOING BOND IS ACCEPTED  
ON BEHALF OF  
THE CITY OF COLLEGE STATION, TEXAS:

\_\_\_\_\_  
City Attorney's Office

\_\_\_\_\_  
City Manager

**Exhibit D**  
**CERTIFICATES OF INSURANCE AND ENDORSEMENTS**

**Exhibit E**  
**TECHNICAL SPECIFICATIONS AND PLANS**

## **General Specifications**

The **2012 BCS Standard Specifications** are hereby made part of this contract. All construction shall comply with the requirements in those specifications.

## **Technical Specifications**

### **PAINTING**

#### **Part 1- General:**

- A. These specifications are to be used for the interior and exterior painting for the City of College Station Facilities.

#### **SUMMARY**

1. Provide complete preparing, priming, painting, sealing, coating and/or finishing of all surfaces, throughout interior and exterior of building, except as otherwise specified or scheduled.
2. Touch up surfaces prior to final inspection.
3. Examine specifications for various other trades and their provisions regarding their painting. Surfaces that are left unfinished by other sections of specifications shall be painted or finished as a part of this section.
4. Copper, bronze, chromium plate, nickel, stainless steel, aluminum, lead, lead coated copper shall not be painted or finished except as otherwise specified or scheduled.
5. Do not paint any code required labels, such as Underwriters' Laboratories and Factory manual or any equipment identification, performance rating, name, or nomenclature plates.

#### **SUBMITTALS**

- A. Product Data: Submit manufacturer's technical information including paint label analysis and application instructions for each material proposed for use.
- B. Samples: Prior to beginning work, use specified colors for preparing samples for review. Submit samples for owner's review of color and texture. Provide a listing of material and application for each coat of each finish sample.
1. On 12"x 12" hardboard, provide two samples of each color and material, with texture to simulate actual conditions. Resubmit samples as requested by Architect /Owner until acceptable sheen, color, and texture are achieved. Approved samples to be kept at job site.
- C. The Contractor shall furnish the owner with a booklet of actual samples of the colors used on the project.

#### **JOB CONDITIONS**

- A. Apply water-base paints only when temperature of surfaces to be coated and surrounding Air temperatures are between 50 F (10 C) and 90 F (32 C), unless otherwise permitted by Manufacturer's instructions.
- B. Apply solvent-thinned paints only when temperature of surfaces to be painted and surrounding air temperature are between 45 F (7 C) and 95 F (35 C), unless otherwise permitted by paint manufacturer's printed instructions.
- C. Do not apply paint in snow, rain, fog or mist; or when relative humidity exceeds 85% or to damp or wet surfaces; unless otherwise permitted by paint manufacturer's printed instructions.
- D. Painting may be continued during inclement weather if areas and surfaces to be painted are enclosed and heated within temperature limits specified by material manufacturer during application and drying periods.
- E. Provide adequate ventilation of spaces while applying primer and finish coats.
- F. All application of coatings shall be done under adequate illumination.

#### **DELIVERY AND STORAGE**

- A. Deliver materials, including coatings, sealers, paints, enamels and paste fillers in original Containers with seals unbroken and labels intact.
- B. Store materials and equipment in a single lockable area of building. Job site tinting, mixing, and thinning required shall be done in this area. Provide adequate means to protect floors and adjacent surfaces of this area from damage. Store rags, paint, and solvents in closed metal containers located in the designated area. Use adequate means and precautions to prevent fire, explosions, and other damage caused by paint materials.
- C. Temperature of storage area shall be maintained between 50 F and 95 F

#### **SCAFFOLDS AND PROTECTION**

- A. Protect completed finish and painting work, and protect adjacent finish surfaces from paint splatter, spills and stains. Use adequate drop cloths and masking procedures during progress of work.

#### **QUALITY ASSURANCE**

- A. Painter and Applicator of acrylate copolymer shall provide name of previous comparable type and size installation
- B. Wood sealer: Shall meet Fed. Spec. TT-W-572B for water repellence.
- C. Materials shall be manufacture's best grade of respective paint types.
- D. Gloss levels for paints required are as per the National Paint and Coating Association.

#### **MATERIALS**

- A. Finish paint materials used on project shall be as specified in Finish Schedule or Schedule of Painting. Pratt and Lambert, Sherwin Williams, Benjamin Moore or Pittsburg products shall be used unless specified otherwise.
- B. Epoxy: Two component polyamide epoxy coating shall be Sherwin William' "Tile Clad II epoxy 3 B62-W-100, or approved equal.
- C. Block Filler: Pure acylic resin equal to Sherwin William's " Heavy Duty Block Filler" # B42-W-46

- D. Other materials such as linseed oil, turpentine and shellacs shall be pure and of highest quality Concrete Floor Sealer: Concrete floors shall receive transparent, curing and sealing Compound. Sealer shall be Sonneborne's "Lapidolith", or approved equal.
- E. Epoxy Coating: Interior concrete block to receive coating shall be filled using a modified epoxy masonry filler equal to Tnemec's No. 54-660 and receive epoxypolyomide coating equal to Tnemec's Series 66 HiBuild Epoxoline.
- F. Waterbased Epoxy: Catalyzed epoxy meeting requirements of ASTM D3730, equal to Sherwin Williams B-70 Series.

#### **MIXING AND TINTING**

- A. Thinning of paints shall be done only when specifically allowed by manufacturer and shall not exceed directions.

#### **EXECUTION**

- A. Application of paint or finish to surfaces constitutes acceptance of that surface. Inspect surfaces before application.
- B. Floors and adjacent surfaces, as well as surfaces to be painted, shall be clean before painting. Concrete floors to be exposed must be thoroughly vacuumed and tested for dryness.
- C. Tops, bottoms, and edges of doors shall be finished same as balance of doors after they are fitted.
- D. Surfaces shall be free of foreign matter before applying paint or finishes.
- E. Unless otherwise specified, shop priming of ferrous metal items is included under various sections for structural steel, miscellaneous metal, hollow metal work and similar items. Shop primer or undercoats shall be touched-up in the field prior to finish coats.

#### **PREPERATION OF SURFACES**

- A. Perform preparation and cleaning procedures in accordance with paint manufacturer's instructions and as herein specified, for each particular substrate condition. All loose and deteriorated paint of existing surfaces must be removed prior to any painting.
- B. Wash metal surfaces with mineral spirits to remove dirt, oil or grease before applying primer. Remove rust or scale by wire brushing or sanding clean before painting. Marred shop coats of paint shall be cleaned and touched up with primer, prior to finish coats.
- C. Galvanized metal surfaces shall be given a crystalline zinc phosphate pre- treatment. Two products for this purpose are Lithoform made by American Chemical Paint Co., Ambler, Pa., and Galvaprep #5, made by Neilson Chemical Co., Detroit, Michigan.
- D. Concrete floor surfaces to remain exposed shall be cleaned and properly acid etched per floor sealers manufacturer's instructions. Fill and patch holes, crevices, cracks, etc.. Remove any paint, soil, loose material and dust. Remove oil or grease with hot TSP solution and rinse thoroughly. Floor to be completely dry prior to etching with muriatic acid and water solution.
- E. Masonry surfaces shall be cleaned of any soil, efflorescence, excess mortar, etc. If wet cleaning is used, allow adequate time for drying to allow for uniform penetration. All cracks shall be pointed or caulked. All voids in masonry joints shall be filled. Neutralize acid washed surfaces. Moisture content of surface shall not exceed 15% in order to apply sealer. Allow new surfaces to age four weeks prior to application of protective coating.

- F. Remove hardware, hardware accessories, machined surfaces, plates, lighting fixtures, and similar items in place and not to be finished painted, or provide surface applied protection prior to surface preparation and painting operations. Remove, if necessary, for complete painting of items and adjacent surfaces. Following completion of painting of each space or area, reinstall removed items.
- G. Scratches, cracks, and abrasions on surfaces to be painted shall be filled with a spackling compound flush with adjoining surface. When dry, sand smooth and seal before application of priming coat.
- H. Enamel applied to wood or metal shall be sanded with fine sandpaper and then cleaned between coats to produce an even, smooth finish.
- I. Metal door frames shall be made smooth by filling and sanding before finishing. Touch-up factory prime coat before applying first coat.

#### **APPLICATION**

- A. Apply primers, paints, sealers and coatings in strict accordance with manufactures directions.
- B. Primers shall be applied in as many coats as necessary to completely cover the substrate to uniform appearance.
- C. Sand primer over wood and gypsum board with 120 grit sandpaper prior to application of paint or coating.
- D. Final coat of paint should have visual evidence of solid hiding and uniform appearance.
- E. Paint shall be evenly spread and smoothly flowed on without runs, sags, curtains, or other evidence of poor application.
- F. Previous coats shall be thoroughly dry before applying succeeding coats.
- G. Edges of paint adjoining other materials or colors shall be sharp and clean with no overlapping.
- H. Each coat of paint shall be applied uniformly to dry film thickness specified Schedule below.
- I. For painting of partial rooms, paint color shall match adjacent surfaces. Patched or repaired areas shall not be visible through paint coating.
- J. Painting of repaired, altered or renovated area shall be floor to ceiling and minimally 2' either side of patched area, unless defined break-off is identifiable within 5', and then painting shall be to that vertical line.

#### **CLEANING, PROTECTION & MAINTENANCE**

- A. Upon completion of work, remove paint spots from floor, glass, and other finished surfaces. Remove from premises rubbish and accumulated materials. Leave work in clean, orderly and acceptable condition.
- B. Spot painting will be allowed to correct soiled or damaged paint surfaces only when touch-up spot will blend into surrounding finish and is invisible to normal viewing. Otherwise, re-coat entire section to corners or visible stopping point.
- C. Copolymer distributor shall instruct Owners personnel in touch-up of coating.

#### **SCHEDULE OF PAINTING (COLORS TO BE SELECTED BY OWNER)**

- A. Exterior Metals: (First coat not required on shop primed items)  
     1<sup>st</sup> coat- Alkyd red primer (3.0 mils DFT)

- 2nd coat- Alkyd Exterior Enamel (3.0 mils DFT)  
3rd coat- Same as above.
- B. Exterior galvanized Metals:  
1st coat- Acrylic Galvanized Iron Primer (2.0 mils DFT)  
2nd coat- Alkyd Exterior Semi-Gloss Paint (2.0 mils DFT)  
3rd coat- Same as above
- C. Interior Metals: Touch up shop primer.  
1. Gutter, Scuppers, counter flashing:  
1st coat- Alkyd Metal Primer (3.0 mils. DFT)  
2nd coat- Alkyd Semi Gloss Enamel (3.0 mils. DFT)  
3rd coat- Alkyd Semi-Gloss Enamel (3.0 mils. DFT)  
1. Hollow Metal Door & Frame:
- D. Interior Masonry & concrete:  
1st coat- Acrylic Block Filler (10.0 mils DFT)  
2nd coat- Polyamide Epoxy (4.0 mils. DFT)  
3rd coat- same as above  
1. CMU Walls:  
2. Interior painted concrete and block:
- E. Interior Concrete Floors:  
1st coat- sealer (200-300 S.F./gal.) diluted 4:1 water: Lapidolith  
2nd coat- Sealer (200-300 S. F./gal.) diluted 3:1  
1. Exposed concrete Finished Floors:  
2. 3rd coat- Sealer (200-300 S.F./gal.) diluted 2:1
- F. Gypsum Board:  
1st coat- Vinyl Latex Wall Primer (1.4 mils DFT)  
2nd coat- Latex Eggshell Enamel (1.5 mils DFT)  
3rd coat- Latex eggshell Enamel (1.5 mils DFT)  
1. Painted Gypsum Board & Plaster
- G. Mechanical and Electrical Items:  
1. All conduit, wiremold, electrical panels, piping, piping supports, exhaust fans, roof vents, clean-outs, access panels, pipe insulation, grilles, registers, and all other similar mechanical or electrical materials exposed to view in all occupied and/or finished areas shall be painted to match adjacent surfaces.  
2. Surfaces inside mechanical openings to view painted black.  
3. Factory finished shall have abrasions touched with matching finish coat.  
4. Nameplates on equipment not painted, suitably protected during painting operations.  
5. Finish in accordance with specification schedule for galvanized iron and metals.  
Provide high temperature enamel as required for specific equipment.

**RESPONSIBILITY:**

Contractor will be responsible for the protection of any overspray or paint products that may cause damage to trees, shrubs, grass, flowerbeds, sidewalks, driveways, parking lots, automobiles, electrical equipment, or parts of the building that require no painting. Contractor shall be responsible for the clean-

up and disposal of all debris generated by the job, including any needed window cleaning.

SECTION 32 16 13  
**CONCRETE CURB AND GUTTER**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

- A. This item shall consist of Reinforced CONCRETE CURB AND GUTTER constructed on approved subgrade in conformity with the lines and grades established by the City Engineer. CONCRETE CURB AND GUTTER shall also be in accordance with the standard section, specifications and ordinances for sidewalks adopted by the city in which CONCRETE CURB AND GUTTER is to be placed.

**1.2 MEASUREMENT AND PAYMENT**

- A. Concrete curb and gutter shall be measured by the linear foot of length when complete and in place.
- B. The work performed and the materials furnished and measured shall be paid for at the contract unit price bid for concrete curb and gutter. This shall include full compensation of all materials, labor, tools, equipment and incidentals necessary to complete the work. Payment will not be made for unauthorized work.

**1.3 SUBMITTALS**

See SECTION 03 30 00 - CONCRETE.

**PART 2 – PRODUCTS**

**2.1 MATERIALS**

This item shall consist of a mixture of reinforcing steel, coarse aggregate, fine aggregate, cement and water. The mixture shall conform to SECTION 03 30 00 - CONCRETE.

**2.2 TESTING REQUIREMENTS**

See SECTION 03 30 00 - CONCRETE.

**PART 3 – EXECUTION**

**3.1 CONSTRUCTION METHODS**

- A. CONVENTIONALLY FORMED CONCRETE: Shape and compact subgrade, foundation, or pavement surface to the line, grade and cross section shown on the plans. Lightly sprinkle subgrade or foundation material immediately before concrete placement. Pour concrete into forms, and strike off with a template ¼ to 3/8 inches less than the dimensions of the finished curb unless otherwise approved. After initial set, plaster surface with mortar consisting of 1 part hydraulic cement and 2 parts fine aggregate. Brush exposed surfaces to a uniform texture.

- B. EXTRUDED OR SLIP FORMED CONCRETE: Hand tamp and sprinkle subgrade or foundation material before concrete placement. Provide clean surfaces for concrete placement. If required, coat cleaned surfaces with approved adhesive or coating at the rate of application shown on the plans or as directed. Place concrete with approved self-propelled equipment. The forming tube of the extrusion machine or the form of the slip form machine must be easily adjustable vertically during the forward motion of the machine to provide variable heights necessary to conform to the established grade line. Attach a pointer or gauge to the machine so that a continual comparison can be made between the extruded or slip form work and the grade guideline. Other methods may be used when approved. Finish surfaces immediately after extrusion or slip forming.
- C. JOINTS: Unless otherwise shown on the plans, the walk shall be cut transversely with a jointing tool every ten (10) feet after the concrete has been thoroughly worked and has sufficiently set. Expansion joints shall be located every forty (40) feet.
- D. CURING: After the finished concrete has sufficiently set, it shall be covered with burlap and kept wet for a period of four (4) days. As an alternate the concrete may be cured by the application of a clear membrane seal coat that will retain 85% of the original mixing water at the end of three (3) days.
- E. CLEANUP: After the construction work has been completed, the Contractor shall remove all debris, trash, excess materials, forms, stakes, empty sacks, etc. occasioned by his work from the premises. The site shall be left with a neat appearance. All excavation shall be backfilled and all excess excavated materials shall be disposed of.

**END OF SECTION**

SECTION 32 16 13.01  
**CONCRETE SIDEWALK**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

This item shall consist of Reinforced Concrete Sidewalk constructed on approved subgrade in conformity with the lines and grades established by the City Engineer. Sidewalks shall also be in accordance with the standard section, specifications and ordinances for sidewalks adopted by the city in which sidewalk is to be placed.

**1.2 MEASUREMENT AND PAYMENT**

- A. Concrete sidewalk shall be measured by the square foot of surface area when complete and in place.
- B. The work performed and the materials furnished and measured shall be paid for at the contract unit price bid for concrete sidewalk. This shall include full compensation of all materials, labor, tools, equipment and incidentals necessary to complete the work. Payment will not be made for unauthorized work.

**1.3 SUBMITTALS**

See SECTION 03 30 00 - CONCRETE.

**PART 2 – PRODUCTS**

**2.1 MATERIALS**

This item shall consist of a mixture of reinforcing steel, coarse aggregate, fine aggregate, cement and water. The mixture shall conform to SECTION 03 30 00 - CONCRETE.

**2.2 TESTING REQUIREMENTS**

See SECTION 03 30 00 - CONCRETE.

**PART 3 – EXECUTION**

**3.1 GENERAL**

- A. The subgrade shall be excavated and fine graded to a true grade. Any backfill shall be watered and tamped well ahead of the placing of the concrete. If dry, the subgrade shall be sprinkled immediately before depositing any concrete. Forms shall be metal or wood, free of warp and of a depth equal to the depth of the concrete. They shall be secured and accurately staked to line and grade and held in a true position during the placing of the concrete. Expansion joints of an approved material shall be used between the sidewalk and all abutting concrete. Placement of concrete may begin after the subgrade is thoroughly compacted and the forms, expansion joints (where necessary) and reinforcing steel are in place. The concrete shall be thoroughly worked with a flat spade or similar tool along the forms as the pouring continues to insure the absence of honeycombs. No concrete over thirty (30)

minutes old or retempered concrete shall be used. After the placing of the concrete has sufficiently advanced, the concrete shall be struck off flush with the forms. Then the concrete shall be worked with a wooden float to flush excess mortar to the surface. All exposed corners are to be edged or rounded to the radius shown on the Plans.

- B. Unless otherwise shown on the plans, the walk shall be cut transversely with a jointing tool at a width equal to the sidewalk width after the concrete has been thoroughly worked and has sufficiently set. Expansion joints shall be located every forty (40) feet.
- C. After the finished concrete has sufficiently set, it shall be covered with burlap and kept wet for a period of four (4) days. As an alternate the concrete may be cured by the application of a clear membrane seal coat that will retain 85% of the original mixing water at the end of three (3) days.
- D. After the construction work has been completed, the Contractor shall remove all debris, trash, excess materials, forms, stakes, empty sacks, etc. occasioned by his work from the premises. The site shall be left with a neat appearance. All excavation shall be backfilled and all excess excavated materials shall be disposed of.

**END OF SECTION**

SECTION 32 17 23.23

**REFLECTORIZED PAVEMENT MARKERS (RPMs)**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

This item shall govern for the furnishing and installing of raised reflectORIZED pavement markers (RPMs) at locations designated on the plans or as directed by the Engineer.

**1.2 MEASUREMENT AND PAYMENT**

- A. Pavement markers will be measured as each pavement marker complete and in place.
- B. The price shall be full compensation for furnishing all materials, all preparation and installation, all labor, equipment, tools and incidentals necessary to complete the work.

**PART 2 – PRODUCTS**

**2.1 MATERIALS**

- A. The RPMs shall conform to Item No. 672, Texas Department of Transportation’s Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, June 2004; provided, however, that all buttons used on any one project shall be of the same material and same manufacture.
- B. The base of the marker shall be flat (the deviation from a flat surface shall not exceed 1/16 inch), and designed to be bonded to either asphaltic or portland cement concrete pavement, with an approved adhesive meeting the requirements stated in Test Method TEX-611-J.

**2.2 OPTICAL REQUIREMENTS**

The specific intensity of each reflective surface shall not be less than the following values when tested at a 0.2 angle of divergence and when the incident light is parallel to the base of the marker.

Horz. Ent. Angle	Crystal	Amber	Red
4 degrees	3.00	2.00	0.75
20 degrees	1.50	1.00	0.30

- A. ANGLE OF INCIDENCE: The angle of incidence is the angle formed by a ray from the light source to the marker, and normal to the leading edge of the marker face.
- B. ANGLE OF DIVERGENCE: The angle of divergence is the angle formed by a ray from the light source to the marker, and the returned ray from the marker to the measuring receptor.

- C. SPECIFIC INTENSITY: The specific intensity is the mean candle power of the reflected light at a given incidence and divergence angle for each foot candle at the reflector on a plane perpendicular to the incident light. (Test Method TEX-842-B)

### **2.3 STRENGTH REQUIREMENTS**

The markers shall comply with the adhesion requirements of Test Method TEX-611-J. The marker shall withstand a falling-ball impact of 5 (five) feet without breaking, cracking or being significantly deformed when tested according to Test Method TEX-430-A. The marker shall show no change in shape or color when subjected to the requirements of Test Method TEX-846-B. The temperature shall be 140° F with the marker in a vertical position.

### **2.4 MARKER TYPES**

The color and number of reflective surfaces of the buttons or markers shall be as designated in the Plans and Specifications.

### **2.5 SAMPLING**

Should any of the specimens selected for strength testing, as specified in the section, "Strength Requirements", fail to comply with the strength requirements of this specification; five (5) additional specimens will be tested. The failure of any one of these five (5) specimens shall be cause for the rejection of the entire lot or shipment represented by the sample.

## **PART 3 – EXECUTION**

### **3.1 GENERAL**

The RPMs shall be placed in accordance with the plans or as directed by the Engineer. The pavement surface shall be prepared by buffing, grinding, or other methods approved by the Engineer. After preparation, the surface must be free of dirt, grease, oil, moisture, loose unsound pavement, and any other material, which would adversely affect the bond of the adhesive. The wet epoxy or bituminous material shall be applied so that 100% of the bonding area of the button will be in contact and shall be of sufficient thickness so that the excess adhesive shall be forced out around the perimeter of the button. When the project is complete, the button shall be firmly bonded to the pavement. Lines formed by the buttons shall be true, and the entire installation shall present a neat appearance.

**END OF SECTION**

SECTION 34 41 13

**SIGNAGE**

**PART 1 - GENERAL**

**1.1 DESCRIPTION**

- A. Provide all products, equipment, transportation, protection and labor required to construct and install warning, regulatory, directional, entrance and information signage, including sign posts and associated hardware, as shown on the plans, or as directed by the City.

**1.2 MEASUREMENT AND PAYMENT**

- A. Signage will be paid for per each unit sign. All sign components (substrate, sheeting, post, support, mounting hardware, etc.) will not be measured or paid for directly but will be subsidiary to each unit sign. This compensation shall include all labor, materials, equipment and incidentals necessary to complete the work. The signage to be installed includes warning, regulatory, directional, entrance and information types.

**1.3 SUBMITTALS**

- A. Shop Drawings: Show shop drawings, not necessarily to scale, but sufficient enough in detail to show color, wording, lettering size and style, overall sign size, construction details and installation details for each type of sign.

**PART 2 - PRODUCTS**

**2.1 SIGN SUBSTRATE**

- A. Sign substrate (except street name signs) shall meet requirements for ASTM B 209 and have the following thicknesses: 0.080" for signs less than 7.5 sq. feet, 0.100" for signs 7.5 to 15 sq. feet, and 0.125" for signs greater than 15 sq. feet.
- B. For street name signs in the areas governed by the City of College Station, contact the city's Planning and Development Services Department for the requirements and standards.
- C. In the City of Bryan, all street name signs shall be green unless otherwise specified or located within the bounds of Sims Street to the east, Texas Avenue to the west, Martin Luther King Boulevard to the north, and E. 29<sup>th</sup> Street to the south, where street name signs shall be brown and include the Downtown Bryan logo as provided by the City of Bryan Traffic Department.

**2.2 SIGN SHEETING**

- A. All sign sheeting materials shall meet the requirements of ASTM D 4956 Type, as follows:
  - 1. Red background – ASTM Type VII, VIII, IX, or X (or TxDOT Type D), with ASTM Type III or IV (TxDOT Type C) legend/border
  - 2. White background – ASTM Type III or IV (TxDOT Type C), with black acrylic legend/border

3. Fluorescent Yellow-Green background – ASTM Type VII, VIII, IX, or X (TxDOT Type E), with black acrylic legend/border (school-related warning signs)
4. Green, Brown, Blue backgrounds – ASTM Type III or IV (TxDOT Type C), with white ASTM Type VII, VIII, IX, or X (TxDOT Type D) legend/border

### **2.3 SIGN POST**

- A. All sign posts shall be 13 BWG galvanized steel tubing (as per ASTM 123 or ASTM A653 G210), and have 2.375” outside diameter and 0.095” nominal wall thickness. In the City of Bryan, posts shall be black powder-coated when specified and in the City of College Station, posts shall always be bronze powder-coated. Painted or spliced posts are not acceptable. Posts shall be seamless steel tubing, with 50,000 PSI minimum yield strength, and 70,000 PSI minimum tensile strength. Length shall be determined as per Texas MUTCD sign height requirements. All sign posts shall be delineated with a 12-inch retroreflective strip (yellow or red) as per Section 2A.21 of the Texas MUTCD.

### **2.4 SIGN SUPPORT**

- A. For the City of Bryan, sign supports shall meet crashworthy requirements of NCHRP 350, and unless otherwise specified, shall be the steel “Wedge Anchor System”, except for when sign is in the TxDOT right-of-way. Signs located within TxDOT right-of-way shall be the “Triangular Slipbase System” as shown on TxDOT standard detail SMD(Slip-1)-08.
- B. City of College Station shall require, as shown on the TxDOT standard details, the “Triangular Slipbase System” on collectors and above and the “Wedge Anchor Systems” on local streets.

### **2.5 MISCELLANEOUS**

- A. Use galvanized steel, stainless steel, or dichromate-sealed aluminum for bolts, nuts, washers, lock washers, screws, and other sign assembly hardware. Use plastic or nylon washers to avoid tearing the sheeting material.

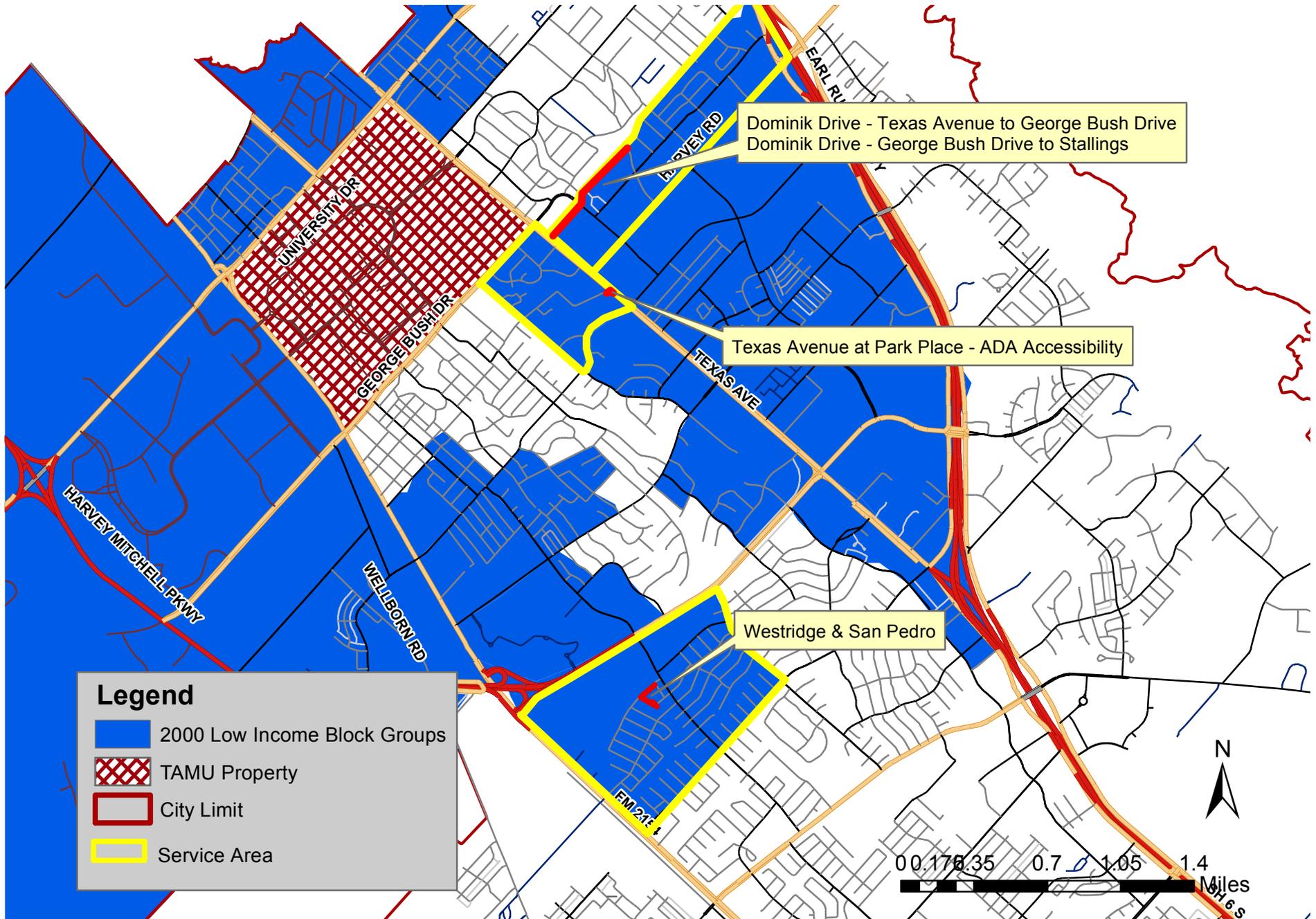
## **PART 3 - EXECUTION**

### **3.1 INSTALLATION**

- A. Erect signs in their designated locations, as indicated and in accordance with the approved shop drawings and the applicable requirements of DOT Section 645.
- B. Examine proposed sign location, mark with stake and seek City representative’s approval before installation.
- C. Protect surfaces and finishes from abrasion and other damage during handling and installation.
- D. Replace damaged or faulty signs.

**END OF SECTION**

# 2014 CDBG Sidewalk Improvement Project





City of College Station - Purchasing Division  
 Bid Tabulation for #14-048  
 "2014 CDBG Neighborhood Sidewalk Project"  
 Open Date: Thursday, April 4, 2014 @ 2:00 p.m.

Item No.	Description	Unit	Quantity	Dudley Construction, LTD		Palomares Construction, Inc		VOX Construction, LLC		Marek Brothers Construction, Inc.		RNL Homebuilders, LLC	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Texas to George Bush													
1	Mobilization	EA	1	\$3,052.36	\$3,052.36	\$6,000.00	\$6,000.00	\$4,993.00	\$4,993.00	\$5,500.00	\$5,500.00	\$3,620.80	\$3,620.80
2	Traffic Control	EA	1	\$1,220.95	\$1,220.95	\$1,500.00	\$1,500.00	\$500.00	\$500.00	\$250.00	\$250.00	\$1,262.32	\$1,262.32
3	Stormwater Pollution Prevention Plan	EA	1	\$610.47	\$610.47	\$700.00	\$700.00	\$200.00	\$200.00	\$0.00	\$0.00	\$427.80	\$427.80
5	Remove Existing Concrete (all flatwork)	SF	911	\$1.16	\$1,056.76	\$3.00	\$2,733.00	\$5.35	\$4,873.85	\$2.75	\$2,505.25	\$3.19	\$2,906.09
7	Concrete Sidewalk	SF	3983	\$5.29	\$21,070.07	\$4.85	\$19,317.55	\$2.70	\$10,754.10	\$4.95	\$19,715.85	\$4.30	\$17,126.90
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	911	\$9.14	\$8,326.54	\$5.95	\$5,420.45	\$2.84	\$2,587.24	\$5.30	\$4,828.30	\$5.59	\$5,092.49
9	Ambulatory Ramp (all types)	EA	8	\$396.81	\$3,174.48	\$500.00	\$4,000.00	\$347.75	\$2,782.00	\$495.00	\$3,960.00	\$609.08	\$4,872.64
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	60	\$97.68	\$5,860.80	\$40.00	\$2,400.00	\$26.32	\$1,579.20	\$57.20	\$3,432.00	\$31.00	\$1,860.00
11	Dowel to existing sidewalk or driveway	EA	8	\$61.05	\$488.40	\$80.00	\$640.00	\$111.28	\$890.24	\$38.50	\$308.00	\$11.97	\$95.76
12	Saw cut existing concrete	LF	8	\$6.10	\$48.80	\$10.00	\$80.00	\$3.75	\$30.00	\$2.75	\$22.00	\$9.73	\$77.84
13	Sidewalk drain	EA	1	\$6,104.73	\$6,104.73	\$500.00	\$500.00	\$1,265.00	\$1,265.00	\$385.00	\$385.00	\$3,238.86	\$3,238.86
22	Relocate fire hydrant	EA	1	\$2,600.40	\$2,600.40	\$2,000.00	\$2,000.00	\$3,210.00	\$3,210.00	\$6,050.00	\$6,050.00	\$4,712.00	\$4,712.00
23	Adjust manhole lid	EA	1	\$427.33	\$427.33	\$200.00	\$200.00	\$56.18	\$56.18	\$275.00	\$275.00	\$145.08	\$145.08
24	Adjust water valve box	EA	2	\$91.57	\$183.14	\$50.00	\$100.00	\$56.18	\$112.36	\$165.00	\$330.00	\$145.08	\$290.16
25	Adjust sewer clean-out	EA	1	\$152.62	\$152.62	\$50.00	\$50.00	\$56.18	\$56.18	\$165.00	\$165.00	\$145.08	\$145.08
29	Relocate signs/obstructions	EA	4	\$122.09	\$488.36	\$50.00	\$200.00	\$133.75	\$535.00	\$165.00	\$660.00	\$106.64	\$426.56
31	Bermuda Grass Sod	SY	400	\$3.99	\$1,596.00	\$14.50	\$5,800.00	\$3.14	\$1,256.00	\$3.35	\$1,340.00	\$3.14	\$1,256.00
<b>SECTION TOTAL</b>				<b>\$56,462.21</b>		<b>\$51,641.00</b>		<b>\$35,680.35</b>		<b>\$49,726.40</b>		<b>\$47,556.38</b>	
George Bush to Stallings													
1	Mobilization	EA	1	\$3,052.36	\$3,052.36	\$11,000.00	\$11,000.00	\$8,497.00	\$8,497.00	\$5,500.00	\$5,500.00	\$7,418.92	\$7,418.92
2	Traffic Control	EA	1	\$1,220.95	\$1,220.95	\$1,500.00	\$1,500.00	\$750.00	\$750.00	\$250.00	\$250.00	\$2,587.88	\$2,587.88
3	Stormwater Pollution Prevention Plan	EA	1	\$610.47	\$610.47	\$700.00	\$700.00	\$1,200.00	\$1,200.00	\$0.00	\$0.00	\$1,156.92	\$1,156.92
4	Remove Existing Concrete (curb & gutter)	LF	106	\$4.27	\$452.62	\$6.00	\$636.00	\$7.95	\$842.70	\$5.50	\$583.00	\$4.98	\$527.88
5	Remove Existing Concrete (all flatwork)	SF	4239	\$1.22	\$5,171.58	\$3.00	\$12,717.00	\$5.35	\$22,678.65	\$2.75	\$11,657.25	\$3.19	\$13,522.41
6	ST 1-01 Concrete Curb and Gutter	LF	100	\$14.65	\$1,465.00	\$12.00	\$1,200.00	\$5.35	\$535.00	\$13.75	\$1,375.00	\$16.37	\$1,637.00
7	Concrete Sidewalk	SF	7165	\$5.29	\$37,902.85	\$4.85	\$34,750.25	\$2.70	\$19,345.50	\$4.95	\$35,466.75	\$4.30	\$30,809.50
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	2102	\$9.14	\$19,212.28	\$6.00	\$12,612.00	\$2.84	\$5,969.68	\$5.28	\$11,098.56	\$5.59	\$11,750.18
9	Ambulatory Ramp (all types)	EA	12	\$396.81	\$4,761.72	\$500.00	\$6,000.00	\$347.75	\$4,173.00	\$495.00	\$5,940.00	\$609.08	\$7,308.96
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	105	\$97.68	\$10,256.40	\$40.00	\$4,200.00	\$26.32	\$2,763.60	\$57.20	\$6,006.00	\$31.00	\$3,255.00
11	Dowel to existing sidewalk or driveway	EA	5	\$61.05	\$305.25	\$80.00	\$400.00	\$111.28	\$556.40	\$38.50	\$192.50	\$11.97	\$59.85
12	Saw cut existing concrete	LF	1	\$6.10	\$6.10	\$10.00	\$10.00	\$3.75	\$3.75	\$2.75	\$2.75	\$9.73	\$9.73
16	SW 1-01 Pedestrian Guardrail	LF	36	\$134.30	\$4,834.80	\$90.00	\$3,240.00	\$7.12	\$256.32	\$112.20	\$4,039.20	\$155.00	\$5,580.00
18	Remove & replace headwall for 66" RCP w/dissapator blocks)	LS	1	\$12,209.45	\$12,209.45	\$16,420.00	\$16,420.00	\$3,424.00	\$3,424.00	\$5,280.00	\$5,280.00	\$3,176.88	\$3,176.88
19	Concrete channel lining	SF	115	\$8.55	\$983.25	\$10.00	\$1,150.00	\$8.03	\$923.45	\$5.50	\$632.50	\$19.91	\$2,289.65
20	Rock rip-rap	SF	410	\$6.10	\$2,501.00	\$18.00	\$7,380.00	\$20.87	\$8,556.70	\$2.20	\$902.00	\$9.39	\$3,849.90
24	Adjust water valve box	EA	1	\$183.14	\$183.14	\$50.00	\$50.00	\$56.18	\$56.18	\$165.00	\$165.00	\$145.08	\$145.08
29	Relocate signs/obstructions	EA	2	\$122.09	\$244.18	\$50.00	\$100.00	\$133.75	\$267.50	\$165.00	\$330.00	\$106.64	\$213.28
31	Bermuda Grass Sod	SY	635	\$3.99	\$2,533.65	\$14.50	\$9,207.50	\$3.14	\$1,993.90	\$3.35	\$2,127.25	\$3.14	\$1,993.90
<b>SECTION TOTAL</b>				<b>\$107,907.05</b>		<b>\$123,272.75</b>		<b>\$82,793.33</b>		<b>\$91,547.76</b>		<b>\$97,292.92</b>	



City of College Station - Purchasing Division  
 Bid Tabulation for #14-048  
 "2014 CDBG Neighborhood Sidewalk Project"  
 Open Date: Thursday, April 4, 2014 @ 2:00 p.m.

				Dudley Construction, LTD		Palomares Construction, Inc		VOX Construction, LLC		Marek Brothers Construction, Inc.		RNL Homebuilders, LLC	
Stallings to Munson													
1	Mobilization	EA	1	\$2,992.51	\$2,992.51	\$6,000.00	\$6,000.00	\$9,372.00	\$9,372.00	\$5,500.00	\$5,500.00	\$4,922.80	\$4,922.80
2	Traffic Control	EA	1	\$1,220.95	\$1,220.95	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$250.00	\$250.00	\$1,717.40	\$1,717.40
3	Stormwater Pollution Prevention Plan	EA	1	\$610.47	\$610.47	\$700.00	\$700.00	\$1,200.00	\$1,200.00	\$0.00	\$0.00	\$698.12	\$698.12
4	Remove Existing Concrete (curb & gutter)	LF	25	\$4.27	\$106.75	\$18.00	\$450.00	\$7.95	\$198.75	\$5.50	\$137.50	\$4.98	\$124.50
5	Remove Existing Concrete (all flatwork)	SF	876	\$1.22	\$1,068.72	\$3.00	\$2,628.00	\$5.35	\$4,686.60	\$2.75	\$2,409.00	\$3.19	\$2,794.44
6	ST 1-01 Concrete Curb and Gutter	LF	25	\$14.65	\$366.25	\$15.00	\$375.00	\$5.35	\$133.75	\$13.75	\$343.75	\$16.37	\$409.25
7	Concrete Sidewalk	SF	6487	\$5.29	\$34,316.23	\$4.85	\$31,461.95	\$2.70	\$17,514.90	\$4.95	\$32,110.65	\$4.30	\$27,894.10
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	737	\$9.14	\$6,736.18	\$6.00	\$4,422.00	\$2.84	\$2,093.08	\$5.28	\$3,891.36	\$5.59	\$4,119.83
9	Ambulatory Ramp (all types)	EA	10	\$396.81	\$3,968.10	\$500.00	\$5,000.00	\$347.75	\$3,477.50	\$495.00	\$4,950.00	\$609.08	\$6,090.80
11	Dowel to existing sidewalk or driveway	EA	6	\$61.05	\$366.30	\$80.00	\$480.00	\$111.28	\$667.68	\$38.50	\$231.00	\$11.97	\$71.82
12	Saw cut existing concrete	LF	10	\$6.10	\$61.00	\$10.00	\$100.00	\$3.75	\$37.50	\$2.75	\$27.50	\$9.73	\$97.33
13	Sidewalk drain	EA	1	\$6,104.73	\$6,104.73	\$500.00	\$500.00	\$1,265.81	\$1,265.81	\$550.00	\$550.00	\$0.00	\$0.00
14	TxDOT Type F2 Curb (H=24") w/masonry fascia	LF	60	\$97.68	\$5,860.80	\$80.00	\$4,800.00	\$131.61	\$7,896.60	\$82.50	\$4,950.00	\$50.82	\$3,049.20
15	TxDOT Type F3 Curb (H=60") w/masonry fascia	LF	12	\$183.14	\$2,197.68	\$90.00	\$1,080.00	\$131.61	\$1,579.32	\$137.50	\$1,650.00	\$285.20	\$3,422.40
16	SW 1-01 Pedestrian Guardrail	LF	72	\$134.30	\$9,669.60	\$90.00	\$6,480.00	\$7.12	\$512.64	\$112.20	\$8,078.40	\$155.00	\$11,160.00
23	Adjust manhole lid	EA	1	\$427.33	\$427.33	\$200.00	\$200.00	\$56.18	\$56.18	\$385.00	\$385.00	\$145.08	\$145.08
24	Adjust water valve box	EA	2	\$183.14	\$366.28	\$50.00	\$100.00	\$56.18	\$112.36	\$165.00	\$330.00	\$145.08	\$290.16
26	Adjust water meter box	EA	1	\$122.09	\$122.09	\$50.00	\$50.00	\$56.18	\$56.18	\$165.00	\$165.00	\$372.00	\$372.00
27	Match & reconnect wooden walkways	EA	4	\$544.79	\$2,179.16	\$150.00	\$600.00	\$185.11	\$740.44	\$165.00	\$660.00	\$178.56	\$714.24
28	Remove stumps and/or trees	EA	1	\$915.71	\$915.71	\$200.00	\$200.00	\$160.50	\$160.50	\$165.00	\$165.00	\$612.56	\$612.56
29	Relocate signs/obstructions	EA	5	\$122.09	\$610.45	\$50.00	\$250.00	\$133.75	\$668.75	\$165.00	\$825.00	\$106.64	\$533.20
30	1" PVC Electrical Conduit (30" deep, structural backfill)	LF	50	\$12.21	\$610.50	\$5.00	\$250.00	\$95.23	\$4,761.50	\$7.70	\$385.00	\$10.84	\$542.00
31	Bermuda Grass Sod	SY	430	\$3.86	\$1,659.80	\$14.50	\$6,235.00	\$3.14	\$1,350.20	\$3.35	\$1,440.50	\$3.14	\$1,350.20
<b>SECTION TOTAL</b>				<b>\$82,537.59</b>		<b>\$73,861.95</b>		<b>\$59,542.24</b>		<b>\$69,434.66</b>		<b>\$71,131.43</b>	
Park Place at Texas Avenue													
1	Mobilization	EA	1	\$3,052.36	\$3,052.36	\$400.00	\$400.00	\$915.00	\$915.00	\$5,500.00	\$5,500.00	\$291.40	\$291.40
2	Traffic Control	EA	1	\$1,220.95	\$1,220.95	\$500.00	\$500.00	\$500.00	\$500.00	\$250.00	\$250.00	\$101.68	\$101.68
3	Stormwater Pollution Prevention Plan	EA	1	\$621.78	\$621.78	\$300.00	\$300.00	\$100.00	\$100.00	\$0.00	\$0.00	\$69.44	\$69.44
7	Concrete Sidewalk	SF	117	\$5.46	\$638.82	\$17.10	\$2,000.70	\$2.70	\$315.90	\$4.95	\$579.15	\$4.30	\$503.10
10	TxDOT Type C1 Curb (H=0 to 24") w/masonry fascia	LF	40	\$97.68	\$3,907.20	\$45.00	\$1,800.00	\$26.32	\$1,052.80	\$57.20	\$2,288.00	\$31.00	\$1,240.00
11	Dowel to existing sidewalk or driveway	EA	2	\$61.05	\$122.10	\$75.00	\$150.00	\$111.28	\$222.56	\$38.50	\$77.00	\$11.97	\$23.94
12	Saw cut existing concrete	LF	8	\$6.10	\$48.80	\$10.00	\$80.00	\$3.75	\$30.00	\$2.75	\$22.00	\$9.73	\$77.84
21	Repair & repaint existing handrail	LF	1	\$85.71	\$85.71	\$800.00	\$800.00	\$7.79	\$7.79	\$1,128.00	\$1,128.00	\$1,240.00	\$1,240.00
24	Adjust water valve box	EA	1	\$183.14	\$183.14	\$75.00	\$75.00	\$56.18	\$56.18	\$165.00	\$165.00	\$145.08	\$145.08
29	Relocate signs/obstructions	EA	1	\$122.09	\$122.09	\$75.00	\$75.00	\$133.75	\$133.75	\$165.00	\$165.00	\$106.64	\$106.64
31	Bermuda Grass Sod	SY	10	\$4.00	\$40.00	\$10.00	\$100.00	\$3.14	\$31.40	\$3.35	\$33.50	\$3.14	\$31.40
<b>SECTION TOTAL</b>				<b>\$10,042.95</b>		<b>\$6,280.70</b>		<b>\$3,365.38</b>		<b>\$10,207.65</b>		<b>\$3,830.52</b>	



City of College Station - Purchasing Division  
 Bid Tabulation for #14-048  
 "2014 CDBG Neighborhood Sidewalk Project"  
 Open Date: Thursday, April 4, 2014 @ 2:00 p.m.

				Dudley Construction, LTD		Palomares Construction, Inc		VOX Construction, LLC		Marek Brothers Construction, Inc.		RNL Homebuilders, LLC	
Westridge & San Pedro													
1	Mobilization	EA	1	\$3,052.36	\$3,052.36	\$12,000.00	\$12,000.00	\$23,083.00	\$23,083.00	\$5,500.00	\$5,500.00	\$11,406.08	\$11,406.08
2	Traffic Control	EA	1	\$122.09	\$122.09	\$2,500.00	\$2,500.00	\$750.00	\$750.00	\$250.00	\$250.00	\$3,629.48	\$3,629.48
3	Stormwater Pollution Prevention Plan	EA	1	\$610.47	\$610.47	\$700.00	\$700.00	\$500.00	\$500.00	\$0.00	\$0.00	\$954.80	\$954.80
5	Remove Existing Concrete (all flatwork)	SF	11417	\$1.22	\$13,928.74	\$2.75	\$31,396.75	\$5.35	\$61,080.95	\$2.75	\$31,396.75	\$3.19	\$36,420.23
7	Concrete Sidewalk	SF	8891	\$5.40	\$48,011.40	\$4.85	\$43,121.35	\$2.70	\$24,005.70	\$4.95	\$44,010.45	\$4.30	\$38,231.30
8	Concrete Pavement (5" driveway w/monolithic curb)	SF	5752	\$9.14	\$52,573.28	\$6.00	\$34,512.00	\$2.84	\$16,335.68	\$5.28	\$30,370.56	\$5.59	\$32,153.68
9	Ambulatory Ramp (all types)	EA	8	\$396.81	\$3,174.48	\$500.00	\$4,000.00	\$417.01	\$3,336.08	\$495.00	\$3,960.00	\$609.08	\$4,872.64
11	Dowel to existing sidewalk or driveway	EA	12	\$61.05	\$732.60	\$80.00	\$960.00	\$111.28	\$1,335.36	\$38.50	\$462.00	\$11.97	\$143.64
12	Saw cut existing concrete	LF	450	\$6.10	\$2,745.00	\$3.00	\$1,350.00	\$3.75	\$1,687.50	\$2.75	\$1,237.50	\$9.75	\$4,387.50
13	Sidewalk drain	EA	1	\$6,104.00	\$6,104.00	\$600.00	\$600.00	\$1,265.81	\$1,265.81	\$385.00	\$385.00	\$3,238.86	\$3,238.86
17	Remove existing headwall structure (West Ridge)	LS	1	\$2,500.00	\$2,500.00	\$800.00	\$800.00	\$267.50	\$267.50	\$165.00	\$165.00	\$0.00	\$0.00
24	Adjust water valve box	EA	1	\$185.00	\$185.00	\$50.00	\$50.00	\$56.18	\$56.18	\$165.00	\$165.00	\$145.08	\$145.08
31	Bermuda Grass Sod	SY	450	\$4.00	\$1,800.00	\$14.50	\$6,525.00	\$3.14	\$1,413.00	\$3.35	\$1,507.50	\$3.14	\$1,413.00
<b>SECTION TOTAL</b>				<b>\$135,539.42</b>		<b>\$138,515.10</b>		<b>\$135,116.76</b>		<b>\$119,409.76</b>		<b>\$136,996.29</b>	
<b>GRAND TOTAL</b>				<b>\$392,489.22</b>		<b>\$393,571.50</b>		<b>\$316,498.06</b>		<b>\$340,326.23</b>		<b>\$356,807.54</b>	
Bid Certification				Y		Y		Y		Y		Y	
Addendums Acknowledged				Y		Y		Y		Y		N	
Bid Bond				Y		Y		Y		Y		Y	
Section 3 Certificate				Y		Y		Y		N		Y	
ARRA Certification				Y		Y		Y		Y		Y	

Note: Blue highlighted fields indicate a correction to the bid price using the unit price provided.



08 April 2014

City of College Station  
Attn: Kelly Templin  
1101 Texas Avenue  
College Station, Texas 77842

Re: 2014 CDBG Neighborhood Sidewalk Project; Contract No. 14-244  
Contract Amount: \$256,955.82

Dear Mr. Templin:

We request that you send all contract proceeds earned and to be earned under our contract with you directly to our project disbursing administrator, SureTec Information Systems, Inc. at the following address:

VoX Construction, LLC  
C/O SureTec Information Systems, Inc.  
Attn: Funds Disbursement Dept.  
9737 Great Hills Trail, Suite 320  
Austin, Texas 78759  
(866) 732-0099

Your checks will still be made payable to us. This directive may only be changed by written consent of our surety, SureTec Insurance Company. Your signature below, indicating your agreement to make payment in this manner, is a condition to our Surety's execution of our performance and payment bonds on this project.

Thank you for your cooperation in this regard. You may receive a follow up phone call or e-mail from SureTec to confirm these instructions and answer any questions you may have.

We are looking forward to a very successful project.

VoX Construction, LLC

A handwritten signature in black ink, appearing to read "Rachel Henderson", is written over a horizontal line. Below the line, the name "Rachel Henderson" and the title "Manager" are printed.

Rachel Henderson  
Manager

cc: SureTec Information Systems, Inc. - Scott Olson

**Agreement and Acknowledgment:**

**Obligee: City of College Station**

By: \_\_\_\_\_ date  
**Authorized Representative**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Phone Number / email address**