

MEMORANDUM

TO: Judge Robert Hebert
County Judge

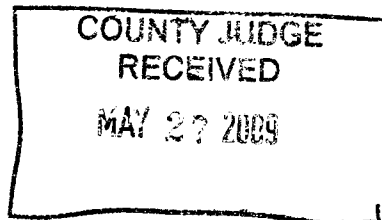
FROM: Debbie Kaminski
Assistant Purchasing Agent

SUBJECT: Please sign the attached contracts approved in Commissioners Court
on 05/26/09. Thank you.

DATE: May 26, 2009

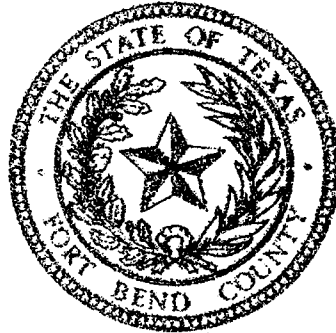
RETURN TO: Purchasing Department
Rosenberg Annex
4520 Reading Road, Suite A
Rosenberg

5-26-09
AGENDA ITEM
#25A2)



6409 orig. ret. to Cheryl at
Purchasing

**Fort Bend County, Texas
Invitation for Bid**



**Fry Road Median Modification
for Fort Bend County
BID 09-076**

SUBMIT BIDS TO:

Fort Bend County
Purchasing Department
Rosenberg Annex
4520 Reading Road, Suite A
Rosenberg, TX 77471

****NOTE:**

All correspondence must include the term
"Purchasing Department" in address to assist in
proper delivery

SUBMIT NO LATER THAN:

Thursday, May 14, 2009
1:30 PM (Central)

MARK ENVELOPE:

Bid 09-076
Fry Road

**ALL BIDS MUST BE RECEIVED IN COUNTY PURCHASING OFFICE
BEFORE RECEIVING DATE AND TIME SPECIFIED.
BIDS RECEIVED WILL THEN BE OPENED AND PUBLICLY READ.
BIDS RECEIVED AFTER THE SPECIFIED TIME WILL BE RETURNED
UNOPENED.**

Results will not be given by phone.
Results will be provided to bidders in writing
after Commissioners Court award.

Fort Bend County is always conscious
and extremely appreciative of your effort
in the preparation of this bid. Requests for
information must be in writing and directed
to:

Debbie Kaminski, CPPB
Assistant County Purchasing Agent
[kaminsk@co.fort-bend.tx.us](mailto:kaminskd@co.fort-bend.tx.us) or
Fax: 281-341-8645

Prepared: 04/13/09
Issued: 04/22/09

Fort Bend County Bid 09-076

Vendor Information

E.L. Harris III Construction, Inc.

Legal Name of Contracting Company

Federal ID Number (Company or Corporation) or Social Security Number (Individual)

281-346-0648

Telephone Number

281-346-0658

Facsimile Number

7531 FM 359 Road
P.O. Box 655

Complete Mailing Address (for Correspondence)

Fulshear, Texas 77441

City, State and Zip Code

Complete Remittance Address (if different from above)

City, State and Zip Code


Patrick L. Harris, President

Authorized Representative and Title (printed)

elharris3construction@earthlink.net

Authorized Representative's Email Address


Signature of Authorized Representative

Initials of Bidder: 

1.0 GENERAL REQUIREMENTS:

- 1.1 Read this entire document carefully. Follow all instructions. You are responsible for fulfilling all requirements and specifications. Be sure you understand them.
- 1.2 General Requirements apply to all advertised bids; however, these may be superseded, whole or in part, by the scope, special requirements, specifications, special specifications or other data contained herein.
- 1.3 Governing Law: Bidder is advised that these requirements shall be fully governed by the laws of the State of Texas and that Fort Bend County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the County Attorney concerning any portion of these requirements.
- 1.4 Bid Form Completion: Fill out, sign, and return to the Fort Bend County Purchasing Department **TWO (2) complete** bid forms. An authorized representative of the bidder must sign the Contract Sheet. The Contract will be binding only when signed by the County Judge, Fort Bend County and a purchase order authorizing the item(s) desired has been issued. The use of liquid paper is not acceptable and may result in the disqualification of bid. If an error is made, vendor must draw a line through error and initial each change.
- 1.5 Bid Returns: Bidders must return all completed bids to the Fort Bend County Purchasing Department at 4520 Reading Road, Suite A, Rosenberg, Texas no later than 1:30 P.M. on the date specified. Late bids will not be accepted. Bids must be submitted in a sealed envelope, addressed as follows: Fort Bend County Purchasing Agent, Rosenberg Annex, 4520 Reading Road, Suite A, Rosenberg, Texas 77471.
- 1.6 Addendums: No interpretation of the meaning of the drawings, specifications or other bid documents will be made to any bidder orally. All requests for such interpretations must be made in writing addressed to Ms Debbie Kaminski, County Assistant Purchasing Agent, 4520 Reading Road, Suite A, Rosenberg, Texas 77471, phone number (281) 341-8643, fax number (281) 341-8645, e-mail: kaminskd@co.fort-bend.tx.us. Any and all interpretations and any supplemental instructions will be in the form of written addenda to the contract documents which will be mailed by certified mail, return receipt requested, to all prospective bidders. Addenda will **ONLY** be issued by the Fort Bend County Purchasing Agent. It is the sole responsibility of each bidder to insure receipt of any and all addenda. All addendum issued will become part of the contract documents. Bidders must sign and include it in the returned bid package.
- 1.7 References: All bidders must submit, **WITH BID**, at least three (3) references from clients for whom a project similar to that specified herein has been successfully accomplished. References must include clients name, contact person and telephone number.

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- 1.8 **Bid Bond:** All bidders must submit, **WITH BID**, a cashier's check or certified check for at least five percent (5%) of the total bid price, payable to the order of Fort Bend County, or a Bid Bond in the same amount issued by a surety, acceptable to Fort Bend County, authorized to do business in the State of Texas, as a guarantee that the Bidder will do the work described herein at the rates stated herein. Unsuccessful bidder's Cashier's Check or Certified Check will be returned only after a written request to do so has been received in the Office of the Fort Bend County Purchasing Agent.
- 1.9 **Material Safety Data Sheets:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", a bidder must provide to Fort Bend County and using departments, with each delivery, material safety data sheets, which are, applicable to hazardous substances defined in the Act. Bidders are obligated to maintain a current, updated file in the Fort Bend County Purchasing Department. Failure of the bidder to maintain such a file will be cause to reject any bid applying thereto.
- 1.10 **Pricing:** Prices for all goods and/or services shall be firm for the duration of this Contract and shall be stated on the bid sheet. Prices shall be all inclusive. No price changes, additions, or subsequent qualifications will be honored during the course of the Contract. All prices must be written in ink or typewritten. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, bidder **MUST** indicate the items required and attendant costs or forfeit the right to payment for such items.
- 1.11 **Term Contracts:** If the Contract is intended to cover a specific time period, said time will be given in the specifications under scope.
- 1.12 **Recycled Materials:** Fort Bend County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. Fort Bend County will be the sole judge in determining product preference application.
- 1.13 **Evaluation:** Evaluation shall be used as a determinant as to which bid items or services are the most efficient and/or most economical for Fort Bend County. It shall be based on all factors, which have a bearing on price and performance of the items in the user environment. All bids are subject to tabulation by the Fort Bend County Purchasing Department and recommendation to Fort Bend County Commissioners Court. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids. Pricing is **NOT** the only criteria for making a recommendation. The Fort Bend County Purchasing Department reserves the right to contact any bidder, at any time, to clarify, verify or request information with regard to any bid.

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- 1.14 **Disqualification of Bidder:** Upon signing this bid document, a bidder offering to sell supplies, materials, services, or equipment to Fort Bend County certifies that the bidder has not violated the antitrust laws of this state codified in section 15.01, et seq., Business & Commerce Code, or the federal antitrust laws, and has not communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. Any or all bids may be rejected if Fort Bend County believes that collusion exists among the bidders. Bids in which the prices are obviously unbalanced may be rejected. If multiple bids are submitted by a bidder and after the bids are opened, one of the bids is withdrawn, the result will be that all of the bids submitted by that bidder will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple bids for different products or services.
- 1.15 **Awards:** Fort Bend County reserves the right to award this Contract on the basis of lowest and best bid in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one bidder, to reject any or all bids. In the event the lowest dollar bidder meeting specifications is not awarded a contract, the bidder may appear before the Commissioners Court and present evidence concerning its responsibility.
- 1.16 **Contract Obligation:** Fort Bend County Commissioners Court must award the Contract and the County Judge or other person authorized by the Fort Bend County Commissioners Court must sign the Contract before it becomes binding on Fort Bend County or the bidders. Department heads are not authorized to sign agreements for Fort Bend County. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

2.0 SCOPE:

It is the intent of Fort Bend County to contract with one (1) vendor for all materials, supplies, equipment, tools, services, labor and supervision necessary to complete Fry Road median modifications, hereinafter referred to as the "Project," as specified herein.

3.0 PRE-BID CONFERENCE:

A pre-bid conference will be conducted on Thursday, April 30, 2009 at 10:00AM (CST). The pre-bid conference will be held at the Fort Bend County Purchasing Department located in the Rosenberg Annex at 4520 Reading Road, Rosenberg Texas 77471. All bidders are encouraged to attend.

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4.0 LIQUIDATED DAMAGES:

If the Project is not substantially complete within the contract time as adjusted by extension of time approved by Commissioner Court, Fort Bend County will deduct (from the final payment, as liquidated damages), the sum of Three Hundred Dollars (\$300.00) per calendar day that the Project remains not substantially complete, such sum is agreed upon as a reasonable and proper measure of damages which Fort Bend County will sustain per day by failure of Contractor to substantially complete work within the contract time. It is understood that said sum shall be considered as liquidated damages and shall in no sense be considered as a penalty against the Contractor.

5.0 COMPLETION TIME AND PAYMENT:

- 5.1 Fort Bend County shall pay the Contractor in current funds for the Contractor's performance of the Contract the contract sum, as stated herein, after receipt of notice to proceed and a purchase order issued by the Fort Bend County Purchasing Agent.
- 5.2 Based upon Applications for payment submitted to the Engineering Department, Fort Bend County shall make progress payments on account of the contract sum to the Contractor as provided below and elsewhere in the contract documents.
 - 5.2.1 The period covered by each application for payment shall be one calendar month ending on the last day of the month.
 - 5.2.2 Provided an application for payment is received by the Engineering Department not later than the 15th day of a month, Fort Bend County shall make payment to the Contractor not later than the 15th day of the next month. If an application for payment is received by the Engineering Department after the application deadline fixed above, payment shall be made by Fort Bend County not later than 30 days after the Engineering Department receives the application for payment.
 - 5.2.3 Application for payment shall indicate the percentage of completion of each portion of the Project as of the end of the period covered by the application for payment.
 - 5.2.4 Subject to the provisions of the contract documents, the amount of each progress payment shall be computed as follows:
 - 5.2.4.1 Take that portion of the contract sum properly allocable to completed Project less retainage of ten percent (10%).

- 5.2.4.2 Add that portion of the contract sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved by Fort Bend County, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%).
- 5.2.4.3 Subtract the aggregate of previous payments made by Fort Bend County.
- 5.2.4.4 The progress payment amount as determined in above shall be further modified under the following circumstances:
- Add, upon substantial completion of the Project, a sum sufficient to increase the total payments to one hundred percent (100%) of the contract sum, less such amounts as Fort Bend County shall determine for incomplete work and unsettled claims.
- 5.2.4.5 Final payment, constituting the entire unpaid balance of the contract sum, shall be made by Fort Bend County to the Contractor when the Contract has been fully performed by the Contractor.
- 5.3 Before the first application for payment, the Contractor shall submit to the Engineering Department 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 Engineering Department may require. This schedule, unless objected to by the Engineering Department shall be used as a basis for reviewing the Contractor's application for payment.
- 5.4 Contractor must provide with each application for payment a contractor's affidavit certifying bills against the Contractor for labor, material and expendable equipment employed in the performance of Contractor have been paid in full prior to acceptance of final payment from Fort Bend County.
- 5.5 The Contractor will permit Fort Bend County, or any duly authorized agent of Fort Bend County, to inspect and examine the books and records of the Contractor for the purpose of verifying the amount of work performed under the Contract. Fort Bend County's right to inspect survives the termination of the Contract for a period of five years.

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6.0 LIMIT OF APPROPRIATION:

Prior to the execution of this Contract, Contractor has been advised by County, and Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this Contract, that County shall have available only those funds specifically allocated in this Contract to fully discharge any and all liabilities which may be incurred by County in bringing this Project to an absolute conclusion, resulting in a complete, fully furnished, fully equipped and fully usable facility, and that the total of any and all basic construction costs, costs of providing the required furnishing and equipment, all fees and compensation of any sort to the Contractor, and any and all costs for any and all things or purposes enuring under or out of this Contract, irrespective of the nature thereof, shall not exceed said specifically allocated sum, notwithstanding any word, statement or thing contained in or inferred from the preceding provision of this Contract which might in any light by any person be interpreted to the contrary.

7.0 RIGHT TO ASSURANCE:

Whenever Fort Bend County in good faith has reason to question the Contractor's intent to perform, Fort Bend County may demand that the Contractor give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) days, Fort Bend County may treat this failure as an anticipatory repudiation of the Contract.

8.0 PERFORMANCE AND PAYMENT BONDS:

In the event the total accepted bid price exceeds \$25,000 the Contractor must provide to the Office of the County Purchasing Agent, a performance bond and a payment bond, each in the amount of 100% of the total contract sum within ten (10) calendar days after receipt of notification of bid award. Such bonds shall be executed by a corporate surety duly authorized and admitted to do business in the State of Texas and licensed in the State of Texas to issue surety bonds with a Best Rating of "A" or better. Fort Bend County reserves the right to accept or reject any surety company proposed by the Contractor. In the event Fort Bend County rejects the proposed surety company, the Contractor will be afforded five (5) additional days to submit the required bonds issued by a surety company acceptable to Fort Bend County.

9.0 POWER OF ATTORNEY:

An attorney-in-fact who signs a bid bond, performance bond or payment bond must file with each bond a certified and effectively dated copy of his or her power of attorney.

10.0 INSURANCE:

- 10.1 All bidders must submit, **WITH BID**, a certificate of insurance indicating coverage in the amounts stated below. In lieu of submitting a certificate of insurance, bidders may submit, with bid, a notarized statement from an Insurance company, authorized to conduct business in the State of Texas, and acceptable to Fort Bend County, guaranteeing the issuance of an insurance policy, with the coverage stated below, to the contractor named therein, if successful, upon award of this Contract. Failure to provide insurance certificate or notarized statement may result in disqualification of bid.

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10.2 The successful bidder shall obtain at its sole expense, and shall submit to the Office of the County Purchasing Agent, certificates of insurance satisfactory to Fort Bend County, naming Fort Bend County, the Contractor and its employees as insured:

10.2.1 Workers Compensation: See Section 12.0.

10.2.2 Employer's Liability: \$500,000

10.2.3 General liability including:

- 10.2.3.1 Premises/Operations
- 10.2.3.2 Products/Completed Operation
- 10.2.3.3 Contractual
- 10.2.3.4 Owner's Protective
- 10.2.3.5 Personal Injury/Advertising Liability
- 10.2.3.6 Mobile Equipment

10.2.4 General liability limits shall be equal to or greater than:

- 10.2.4.1 \$100,000 Bodily Injury per person. \$300,000 Bodily Injury per occurrence. \$100,000 Property Damage per occurrence; or,
- 10.2.4.2 \$500,000 Bodily Injury and Property Damage combined, single limit.
- 10.2.4.3 Specify annual aggregate, if any. The minimum available annual aggregate for the purposes of this Contract shall be \$1,000,000. Claims - made policies shall not be acceptable. All policies shall be occurrence basis.

10.2.5 Automobile Liability:

All owned, non-owned or hired vehicles must be covered. Liability limits shall be greater than or equal to:

- 10.2.5.1 \$100,000 Bodily Injury per person. \$300,000 Bodily Injury per occurrence. \$100,000 Property Damage per occurrence; or,
- 10.2.5.2 \$500,000 Bodily Injury and Property Damage combined, single limit.

10.2.6. Excess Liability Coverage shall be greater than or equal to \$1,000,000 combined, single limit. Specify aggregate, if any.

- 10.3 Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- 10.4 No cancellation of or changes to the certificates, or the policies, may be made without sixty (60) days prior, written notification to Fort Bend County.
- 10.5 Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.

11.0 INDEMNIFICATION:

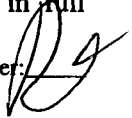
Contractor agrees to indemnify, defend and hold Fort Bend County harmless from each and every claim, demand, suit, action, proceeding, lien or judgment caused by or arising out of, directly or indirectly, or in connection with the acts and omissions of Contractor pursuant to this Contract.

- 11.1 Contractor shall timely report all such matters to Fort Bend County and shall, upon the receipt of any such claim, demand, suit, action, proceeding, lien or judgment, not later than the fifteenth day of each month; provide Fort Bend County with a written report on each such matter covered by this paragraph and by paragraph 11.2 below, setting forth the status of each matter, the schedule or planned proceedings with respect to each matter and the cooperation or assistance, if any, of Fort Bend County required by Contractor in the defense of each matter.
- 11.2 Fort Bend County shall timely forward to Contractor copies of any and all claims, demands, suits, actions, proceedings or judgments which it may receive and which it may contend is covered by this section. Thereafter, Fort Bend County shall fully cooperate with Contractor in its defense of each such matter.
- 11.3 Contractor's duty to defend indemnify and hold Fort Bend County harmless shall be absolute. It shall not abate or end by reason of the expiration or termination of this Contract unless otherwise agreed by Fort Bend County in writing. The provisions of this section shall survive the termination of the Contract and shall remain in full force and effect with respect to all such matters no matter when they arise.
- 11.4 In the event of any dispute between the parties as to whether a claim, demand, suit, action, proceeding, lien or judgment appears to have been caused by or appears to have arisen out of or in connection with acts or omissions of Contractor, Contractor shall never-the-less fully defend such claim, demand, suit, action, proceeding, lien or judgment until and unless there is a determination by a court of competent jurisdiction that the acts and omissions of Contractor are not at issue in the matter. In such event, Fort Bend County shall promptly reimburse Contractor for its costs of defense.

- 11.5 In the event that any such matter being so defended by Contractor also involves any claim of negligence or wrongful action by Fort Bend County, Fort Bend County shall have the obligation to participate in the defense of the matter through separate counsel.
- 11.6 Contractor shall have full authority to resolve all matters being defended by it providing such settlement(s) shall not involve any findings adverse to Fort Bend County or and shall not involve or require any payments or contributions by Fort Bend County.
- 11.7 In the event of any final judicial determination or award of any matter covered by this section Fort Bend County shall be responsible to third parties, pro rata, for any negligence determined to have been caused by Fort Bend County.
- 11.8 Contractor's indemnification shall cover, and Contractor agrees to indemnify Fort Bend County, in the manner provided for and to the extent described above, in the event Fort Bend County is found to have been negligent for having selected Contractor to perform the work described in this Contract.
- 11.9 The provision by Contractor of insurance shall not limit the liability of Contractor under this Contract.
- 11.10 Contractor shall cause all trade contractors and any other contractor who may have a contract to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify Fort Bend County and to hold it harmless from all claims for bodily injury and property damage that arise may from said Contractor's operations. Such provisions shall be in form satisfactory to Fort Bend County.
- 11.11 Loss Deduction Clause - Fort Bend County shall be exempt from, and in no way liable, for, any sums of money, which may represent a deductible in any insurance policy. The payment of deductibles shall be the sole responsibility of Contractor and/or Trade Contractor providing such insurance.

12.0 WORKERS COMPENSATION INSURANCE:

The Texas Department of Insurance, Division of Workers' Compensation has adopted Rule 110.110 effective with all bids advertised after September 1, 1994 and this does affect your bid on this project. The DWC has stated that it is aware that statutory requirements for worker's compensation insurance coverage are not being met. Rule 110.110 is designed to achieve compliance from both contractors and governmental entities. This affects both of us on this project. Providing false or misleading certificates of coverage, failing to provide or maintain required coverage, or failing to report any change that materially affects the coverage may subject the contractor(s) or other persons providing services on this project to legal penalties. This affects your subcontractors. Therefore, the attached is provided in accordance with the requirements on governmental entities. Please read carefully and prepare your bid in full

Initials of Bidder: 

compliance with DWC Rule 110.110. Failure to provide the required certificates upon submission of a bid could result in your bid being declared non-responsive. According to DWC, "This rule does not create any duty or burden on anyone which the law does not establish." Therefore, Fort Bend County should not experience any increase in cost because of the need to comply with the Texas Worker's Compensation law. Additional questions may be addressed to the Texas Department of Insurance, Division of Workers' Compensation, 333 Guadalupe, Austin, Texas 78701 (512) 463-6169.

12.1 Definitions:

- 12.1.1 Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
- 12.1.2 Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.
- 12.1.3 Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- 12.2 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- 12.3 The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

- 12.4 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.
- 12.5 The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
- 12.5.1 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
- 12.5.2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- 12.6 The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- 12.7 The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- 12.8 The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 12.9 The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
- 12.9.1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- 12.9.2 Provide 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;

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- 12.9.3 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;
- 12.9.4 Obtain from each other person with whom it contracts, and provide to the Contractor:
 - 12.9.4.1 A certificate of coverage, prior to the other person beginning work on the project; and
 - 12.9.4.2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- 12.9.5 Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- 12.9.6 Notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project; and
- 12.9.7 Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- 12.10 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.
- 12.11 The Contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

13.0 PREVAILING WAGES:

Prevailing wage requirements of Chapter 2258, Government Code, apply.

14.0 PERMITS:

It shall be the sole responsibility of the successful bidder to obtain all required permits in the name of Fort Bend County.

15.0 CONTRACTOR'S RESPONSIBILITY FOR WORK:

15.1 Preconstruction Work. Contractor shall do (or cause to be done) the following as preconstruction work:

15.1.1 On an as needed basis as determined by Fort Bend County, cause the Contractor's personnel to meet with Fort Bend County and the Engineer to discuss the status of the Project.

15.1.2 Review drawings and specifications with the Engineer to permit the Contractor and the Engineer to determine the compliance of the proposed facility with applicable building codes.

15.2 Construction Work. Contractor shall do (or cause to be done) the following as construction work:

15.2.1 Perform (or cause to be performed) all preparatory work at the construction site required herein, including (without limitation) soil and concrete testing and demolition of improvements existing at the construction site and all actions necessary for compliance with all laws and regulations as to actions to be taken by owners or contractors before construction begins, including without limitation those in regard to archaeological and environmental requirements.

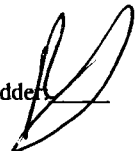
15.2.2 Construct and install (or cause to be constructed and installed) the Project on the construction site in accordance with this Contract and the drawings and specifications approved by Fort Bend County.

15.2.3 Furnish (or cause to be furnished) all materials, supplies, equipment, tools, labor, supervision, utilities, transportation, and other materials and services necessary to complete the Project described herein.

15.2.4 Materials testing necessary for the Project and required by laws and regulations, construction industry standards as approved by Fort Bend County and this Contract; the frequency of testing shall be approved by Fort Bend County.

15.3 Standards for Review and Approval.

- 15.3.1 Fort Bend County acknowledges that in order to meet the deadlines for the completion of the Project, and in order to accomplish the efficient completion of the Project, the Contractor may submit matters to Fort Bend County in stages for approval or consent. Upon receipt of any matter submitted by the Contractor for review and approval, Fort Bend County shall review the same and shall diligently and promptly (but in any event within 14 calendar days for any such matter, other than a proposed change order, and within 28 calendar days for a proposed change order) give the Contractor notice of Fort Bend County's approval or disapproval, setting forth in detail all reasons for any disapproval. Fort Bend County's right to disapprove any such matter submitted (other than a proposed change order) shall be limited to the elements thereof (a) which do not conform substantially to matters previously approved, (b) which are new elements not previously presented and approved and the Contractor is unable to demonstrate that such new element is reasonably necessary for completion of the Project, or (c) which depict matters that are violations of this Contract or applicable laws and regulations.
- 15.3.2 If Fort Bend County disapproves of a particular matter or Proposed Change Order, the Contractor shall have the right to resubmit such matter or Proposed Change Order to Fort Bend County, altered to satisfy Fort Bend County's basis for disapproval. Any resubmission shall be subject to review and approval by Fort Bend County.
- 15.3.3 Fort Bend County and the Contractor shall attempt in good faith to resolve any disputes concerning the approval of any aspect of the Project expeditiously, so as not to delay the completion of the Project in accordance with this Contract.
- 15.3.4 Expedited Approvals. Fort Bend County recognizes the importance of expeditious action upon all matters submitted to Fort Bend County for review and approval and of expeditious response to those aspects of the Project requiring approval by governmental authorities having jurisdiction thereover. Fort Bend County agrees to exercise its rights of review and approval hereunder with due diligence, reasonableness, and good faith. Fort Bend County shall use its reasonable efforts to expedite any required review of the Project or other matters by any governmental authority.




15.4 Changes.

15.4.1 General. Fort Bend County may make changes to the Project by altering, adding to, or deducting from the Project. All changes in the Project which (a) require an adjustment in the contract sum or an adjustment in the final completion date or (b) involve a material change in the overall scope or function of the Project shall be requested and authorized before commencing such changes by use of written change order notices, Proposed Change Orders and Change Orders, which change order procedure shall be the exclusive means to effect such changes in the Project.

15.4.2 Change Order Procedure. If at any time Fort Bend County desires to make any change in the Project requiring the issuance of a Change Order, Fort Bend County shall so advise the Contractor in writing by delivery to the Contractor of a written notice describing the change. Upon receipt of such notice initiated by Fort Bend County, the Contractor shall within a reasonable period of time advise Fort Bend County of the Contractor's proposal for the adjustments, if any, in the contract sum, the schedule of values, and the final completion date attributable to such change by delivering a written notice thereof (the "Proposed Change Order") to Fort Bend County. Such Proposed Change Order shall contain a description of the proposed change and shall set forth the Contractor's estimate of the increase or decrease, if any, in the contract sum and the change, if any, in the schedule of values and the final completion date attributable to such change. If the Contractor desires to make a change in the Project requiring the issuance of a change order, the Contractor shall deliver to Fort Bend County a Proposed Change Order. Upon execution by Fort Bend County, a Proposed Change Order shall constitute (and be defined herein as) a "Change Order" for purposes of this Contract. The Contractor shall forthwith perform the work as changed in accordance with such Change Order. All work performed pursuant to a Change Order shall be performed in accordance with the terms of this Contract. All Proposed Change Orders shall be submitted for approval by Fort Bend County. No action, acquiescence or inaction by Fort Bend County or any representative of Fort Bend County shall be construed to be a waiver of requirements set forth in this Contract in regard to Change Orders or ratification of a violation of such requirements, and all acts in violation of this provision shall be considered void.

15.4.3 Change Order Authorization. Each Change Order shall be signed by Fort Bend County and an authorized representative of the Contractor.

Initials of Bidder



- 15.4.4 **Contract Sum Adjustments.** The contract sum and the schedule of values shall be adjusted only as a result of a Change Order requiring such adjustment. Any extra work performed without a proper Change Order shall be considered voluntary and not subject to additional compensation. The Contractor shall not be entitled to an adjustment in the contract sum (or a Change Order permitting such adjustment) or to damages as a result of any delays in the Project caused by the acts or omissions of Fort Bend County, provided that this sentence is not applicable to delays that constitute more than 90 days in any 365-day period or cause the Project to be interrupted for a continuous period of 45 days through no fault of the Contractor.
- 15.4.5 When Fort Bend County and the Contractor agree upon the adjustments in the contract sum, the schedule of values, and the final completion date attributable to such adjustment, such agreement will be documented by preparation and if approved by the Fort Bend County Commissioners Court, execution of an appropriate Change Order.
- 15.5 **Site Access.** Prior to the transfer date, Fort Bend County and the Contractor shall have uninterrupted access to the construction site. Subsequent to the transfer date, Fort Bend County will permit the Contractor, the Engineer, and their representatives and subcontractors to enter upon the Project at times reasonably necessary to complete the punch list items.
- 15.6 **Applicable Laws and Regulations.** Contractor shall in its performance of the Project comply with all applicable laws and regulations. Any delays in the prosecution of the Project caused by any changes in the laws and regulations or the application or enforcement of the laws and regulations may entitle the Contractor to an extension of time.
- 15.7 **Familiarity with Project.** The Contractor represents and accepts that it has: (a) visited the property(ies), (b) taken such other steps as may be necessary to ascertain the nature and location of the Project and the general and local conditions which affect the Project or the cost thereof, (c) investigated the labor situation as regards to the Project, (d) examined the property(ies), the obstacles which may be encountered and all other observable conditions having a bearing upon the performance of the Project, the superintendence of the Project, the time of completion and all other relevant matters, and (e) reported to Fort Bend County the results of all of the foregoing. The Contractor represents that it is familiar with all phases of the Project and the matters that may affect the Project or its prosecution under this Contract.

- 15.8 Standard of Performance. The Contractor shall prosecute (or cause to be prosecuted) the Project in accordance with the best efforts for the construction and development of projects similar to the Project in the State of Texas, using qualified, careful, and efficient contractors and workers and in conformity with the provisions of this Contract. The Contractor shall perform the work in a good and workmanlike manner.
- 15.9 Warranty of Contractor. The Contractor warrants to Fort Bend County that: (i) the Contractor possesses the skill and knowledge ordinarily possessed by well-informed members of its trade or profession and the Contractor will use its best efforts to ensure that the services provided under this Contract will be performed, delivered, and conducted in accordance with the best professional standards and in accordance with industry standards, and (ii) the Contractor is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly equipped, organized and financed to perform such work, and (iii) following the date of acceptance of this Contract, the services provided by the Contractor to Fort Bend County will conform to the representations contained in this Contract, including all attachments, schedules and exhibits. All warranties provided by the Contractor in this Contract shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to Fort Bend County.
- 15.10 Contractor's Personnel. Contractor shall employ only competent, skilled personnel for the Project. Prior to the final completion date, the Contractor shall maintain a superintendent who shall be authorized to act on behalf of the Contractor and with whom Fort Bend County may consult at all reasonable times. The superintendent shall not be transferred from the Project without Fort Bend County's consent (which shall not be unreasonably withheld or delayed); provided, however, the superintendent shall not be assigned solely to the Project and shall be entitled to spend reasonable time working on matters unrelated to the Project so long as such work on other matters does not render the superintendent unavailable to the Project or unavailable to Fort Bend County. However, such obligation to furnish the superintendent and such staff personnel shall not be construed (a) to preclude the promotion within the Contractor's organization of any person assigned to the Project or (b) to give rise to any liability of the Contractor if any person assigned to the Project (including, without limitation, the superintendent) leaves the Contractor's employment. If the superintendent is transferred from the Project, Fort Bend County shall have the right to approve the replacement superintendent (which approval will not be unreasonably withheld or delayed). The Contractor, the Architect, and the other subcontractors shall comply with all applicable health, safety, and loss prevention rules of applicable governmental authorities. The Contractor shall, at its own expense, remove from the Project any person who fails to comply with such rules and instructions. The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Project any unfit person or anyone not skilled in the work assigned to him.

Fort Bend County may, upon written notice to the Contractor, require the Contractor to remove an individual immediately from providing services for the following reasons: violation of the terms and conditions of this Contract; violation of Fort Bend County's or the Contractor's work rules and regulations; criminal activity; or violation of state, federal, or municipal statutes. Fort Bend County may, upon thirty (30) days written notice to the Contractor, require the removal of any individual from providing services without cause.

- 15.11 Inspection. The Project and all parts thereof shall be subject to inspection from time to time by inspectors designated by Fort Bend County. No such inspections shall relieve The Contractor of any of its obligations hereunder. Neither failure to inspect nor failure to discover or reject any of the work as not in accordance with the drawings and specifications or any provision of this Contract shall be construed to imply an acceptance of such work or to relieve the Contractor of any of its obligations hereunder. Fort Bend County agrees that its right of inspection shall be used reasonably and in a timely manner so as not to delay orderly completion of the Project.
- 15.12 Protection Against Risks. The Contractor shall take all precautions which are necessary and adequate, against conditions created during the progress of the Project which involve a risk of bodily harm to persons or a risk of damage or loss to any property. The Contractor shall regularly inspect all work, materials and equipment to discover and determine any such conditions and shall be responsible for discovery, determination, and correction of any such conditions. The Contractor shall comply with all federal, state, and local occupational hazard and safety standards, codes and regulations applicable in the jurisdiction where the Project is being performed. The Contractor shall include the substance of this clause in its entirety in all subcontracts for any work to be performed at the construction site.
- 15.13 Equipment. Except as expressly provided herein to the contrary, the Contractor shall furnish (or cause to be furnished) all construction, transportation, installation, tools, and other equipment and facilities required for the performance of the Project within the times specified herein. Such equipment and facilities shall be serviceable and kept fit for the uses intended. Defective items shall be removed from the construction site promptly and at the Contractor's cost. The Contractor shall schedule (or cause to be scheduled) its other operations so as to not interfere with its duty to timely furnish the necessary equipment and facilities and personnel to operate the same at the times necessary for the orderly completion of the Project.
- 15.14 Materials. Except as may be specifically provided otherwise in the Contract or approved in advance by Fort Bend County, the Contractor shall provide Fort Bend County with copies of material testing reports and to cause all materials, equipment, and fabricated items incorporated in the Project to be new and of a suitable grade of their respective kinds for their intended use.



16.0 TERMINATION:

16.1 Fort Bend County may terminate the Contract if the Contractor:

16.1.1 Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials.

16.1.2 Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractor.

16.1.3 Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction.

16.1.4 Otherwise is guilty of substantial breach of a provision of the Contract Documents.

16.2 When any of the above reasons exists, Fort Bend County may, without prejudice to any other rights or remedies of Fort Bend County and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

16.2.1 Take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor.

16.2.2 Finish the Project by whatever reasonable method Fort Bend County may deem expedient.

16.3 Either party may terminate this Contract at any time by providing thirty (30) days written notice.

16.4 When Fort Bend County terminates the Contract for one of the reasons stated in this section, the Contractor shall not be entitled to receive further payment until the Project is finished. Therefore, the Contractor shall be promptly paid for all work actually and satisfactorily completed.

17.0 COMPLETION, TRANSFER, AND ACCEPTANCE:

17.1 Final Completion. Upon the occurrence of the final completion date, the punch list items shall be promptly commenced and thereafter completed within thirty (30) days after final completion.

- 17.2 Transfer and Acceptance. Upon the occurrence of final completion, care, custody and control of the Project shall pass to Fort Bend County. As referenced herein, the "Transfer Date" shall mean the date on which the care, custody and control of the Project passes to Fort Bend County. Subsequent to the Transfer Date all risk of loss with respect to the Project shall be by Fort Bend County and the Contractor shall be thereafter obligated to cover the Project with their Insurance.

18.0 SUSPENSION BY FORT BEND COUNTY FOR CONVENIENCE:

- 18.1 Fort Bend County may, without cause, order the Contractor in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as Fort Bend County may determine.
- 18.2 An adjustment shall be made for increase in the cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:
- 18.2.1 That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible.
- 18.2.2 That an equitable adjustment is made or denied under another provision of this Contract.
- 18.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

19.0 INDEPENDENT CONTRACTOR:

The Contractor shall be an independent contractor and any provisions of this Contract that may appear to give Fort Bend County the right to direct the Contractor as to the details of the manner of doing the Project shall be deemed to mean that the Contractor shall follow the desires of Fort Bend County in the results of the Project only and not in the means whereby the Project is to be accomplished. The Contractor shall be responsible as to the details of completing the Project. Neither the agents, representatives, nor employees of the Contractor, shall be deemed to be the agents, representatives, or employees of Fort Bend County. The Contractor further represents that it accepts a fiduciary role and responsibility with respect to Fort Bend County and will, to its best abilities, act in the best interests of Fort Bend County and the timely completion of the Project. The Contractor agrees and understands that neither it nor any of its agents or employees may act in the name of Fort Bend County except and unless specifically authorized in writing by Fort Bend County to do so. The Contractor shall furnish construction administration and management services and use the Contractor's best efforts to complete the Project in an expeditious and economical manner consistent with the interests of Fort Bend County.

20.0 NOTICE

- 20.1 All written notices, demands, and other papers or documents to be delivered to Fort Bend County under this Contract shall be delivered to the Engineering Department, 1124-52 Blume Road, Rosenberg, Texas 77471, Attention: Louis Hood, or at such other place or places as Fort Bend County may from time to time designate by written notice delivered to the Contractor. For purposes of notice under this Contract, a copy of any notice or communication hereunder shall also be forwarded to the following address: Fort Bend County, 301 Jackson Street, Suite 719, Richmond, Texas 77469, Attention: County Judge.
- 20.2 All written notices, demands, and other papers or documents to be delivered to the Contractor under this Contract shall be delivered to the Authorized Representative identified in the Contract documents or such other place or places as the Contractor may designate by written notice delivered to Fort Bend County.

21.0 RECORDS:

- 21.1 Fort Bend County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to the Contract by Contractor.
- 21.2 The Contractor agrees to maintain and preserve for a period of at least five years after the earlier of the expiration of the defects period or termination of this Contract, accurate and complete records relating to the performance of the Project. The Contractor agrees to, upon request, provide Fort Bend County with such records.

22.0 SUCCESSORS AND ASSIGNS:

- 22.1 Fort Bend County and the Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Contract and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract.
- 22.2 Neither Fort Bend County nor the Contractor shall assign, sublet or transfer its interest in this Contract without the prior written consent of the other.
- 22.3 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

23.0 PUBLIC CONTACT:

Contact with the news media, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of Fort Bend County. Under no circumstances, whatsoever, shall Contractor release any material or information developed in the performance of its services hereunder without the express written permission of Fort Bend County, except where required to do so by law.

24.0 MODIFICATIONS:

This instrument contains the entire Contract between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

25.0 SILENCE OF SPECIFICATIONS:

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

26.0 SEVERABILITY:

In the event one or more of the provisions contained in these requirements or the specifications shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and these requirements or the specifications shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

27.0 GOVERNING FORMS:

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Fort Bend County's interpretation shall govern.

28.0 TAX EXEMPT:

Fort Bend County is exempt from state and local sales and use taxes under Section 151.309 of the Texas Tax Code. This Contract is deemed to be a separate contract for Texas tax purposes, and as such, Fort Bend County hereby issues its Texas Exemption for the purchase of any items qualifying for exemption under this Contract. Contractor is to issue its Texas Resale Certificate to vendors and subcontractors for such items qualifying for this exemption, and further, contractor should state these items at cost.

29.0 ENTIRE AGREEMENT:

The Parties agree that this Contract contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Contract. By entering into this Contract, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Contract.

30.0 APPLICABLE LAW AND VENUE

This Contract shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas, and that venue for any litigation arising out of or related to this Contract shall lie solely in the court of appropriate jurisdiction located in Fort Bend County, Texas.

31.0 INDEPENDENT CONTRACTOR AND FIDUCIARY ROLE.

Contractor shall be an independent contractor and any provisions of this Agreement that may appear to give Fort Bend County or Fort Bend County's Representative the right to direct Contractor as to the details of the manner of doing the Work shall be deemed to mean that Contractor shall follow the desires of Fort Bend County or Fort Bend County's Representative in the results of the Work only and not in the means whereby the Work is to be accomplished. Contractor shall be responsible as to the details of doing the Work. Neither the agents, representatives, nor employees of Contractor and its subcontractors shall be deemed to be the agents, representatives, or employees of Fort Bend County. Contractor further represents that it accepts a fiduciary role and responsibility with respect to Fort Bend County and shall, to its best abilities, act in the best interests of Fort Bend County and the timely completion of the Work. Contractor agrees and understands that neither it nor any of its agents or employees may act in the name of Fort Bend County except and unless specifically authorized in writing by Fort Bend County to do so. Contractor shall furnish construction administration and management services and use Contractor's best efforts to perform the Project in an expeditious and economical manner consistent with the interests of Fort Bend County.



32.0 CONTRACTOR ON-SITE

Contractor shall provide, during construction, continuous on-site construction observation, to familiarize itself with the progress and quality of the completed work, and to determine if the work is proceeding in such a way as when it is complete it will be in accordance with the Contract Documents. Field Reports shall be prepared and submitted by Contractor at the duration requested by Fort Bend County's Representative. Contractor shall submit a report which shall constitute a representation by Contractor to Fort Bend County, based on observations at the site that to the best of Contractor's knowledge, information and belief, the quality of the completed work is in accordance with the Contract Documents.

33.0 DEFECTS

- 33.1 "Defect" – Work that, for any reason in the opinion of the Owner and/or the Architect, is not in conformance with the requirements of the Contract Documents.
- 33.2 Contractor shall use all best efforts and measures to implement its responsibilities under this Agreement to safeguard Fort Bend County against Defects and deficiencies in the completed work of any trade contractors. Contractor shall be responsible for the construction means, methods, techniques, sequences of procedures, and for the safety precautions and programs employed in connection with the Work. However, Contractor will promptly inform Fort Bend County's Representative in writing whenever Defects and deficiencies in the completed Work are observed and whenever any Defects or discrepancies are observed within the Contract Documents, or when any observed actions or omissions are undertaken by the trade contractors that are not in the best interest of Fort Bend County and the Project.
- 33.3 Supervision of Warranty Work. Contractor shall, without any compensation in addition to the total lump sum bid price as included in Section 32.0 herein, coordinate and supervise the completion of the corrective Work in the manner required for the original Work as a result of a Defect in the Work or the failure of the Work or the Project.
- 33.4 WORKMANSHIP. Contractor guarantees that the Work will be free from any Defect in the workmanship of Contractor or any subcontractor or other party engaged by Contractor in connection with the Work. Contractor will promptly correct at no cost to Fort Bend County, any Defect in or damage to the Work or any part thereof arising or resulting, directly or indirectly, from any Defect in the workmanship of Contractor (or its subcontractors or suppliers) and Contractor shall itself correct or, as deemed feasible by Fort Bend County, have another correct any such Defect where such is attributable to any subcontractor or other party engaged by Contractor in connection with the Work.

Fort Bend County Bid 09-076

34.0 BID PRICE: See specification package.

35.0 PROJECT DURATION:

Bidder agrees, if awarded the contract, to complete all work required by the contract documents within 40 calendar days (maximum of 60 calendar days) after issuance of a purchase order by the County Purchasing Agent and notice to proceed by the Engineering Department.



CONTRACT SHEET

**THE STATE OF TEXAS
COUNTY OF FORT BEND**

This memorandum of agreement made and entered into on the _____ day of _____, 20_____, by and between Fort Bend County in the State of Texas (hereinafter designated County), acting herein by County Judge Robert Hebert, by virtue of an order of Fort Bend County Commissioners Court, and E.L. Harris III Construction, Inc.
(hereinafter designated Contractor). **(company name)**


WITNESSETH:

The Contractor and the County agree that the bid and specifications for the **Fry Road Median Modification** which are hereto attached and made a part hereof, together with this instrument and the bond (when required) shall constitute the full agreement and contract between parties and for furnishing the items set out and described; the County agrees to pay the prices stipulated in the accepted bid.

It is further agreed that this contract shall not become binding or effective until signed by the parties hereto and a purchase order authorizing the items desired has been issued.

Executed at Richmond, Texas this 26 day of May 2009.

Fort Bend County, Texas
By: 
County Judge

By: 
Signature of Contractor

By: Patrick L. Harris, President
Printed Name and Title

BID SHEET

FRY ROAD MEDIAN MODIFICATION
Fort Bend County

Bid Item No.	TxDOT Specification No.		Qty	Unit	Bid Item Description and Unit Price Bid Written in Words	Unit Price Bid in Numbers	Amount Bid in Numbers
	Item	Desc. S.P.					
1	104	2001	290	SY	REMOVING CONC (PAV) Eighteen _____ Dirs. and Seventy-Five _____ Cents	\$ 18.75	\$ 5,437.50
2	110	2001	300	CY	EXCAVATION (ROADWAY) Thirteen _____ Dirs. and Fifty _____ Cents	\$ 13.50	\$ 4,050.00
3	162	2002	190	SY	BLOCK SODDING Three _____ Dirs. and Ninety _____ Cents	\$ 3.90	\$ 741.00
4	260	2012	15	TON	LIME (HYD. COM OR QK) (SLRY) OR (QK(DRY)) One Hundred Seventy Four _____ Dirs. and Fifteen _____ Cents	\$ 174.15	\$ 2,612.25
5	260		813	SY	LIME TRT (SUBGR) (DC) (8") Six _____ Dirs. and Fifteen _____ Cents	\$ 6.15	\$ 4,999.95
6	360	2025	716	SY	CONC PVMT (JOINT REINF) (8") Sixty Seven _____ Dirs. and Twenty Five _____ Cents	\$ 67.25	\$ 48,151.00
7	432	2001	5.3	CY	RIPRAP (CONC) (4IN) Six Hundred Sixty Six _____ Dirs. and No _____ Cents	\$ 666.00	\$ 3,529.80

Initials of Bidder 

BID SHEET

FRY ROAD MEDIAN MODIFICATION
Fort Bend County

Bid Item No.	TxDOT Specification No.		Qty	Unit	Bid Item Description and Unit Price Bid Written in Words	Unit Price Bid In Numbers	Amount Bid in Numbers
	Item	Desc.					
8	502	2001	3	MO	BARRICADES, SIGNS AND TRAFFIC HANDLING Three Thousand Eight Hundred Fifteen and No _____ Dirs. _____ Cents _____	\$ 3,815.00	\$ 11,445.00
9	529	2006	1115	LF	CONC CURB (MONO) (TY II) Two _____ Dirs. _____ Cents _____ and Twenty Five _____	\$ 2.25	\$ 2,508.75
10	666	2036	1022	LF	REFL PAV MRK TY I (W) 8" (SLD) (100MIL) Two _____ Dirs. _____ Cents _____ and Twenty Five _____	\$ 2.25	\$ 2,299.50
11	666	2054	5	EA	REFL PAV MRK TY I (W) (ARROW) (100MIL) Eighty Four _____ Dirs. _____ Cents _____ and Twenty Five _____	\$ 84.25	\$ 421.25
12	666	2096	5	EA	REFL PAV MRK TY I (W) (WORD) (100MIL) Eight Four _____ Dirs. _____ Cents _____ and Twenty Five _____	\$ 84.25	\$ 421.25
13	666	2155	100	LF	REFL PAV MRK TY II (W) 12" (SLD) Three _____ Dirs. _____ Cents _____ and Ninety _____	\$ 3.90	\$ 390.00
14	666	2183	41	LF	REFL PAV MRK TY II (Y) 12" (SLD) Three _____ Dirs. _____ Cents _____ and Ninety _____	\$ 3.90	\$ 159.90

BID SHEET

FRY ROAD MEDIAN MODIFICATION
Fort Bend County

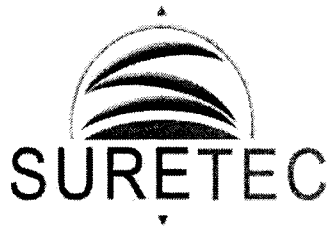
Bid Item No.	TxDOT Specification No.		Qty	Unit	Bid Item Description and Unit Price Bid Written in Words	Unit Price Bid in Numbers	Amount Bid in Numbers
	Item	Desc.					
15	666	2188	2	EA	REFL PAV MRK TY II (Y) (MED NOSE) One Hundred Forty and Forty Five Dirs. Cents	\$ 140.45	\$ 280.90
16	666	2191	1022	LF	PAVEMENT SEALER 8" Zero and Fifty Five Dirs. Cents	\$ 0.55	\$ 562.10
17	666	2219	5	EA	PAVEMENT SEALER (ARROW) Five and Sixty Dirs. Cents	\$ 5.60	\$ 28.00
18	666	2220	5	EA	PAVEMENT SEALER (WORD) Five and Sixty Dirs. Cents	\$ 5.60	\$ 28.00
19	672	2017	85	EA	REFL PAV MRKR TY II-C-R Six and Fifteen Dirs. Cents	\$ 6.15	\$ 522.75
20	678	2003	1022	LF	PAV SURF PREP FOR MRK (8") Zero and Fifty Five Dirs. Cents	\$ 0.55	\$ 562.10
21	678	2007	5	EA	PAV SURF PREP FOR MRK (ARROW) Five and Sixty Dirs. Cents	\$ 5.60	\$ 28.00

BID SHEET

FRY ROAD MEDIAN MODIFICATION
Fort Bend County

Bid Item No.	TxDOT Specification No.		Qty	Unit	Bid Item Description and Unit Price Bid Written in Words	Unit Price Bid in Numbers	Amount Bid in Numbers	
	Item	Desc.						S.P.
22	678	2018	5	EA	PAV SURF PREP FOR MRK (WORD) Five _____ Dirs. and Sixty _____ Cents	\$ 5.60	\$ 28.00	
23	677	2003	283	LF	ELIM EXT PAV MRK & MRKS (8") One _____ Dirs. and Fifteen _____ Cents	\$ 1.15	\$ 325.45	
24	677	2008	4	EA	ELIM EXT PAV MRK & MRKS (ARROW) Fifty Six _____ Dirs. and Fifteen _____ Cents	\$ 56.15	\$ 224.60	
25	677	2018	4	EA	ELIM EXT PAV MRK & MRKS (WORD) Fifty Six _____ Dirs. and Fifteen _____ Cents	\$ 56.15	\$ 224.60	
TOTAL BID								\$ 89,981.65





BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we E.L. Harris III Construction, Inc. as principal, hereinafter called the "Principal," and **SURETEC INSURANCE COMPANY**, 5000 Plaza on the Lake, Suite 290, Austin, TX 78746, as surety, hereinafter called the "Surety," are held and firmly bound unto Fort Bend County as obligee, hereinafter called the Obligee, in the sum of Five Percent (5%) of the Amount Bid by Principal for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the principal has submitted a bid for Fry Road Median Modifications.

NOW, THEREFORE, if the contract be timely awarded to the Principal and the Principal shall within such time as specified in the bid, enter into a contract in writing or, in the event of the failure of the Principal to enter into such Contract, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, neither Principal nor Surety shall be bound hereunder unless Obligee prior to execution of the final contract shall furnish evidence of financing in a manner and form acceptable to Principal and Surety that financing has been firmly committed to cover the entire cost of the project.

SIGNED, sealed and dated this 14th day of May, 2009.

E.L. Harris III Construction, Inc.
(Principal)

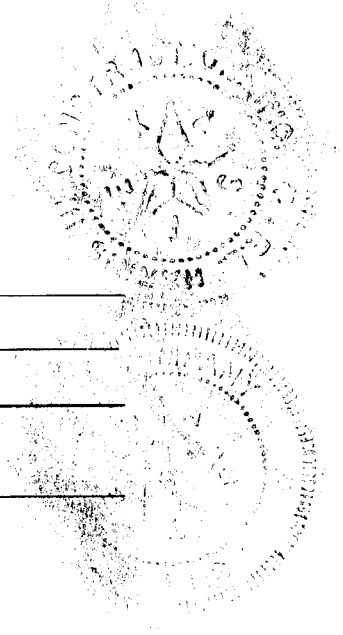
BY: _____

TITLE: President

SureTec Insurance Company

BY: _____

C.A. McClure, Attorney-in-Fact



SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

C. A. McClure, Kelly J. Brooks, Kenneth L. Meyer

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety, providing the bond penalty does not exceed

Five Million Dollars and no/100 (\$5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment shall continue in force until 12/31/10 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 28th day of October, A.D. 2008.

State of Texas ss:
County of Harris



SURETEC INSURANCE COMPANY

By: 
B.J. King, President

On this 28th day of October, 2008 before me personally came B.J. King, to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.




Michelle Denny, Notary Public
My commission expires August 27, 2012

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 14th day of May, 2009, A.D.


M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 612-0800 any business day between 8:00 am and 5:00 pm CST.

SureTec Insurance Company
THIS BOND RIDER CONTAINS IMPORTANT COVERAGE INFORMATION

Statutory Complaint Notice

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, Tx 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252-3439. You may write the Texas Department of Insurance at

PO Box 149104
Austin, TX 78714-9104
Fax#: 512-475-1771

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

Terrorism Risks Exclusion

The Bond to which this Rider is attached does not provide coverage for, and the surety shall not be liable for, losses caused by acts of terrorism, riot, civil insurrection, or acts of war.

**Exclusion of Liability for
Mold, Mycotoxins, Fungi & Environmental Hazards**

The Bond to which this Rider is attached does not provide coverage for, and the surety thereon shall not be liable for, molds, living or dead fungi, bacteria, allergens, histamines, spores, hyphae, or mycotoxins, or their related products or parts, nor for any environmental hazards, bio-hazards, hazardous materials, environmental spills, contamination, or cleanup, nor the remediation thereof, nor the consequences to persons, property, or the performance of the bonded obligations, of the occurrence, existence, or appearance thereof.

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

E.L. Harris III Construction, Inc.
P.O. Box 655
Fulshear, Texas 77441
Phone: 281-346-0648 Fax: 281-346-0658
Email: elharris3construction@earthlink.net

Completed Projects and References

City of Hunters Creek Village - Paving Improvements

\$750,000.00

Robert T. Deden, Services
Contact: Robert Deden
9328 Westview
Houston, Texas 77055

Beaver Dam Road Culvert - Drainage Improvements

\$125,000.00

Harris County Flood Control District
Attention: Brenda Trevino
9800 Northwest Freeway, Suite 514
Houston, Texas

Humble Paving and Drainage Improvements

\$208,510.00

Ewing Irrigation
Attention: Warren Campbell
1935 Spring Cypress Road
Spring, Texas 77388

Capital Improvements Project - Sidewalk Rehabilitation

\$49,500.00

City of La Porte, Texas
Attention: Richard Spicer
604 West Fairmont Parkway
La Porte, Texas 77571

Walking Trails Along Horsepen Bayou

\$115,490.00

Harris County Municipal Utility District No.
Brown & Gay Engineers, Inc.
Attention: Lindsey Pierce
11490 Westheimer, Suite 700
Houston, Texas 77077

Capital Improvements Project - Safe Sidewalks

\$129,330.00

City of Sugar Land, Texas
Attention: Mike Wilkinson
P.O. Box 110
Sugar Land, Texas 77487

Legends of Augusta Pines

Reinforced Concrete Paving, Storm, Sanitary & Waterlines

\$351,000.00

Owner: Source Plus
R.G. Miller Engineers
Contact: Jeff Dillard
12121 Wickchester, Suite 200
Houston, Texas 77079

11th Street Drainage and Paving Improvements

\$589,570.00

Attention: Richard Leyendecker
City of Katy, Texas
910 Avenue C
Katy, Texas 77493

Imperial Garden, Section 3 -

Water, Sewer, Drainage & Paving Improvements

\$336,895.00

Gateway Land Development
Contact: George Nilsson 832-202-8768
Century Engineering, Inc.
3030 South Gessner, Suite 100
Houston, Texas 77063

Westheimer Median Channelization

\$31,200.00

Ersa Grae
Attention: Jouman Samanian
9801 Westheimer
Houston, Texas 77042

Fulshear Town Center - Paving & Drainage Improvements

\$57,050.00

Robert T. Deden, Services
Contact: Robert Deden
9328 Westview
Houston, Texas 77055

**Tuscan Lakes - Austin Street, Phase II
Water, Drainage and Paving Improvements**

\$206,000.00

Tuscan Lakes Development
Contact: Eddie Rucker 713-953-5016
LJA Engineering & Surveying, Inc.
2929 Briarpark Drive, Suite 600

E.L. Harris III Construction, Inc.
P.O. Box 655
Fulshear, Texas 77441
Phone: 281-346-0648 Fax: 281-346-0658
Email: elharris3construction@earthlink.net

Completed Projects and References

Tuscan Lakes Section SF 70-3 - Paving Improvements
\$392,075.00

Tuscan Lakes Development
Contact: Eddie Rucker 713-953-5016
LJA Engineering & Surveying, Inc.
2929 Briarpark Drive, Suite 600
Houston, Texas 77042-3703

West Airport @ Dairy Ashford and Lakefield Boulevard
at Austin Parkway Turn Lane Improvements

City of Sugar Land
\$218,000.00
Attention: Mike Wilkinson - 281-642-1722
P.O. Box 5029
Sugar Land, Texas 77487-5029

Shadow Creek Ranch Nature Park Parking Lot
\$125,000.00

City of Pearland
Contact: Narcisso Lira III, P.E. 281-652-1649
3519 Liberty Drive
Pearland, Texas 77581-5416

Paving and Drainage Improvements - Fire Station No. 5
\$91,495.00

Montgomery Emergency Service District No. 2
Contact: Ed Addicks 979-836-7937
O'Malley Engineers, Inc.
P.O. Box 1976
Brenham, Texas 77834-1976

Kendall Lakes - Section One and Two
Paving Improvements
\$768,000.00

Skymark Development Corporation
Edminster, Hinshaw, Russ and Associates
10555 Westoffice Drive
Houston, Texas 77042

Creekmont, Section Three - Paving
\$275,000.00

Perry Homes, A Joint Venture
Carter Burgess
55 Waugh Drive
Houston, Texas

Tuscan Lakes Section SF 75-3, 90-2-1 & 55-3 - Paving
\$707,792.00

Tuscan Lakes Development
Contact: Eddie Rucker 713-953-5016
LJA Engineering & Surveying, Inc.
2929 Briarpark Drive, Suite 600
Houston, Texas 77042-3703

Lake at San Joaquin, Section II
Water, Sanitary, Drainage and Paving Improvements
\$1,965,332.00

LAR INTERNATIONAL
Attention: Mr. Mike Rebesch 281-630-2507
P.O. Box 2024
Friendswood, Texas 77549