



CITY OF KINGSVILLE

GENERAL CONDITIONS

AND

SPECIFICATIONS

FOR

REQUEST FOR PROPOSAL

FOR

STREET REHABILITATION PROJECT

RFP #18-12

OPENING DATE:

TUESDAY, JUNE 19, 2018

2:00 pm

NON-MANDATORY PRE-BID MEETING
TUESDAY, JUNE 5, 2018 11:00 AM
CITY HALL HELEN KELBERG GROVES COMMUNITY ROOM
400 WEST KING AVE.
KINGSVILLE, TX 78363

GENERAL CONSTRUCTION CONTRACT

INDEX

A:	Advertisement for Bids	3
B.	Instruction to Bidders	5
C.	Proposal of Bidders	6
D.	Special Conditions	7
E:	References	8
F.	Proposal Data Sheet	9
F.	Insurance Requirement Affidavit	10
G.	Payment Bond	11
H.	Performance Bond	13
I.	Maintenance Bond	15
J.	Proposal (Bid) Bond	18
K.	General Conditions of Agreement	19
L.	Scope of Work & Pricing Sheet	32
M.	Specifications	34
N.	Conflict of Interest	43
O.	Certificate of Interested Parties Form 1295	46
P.	Contract Agreement	48

All Construction must comply with current City of Kingsville Standards and Specifications.

Contractor must obtain copies of the latest City General Design Standards and Specifications from the City of Kingsville Engineering Department located on the 1st floor of the City Hall building located at 400 West King Ave., Kingsville, Texas 78363. However copies can be downloaded for free by clicking on the link purchasing@cityofkingsville.com.

Sealed Request for Proposals (RFP) addressed to Charlie Sosa, Purchasing Manager, City of Kingsville will be received on **JUNE 19, 2018** until **2:00 pm**, at the City of Kingsville City Hall (3rd Floor) located at 400 W. King Avenue, Kingsville, TX. RFP's must be in the City of Kingsville's possession on or before the aforementioned date and time (no late submissions will be accepted).

**RFP FOR STREET REHABILITATION PROJECT
RFP #18-12**

The term RFP and BID are used as interchangeable terms in this document.

The successful Respondent must furnish Payment, Performance, and Maintenance Bonds in the amount of 100% of the contract price from an approved Surety Company holding a permit from the State of Texas, to act as Surety and acceptable (according to the latest list of companies holding certificates of approval by the State Board of Insurance under 7.19-1 of the Texas Insurance Code). The successful respondent must also be able to show evidence that it is authorized to do business in the State of Texas prior to executing the contract.

All blanks on the Bid Form must be completed and all subtotal and total prices must be stated in both script and figures where indicated. The Owner reserves the right to reject any or all bids and to waive formalities. In case of ambiguity or lack of clearness in stating the price in the bids the Owner reserves the right to consider the most advantageous construction thereof, or to reject the bid. Unreasonable or unbalanced unit price will be considered sufficient cause of rejection of any bid or bids.

Respondents shall have performed similar scope of work within the past three years. Respondents are expected to inspect the site of the work and to inform themselves regarding local conditions and conditions under which the work is to be done. All respondents must comply with the rules and regulations for the Americans with Disabilities Act of 1990.

Instructions to Respondents, Proposal Forms, Specifications, Plans and Contract Documents may be examined without charge at the office of the Purchasing Manager, City Hall, 400 W. King Ave., Kingsville, Texas 78363. This RFP is also on the City's website at purchasing@cityofkingsville.com There are no plans associated with this RFP package.

Any RFP received after stated closing time will be returned unopened. If RFP bids are sent by mail to the Purchasing Manager, the bidder shall be responsible for actual delivery of the bid to the Purchasing Manager before the advertised date and hour for opening of bids. If mail is delayed by the postal service, courier service, the City of Kingsville beyond the date and hour set for the RFP opening, RFP thus delayed will not be considered and will be returned unopened.

A bid bond must be provided of all responders in the amount of 5% of your total bid.

Technical questions related to this bid should be directed to City Engineer Rudy Mora at (361) 595-8004, or via email at rmora@cityofkingsville.com. Technical questions to Rudy Mora should also be copied to the Kingsville Purchasing department at csosa@cityofkingsville.com.

Questions related to the RFP process should be directed to the Purchasing Manager via email at csosa@cityofkingsville.com.

ADVERTISEMENT FOR BIDS continued Page 2 of 2

A pre-bid meeting is scheduled on **Tuesday, June 5, 2018 @ 11:00am** at the City Hall Helen Kleberg Groves Community Room, 400 W. King Ave., Kingsville, Texas. Until the final award by the City of Kingsville, said City reserves the right to reject any and/or all bids, to waive technicalities, to re-advertise, to proceed otherwise when the best interests of said City will be realized hereby. RFP's will be submitted sealed and plainly marked with the date and time of receiving.

**CITY OF KINGSVILLE, TEXAS
Charlie Sosa, Purchasing Manager**

Publication Dates: Sunday, May 19, 2018

Sunday, June 2, 2018

Pre-bid Meeting: Tuesday, June 5, 2018 11:00 am

400 West King, Kingsville TX 78363

Commission Chambers

Closing Date: Tuesday, June 19, 2018 @ 2:00 pm

INSTRUCTIONS TO BIDDERS

All blanks on the Bid Form must be completed and all subtotal and total prices must be stated in both script and figures where indicated. The Owner reserves the right to reject any or all bids and to waive formalities. In case of ambiguity or lack of clearness in stating the price in the bids the Owner reserves the right to consider the most advantageous construction thereof, or to reject the bid. Unreasonable or unbalanced unit price will be considered sufficient cause of rejection of any bid or bids.

Bidders shall have performed similar scope of work within the past three years. Bidders are expected to inspect the site of the work and to inform themselves regarding local conditions and conditions under which the work is to be done. All bidders must comply with the rules and regulations for the Americans with Disabilities Act of 1990.

CONDITIONS OF SITE AND WORK

Bidders should carefully examine the Specification and other documents, visit the site of the work, and fully inform themselves as to all conditions and matters which can in any way affect the work or costs thereof. Should a Bidder find discrepancies in, or omissions from the drawings, specifications or other Contract Documents, or should Bidder be in doubt as to the meaning and intent, Bidder should notify the City at once and obtain clarification prior to submitting a bid. The submission of a bid by Bidder shall be conclusive evidence that the Bidder is fully acquainted and satisfied as to the character, quality and quantity of work to be performed and materials to be furnished.

PROPOSAL OF BIDDERS

The term RFP and BID are used as interchangeable terms in this document.

The following bid is made for furnishing the materials/services for the City of Kingsville, Texas.

The undersigned declares that the amount and nature of the materials/services to be furnished is understood and that the nature of this bid is in strict accordance with the conditions set forth and is a part of this bid, and that there will at no time be a misunderstanding as to the intent of the specifications or conditions to be overcome or pleaded after the bids are opened. The undersigned, in submitting this bid, represents that they are an equal opportunity employer, and will not discriminate with regard to race, religion, color, national origin, age or sex in the performance of this contract.

The undersigned affirms that they are duly authorized to execute this contract that this company, corporation, firm, partnership or individual and has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this type of business prior to the official opening of this bid.

**2018 STREET REHABILITATION PROJECT
RFP# 18-12**

SIGNATURE

PLEASE INCLUDE W-9

DATE

PRINTED NAME TITLE

COMPANY NAME CONTACT PERSON (Must have knowledge of Bid)

BILLING ADDRESS STREET CITY STATE ZIP

MAILING ADDRESS STREET CITY STATE ZIP

PHONE NUMBER (metro/toll free) FAX NUMBER E-MAIL ADDRESS

HUB VENDORS: HUB vendors (Historically Underutilized Business) are vendors who’s company is owned by either a minority or woman. If you are classified as a HUB vendor and have certification to prove this, please respond below and attach a copy of your certification. If you would like to read the Texas bid statute which references HUB vendors, please follow this link <http://www.statutes.legis.state.tx.us/SOTWDOcs/LG/htm/LG.252.htm>.

HUB Vendor Status: YES _____ (attach certification) NO _____

No bid: _____ If response is not received in the form of a “Bid” or “No Bid” bidder will be removed from bid list. Please give a specific reason as to why you are unable to bid, i.e.: we do not sell the required product/service.

SPECIAL CONDITIONS

1. **Insurance Requirement Affidavit should be submitted as part of the proposal. (Requirements are listed on page 26). This form is simply a confirmation from your insurance company that you will be able to provide the insurance requirements should you be the chosen company.**
2. **Insurance Certificate must be submitted and issued with the City listed as the certificate holder within 10 days of notice of award. See Section 19 of the general terms and conditions for detailed insurance requirements.**

Cancellation Policy must read as follows:

“Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail a 30 days written notice to the certificate holder named to the left.”

3. **By signing the proposal sheet, the representative has read and understands all plans, specifications, and general design standards involved with this project.**
4. **This RFP will be for the initial work detailed in this RFP. This RFP will be renewable.**
5. **The anticipated budget for this work is approximate \$500,000 annually. The City reserves the right to increase or decrease this amount either prior to the approval by City Commission or after approval through change orders.**
6. **Payment, Maintenance, and Performance bonds will be required of the winning vendor, so please factor those costs into your bid response. The City will require that you use the standard city forms for these three bonds, and copies are included in this bid package.**
7. **All responders must submit a Bid Bond on the city form based on 5% of your bid total.**
8. **The RFP will be evaluated based on best value to the City with price being 55% of the consideration, and experience/references/past performance being considered as 45%.**
9. **Please provide at least three references of governments, individual or companies that have used your services. This document must be submitted with your proposal.**

REFERENCES

Please list at least three references of governments, individuals or companies that have used your street rehabilitation services. Use additional pages as needed. Additional consideration will be given to governmental references.

1. _____
COMPANY NAME OR CONTACT PERSON

STREET ADDRESS	CITY	STATE	ZIP

CONTACT PERSON	TELEPHONE NUMBER

PRODUCTS/SERVICES USED

2. _____
COMPANY NAME OR CONTACT PERSON

STREET ADDRESS	CITY	STATE	ZIP

CONTACT PERSON	TELEPHONE NUMBER

PRODUCTS/SERVICES USED

3. _____
COMPANY NAME OR CONTACT PERSON

STREET ADDRESS	CITY	STATE	ZIP

CONTACT PERSON	TELEPHONE NUMBER

PRODUCTS/SERVICES USED

PROPOSAL DATA SHEET
RFP 18-12 STREET REHABILITATION PROJECT

Variations from the aforementioned specifications may be acceptable provided such differences are noted on the bid and are deemed to be advantageous to the City.

Any substitutions from brand names mentioned must be proved to be equal and may be considered for award by the Purchasing Manager and requesting department if so proven.

Pursuant to the foregoing notice to bidders and general information, the undersigned bidder hereby proposes to do all the work and furnish all necessary superintendence, labor, machinery, equipment, tools, materials, and to complete all the work upon which he bids, as provided by the attached specifications and shown on the plans. The undersigned, also, binds himself, on the acceptance of the proposal to execute a contract and bond according to the accompanying forms for performing and completing the said work within the required time and furnish all required guarantees for the following prices to wit:

The undersigned Bidder hereby declares that he attended the pre-bid meeting and has carefully examined and understands the Contract Documents pertaining to the work covered by the above bid, and he further agrees to commence work within ten (10) days after the date of written notice to do so for each job throughout the contract period.

Included in the proposal is a two-year warranty for all jobs completed through the contract period.

Receipt is hereby acknowledged of the following addenda to the contract documents:

Addendum No. 1 dated _____ Received _____

Addendum No. 2 dated _____ Received _____

PAYMENT BOND

STATE OF TEXAS §

COUNTY OF KLEBERG §

KNOW ALL MEN BY THESE PRESENTS: That _____ of the City of _____, County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bond unto the City of Kingsville (Owner), in the penal sum of five hundred thousand dollars (**\$500,000.00**) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 2018, for STREET REHABILITATION PROJECT per RFP # 18-12, 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 the said Principal and its subcontractors shall well and faithfully make payment to each and every claimant (as defined in Chapter 2253, Texas Government Code, as amended) supply labor or materials in the prosecution of the work under the contract, then this obligation shall be 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, as currently amended, and all liabilities on this bond shall be determined in accordance with the provisions of said statute to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. The surety company must have a minimum rating of A VII.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of
, 20_____.

Principal

Surety

By: _____

By: _____

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is: _____

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF KLEBERG §

KNOW ALL MEN BY THESE PRESENTS: That, _____ as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Kingsville, Texas (Owner), in the sum of _____ five hundred thousand dollars (**\$500,000.00**) as an appropriate measure of liquidated damages for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the day of _____, 2018 for Street Rehabilitation Project per specifications in RFP # 18-12, 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 the Principal shall faithfully perform the work in accordance with the plans, specifications, and contract documents and shall fully indemnify and save harmless Owner from all costs and damages which Owner may suffer by reason of Principals default, and reimburse and repay Owner all outlay and expense which Owner may incur in making good such default, then this obligation shall be 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, as currently amended, and all liabilities on this bond shall be determined in accordance with the provisions of said statute to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specification, or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. The surety company must have a minimum rating of A VII.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2018.

Principal

Surety

By: _____

By: _____

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is: _____

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT, _____ whose address is _____, as PRINCIPAL, _____ an _____, a CORPORATION organized and existing under the laws of the State of Texas, and fully authorized to transact business in the State of Texas, as Sureties, do hereby expressly acknowledge ourselves to be held and bound to pay unto the City of Kingsville, Texas, hereinafter called CITY, a municipal corporation organized and existing under the laws of Texas, at Kingsville, Kleberg County, Texas, the sum of five hundred thousand dollars _____ **(\$500,000.00)** in lawful money of the United States, for the payment of which sum will and truly to be made unto said City of Kingsville, and its successors, said PRINCIPAL AND SURETIES do hereby bind ourselves, our heirs, executors, administrators, their assigns and successors, jointly and severally, firmly by these presents. This bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decreases the sum of this Bond.

THIS obligation is conditioned, however, that whereas said _____ has this day of _____, 20____, entered into a written Contract with the said CITY to build and construct _____, located in the City of Kingsville, Texas, which Contract and the Plans and Specifications therein mentioned adopted by the CITY, are hereby expressly made a part thereof as though the same were written and embodied herein.

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 2018, for Street Rehabilitation Project per RFP # 18-12, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

WHEREAS, said Contract was entered into pursuant to the requirements of the CITY, and

WHEREAS, in said Contract, CONTRACTOR binds itself to use of materials and methods of construction such that all improvements including but not limited to _____ will be initially completed free of perceptible defects and will remain in good repair and condition and free of perceptible defects for and during the period of two (2) years after the date of acceptance of the completed improvements by the CITY, and

WHEREAS, said CONTRACTOR binds itself to construct said improvements in such a manner and obtain inspection approvals in proper sequence as are required to obtain acceptance by the CITY and to repair or reconstruct the said improvements in whole or in part at any time within said two (2) years period to such an extent

as the CITY deems necessary to properly correct all defects except those which have been caused by circumstances and conditions occurring after the time of construction over which the CONTRACTOR had no control and which are other than those arising from defect of construction by the CONTRACTOR; and,

WHEREAS, after the acceptance of the improvements by the CITY, said CONTRACTOR binds itself, upon receiving notice from the CITY of the need thereof to repair or reconstruct said improvements and if the CONTRACTOR fails to make the necessary corrections, within ten (10) days after being notified, the CITY may do or have done all said corrective work and shall have recovery hereon for all expenses thereby incurred.

WHEREAS, under the Plans and Specifications, and Contract, it is provided that the CONTRACTOR will maintain and keep in good repair the work herein contracted to be done and performed for a period of two (2) years from the date of acceptance; it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective material, work, or labor performed by said CONTRACTOR; and in case the said CONTRACTOR shall fail to do so, within ten (10) days after being notified, it is agreed that the CITY may do said work and supply such materials, and charge to same against the said CONTRACTOR, AND SURETIES, on this obligation, and said CONTRACTOR AND SURETIES hereon shall be subject to the liquidated damages mentioned in said contract.

NOW THEREFORE, if the said CONTRACTOR, shall keep and perform its said agreement to maintain said work and keep the same in repair for the said maintenance period of two (2) years, as provided, then these presents shall be null and void, and have no further effect, but if default shall be made by the said CONTRACTOR in the performance of his contract to so maintain and repair said work, then these presents shall have full force and effect, and said CITY shall have and recover from said CONTRACTOR and SURETIES damages in the premises, as provided, and it is further agreed that this obligation shall be a continuing one against the PRINCIPAL and SURETIES hereon, and that successive recoveries may be had thereon for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected from any cause during said time.

PROVIDED FURTHER, that if any legal action were filed upon this Bond, exclusive venue shall lie in Kleberg County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same shall in anyway affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

This Bond complies with the provisions of Article 5160 of Vernon's Annotated Civil Statutes, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident agent in Kleberg County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Texas Insurance Code, Sections 3503.001 through 3503.005 of the State of Texas.

IN WITNESS WHEREOF, the said _____ has caused these presents to be executed by them; and the said _____ has caused these presents to be executed by its ATTORNEY-IN-FACT _____ and the said ATTORNEY-IN-FACT has hereunto set his hand this the ____ day of _____, 2018.

Principal

Surety

By: _____

By: _____

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is:

PROPOSAL (BID) BOND

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 2018, for Street Rehabilitation Project per RFP #18-12, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

The undersigned Bidder hereby declares that he has visited the site of the work and has carefully examined the Contract Documents pertaining to the work covered by the above bid, and he further agrees to commence work within ten (10) days after the date of written notice to do so, and to have 100% of the work on which he has bid complete within ___ consecutive calendar days.

Enclosed with this proposal is a Certified Check for _____ Dollars (\$) or a Proposal Bond in the sum of _____ which it is agreed shall be collected and retained by the Owner as liquidated damages in the event this proposal is accepted by the Owner within ninety (90) days after the bids are received and the undersigned fails to execute the contract and the required bond for the Owner within ten (10) days after the date said proposal is accepted, otherwise, said check or bond shall be returned to the undersigned upon request.

Contractor (Firm Name)

By: _____
Title: _____
(President/Vice-President)

Address _____

Phone _____

Fax _____

Email _____

GENERAL CONDITIONS OF AGREEMENT

1. CONTRACT DOCUMENTS:

It is understood and agreed that the Advertisement for Bids, Instructions to Bidders, Proposal to Bidders, Proposal Data Sheet, General Conditions, Special Conditions, Specifications, Council of Governments Standard Specifications for Public Works, 1983 Edition as amended, Drawings, Addenda, specifications, and Superintendent data furnished by the Contractor and accepted by the Owner, are contract documents. Additionally, any other written instruments, correspondence, etc., bound in the volume of the contract documents at the time of execution by the Owner and Contractor shall be "contract documents" whether specifically designated as such or otherwise.

The City reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and execution of their work, and where required, shall properly connect and coordinate his work with theirs.

1.1 NO PREJUDICE AGAINST OWNER:

It is understood and agreed by Contractor that Owner has independently prepared most of the Contract Documents and Contractor agrees that, notwithstanding any doctrine of law to the contrary, no presumption and/or prejudice against Owner shall be presumed against Owner (nor construed in favor of Contractor) by any court of competent jurisdiction in its interpretation of the Contract Documents.

2. LEGAL ADDRESSES:

All notices, letters, and other communications to the Contractor will be mailed or delivered to either the contractor's business address listed in the Proposal or the contractor's office in the vicinity of the work, with delivery to either of these addresses being deemed as delivery to the Contractor. The addresses of the Owner appearing on page 3 are hereby designated as the place to which all notices, letters, and other communication to the Owner shall be mailed or delivered. Either party may change his address at any time by an instrument in writing delivered to the Owner and to the other party.

3. SCOPE AND INTENT OF CONTRACT DOCUMENTS:

The specifications are intended to supplement but not necessarily duplicate each other. Any work exhibited in the one and not the other shall be executed as if it had been set forth in both, so that the work will be constructed according to the complete design as determined by the Owner.

Should anything necessary for a clear understanding of the work be omitted from the specifications and drawings, or should the requirements appear to be in conflict, the Contractor shall secure written instructions from the Owner before proceeding with the work affected thereby. It is understood and agreed that the work shall be performed accordingly to the true intent of the contract documents.

4. INDEPENDENT CONTRACTOR:

The relationship of the Contractor to the Owner shall be that of an independent Contractor. Owner and Contractor agree that the negotiation, preparation and execution of the Contract Documents were negotiated, prepared, and executed as part of an arms-length transaction, and that no duty of good faith and fair dealing exists between Owner and Contractor, now, in the future, nor at any time in the past. The Owner shall not have the right to control the day-to-day activities of how the Contractor performs the work, being interested only in the results to be achieved.

5. ASSIGNMENT AND SUBCONTRACTING:

The Contractor shall not assign or subcontract the work or any part thereof, without the previous written consent of the Owner, nor shall he assign, by power of attorney or otherwise, any of the money payable under this contract unless written consent of the Owner has been obtained. No right under this contract, nor claim for any money due or to become due hereunder shall be asserted against the Owner, or person acting for the Owner, by reason of any so-called assignment of this contract or any part thereof, unless such assignment has been authorized by the written consent of the Owner. In case the Contractor is permitted to assign moneys due or to become due under this contract, the instrument of assignment shall contain a clause subordinating the claim of the assignee to all prior liens for services rendered or materials supplied for the performance of the work.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him, his subcontract shall be immediately terminated by the Contractor upon notice from the Owner. The Contractor shall be as of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Owner.

It is the intent of these specifications that the Contractor shall perform the majority of the work with his own forces and under the management of his own organization. Only subcontractors who have been listed in the proposal and who are accepted by the Owner as provided in the General Conditions may subcontract specific portions of the work. All subcontractors shall be directly responsible to the Contractor and shall be under his general supervision. All work performed under subcontracts shall be subject to the same contract provisions as the work performed by the contractor's own forces.

This Contract is considered personal between the Contractor and Owner therefore, any sale of more than 50% ownership of Contractor shall be considered as an assignment.

6. ORAL STATEMENTS:

It is understood and agreed that the written terms and provisions of this agreement shall supersede all oral statements of representatives of the Owner, and oral statements shall not be effective or be construed as being a part of the contract.

7. REFERENCE STANDARDS AND LAWS AND REGULATIONS:

Reference to the standards of any technical society, organization, or association, or to codes of local or state authorities, shall mean the latest standard, code, specification, or tentative standard adopted and published at the date of taking bids, unless specifically stated otherwise.

The Contractor shall keep itself fully informed of, and shall observe and comply with, all laws, ordinances, and regulations which, in any manner, affect those engaged or employed on any work, or the materials and equipment used in any work or in any way affect the performance of any work, and of all orders and decrees of bodies or tribunals having jurisdiction or authority over work performed under the contract. If any discrepancy or inconsistency should be discovered between the contract and any such law, ordinance, regulation, order or decree, the Contractor shall immediately report the same in writing to the Owner. The Contractor shall be responsible for the compliance with the above provisions by subcontractors of all tiers.

Except as otherwise specified, the Contractor shall procure any pay for all permits and inspections and shall furnish any bonds, security or deposits required to permit performance of its work hereunder.

- (a) OSHA: all work and job site conditions shall, at all times, adhere to the requirements of the latest provisions of the Occupational Safety and Health Act.
- (b) REQUIREMENTS AND CODES: Wherever references are made in the contract to requirements or codes in accordance with which work is to be performed or tested, the addition or revision of the requirements or codes current on the date of this contract shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such requirements or

codes is solely for technical information.

This contract shall be governed by the laws of the State of Texas and by such federal laws as may be applicable.

The parties agree that all claims, disputes, and other matters in question between the Contractor and the Owner arising out of or pertaining to the contract documents or the breach thereof, shall, except as otherwise expressly provided, be decided solely in the Courts of the State of Texas, in the County of Kleberg.

Interest, if any, allowable on the claims of either party shall be at the current rate for judgments in the Courts of the State of Texas.

8. NO WAIVER OF RIGHTS:

Neither the inspection by the Owner or any of their officials, employees, or agents, nor any order by the Owner for payment of money, or any payment for, or acceptance of, the whole or any part of the work by the Owner, nor any extension of time, nor any possession taken by the Owner or its employees, nor any action of the Owner shall operate as a waiver of any provision of this contract, or of any power herein reserved to the Owner, or of any right to damages herein, provided nor shall any waiver of any breach in this contract be held to be a waiver of any other or subsequent breach.

9. CONTRACTOR'S SUPERINTENDENT AND EMPLOYEES:

The Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized, and financed to perform such work.

The Contractor shall act as an independent contractor maintaining complete control over its employees and all of its subcontractors. The Contractor shall perform all work in an orderly and workmanlike manner, enforce strict discipline and order among its employees and assure strict discipline and order by its subcontractors.

Before starting work, the Contractor shall designate a competent, authorized representative to represent and act with full authority for the contract and shall inform the Owner in writing of the name, address, telephone number (day and night) of such representative, and of any change in such designation. This representative shall have authority to make binding and enforceable decisions in the name of the Contractor and to accept service of all notices, which the Owner desires to serve or which are required by this contract to be served on the Contractor. As an alternate, such written notices may be mailed directly to the address of that party shown on the face of the Contract Agreement form. Such representative shall be present or be duly represented at the site of work at all times when work is actually in progress and, during period when work is suspended, arrangements acceptable to the Owner shall be made for any emergency work which may be required. Competent assistants, shall support the Contractor's authorized representative as necessary, and the authorized representative and its assistants shall be satisfactory to the Owner. All requirements, instructions, and other communications given to the Contractor's authorized representative by the Owner shall be as binding as if given to the Contractor.

The Contractor shall employ only fully experienced and properly qualified persons to perform any work. The Contractor shall be responsible for maintaining satisfactory conduct of its employees. The Contractor's site representative shall stay on the project until final completion of the work in accordance with the contract documents.

10. SUPERINTENDENT INSPECTION:

The Owner may appoint such inspectors, as the Owner deems proper to inspect the materials furnished and the work performed for compliance with the drawings and specifications. The Contractor shall furnish all reasonable assistance required by the Owner, or inspectors, for the proper inspection of the work. Should the Contractor object to any interpretation of the contract by any inspector, the Contractor may make written appeal to the Owner for a decision, but the Owner's decision shall be final.

Inspectors shall have the authority to reject work, which is unsatisfactory, faulty, or defective or does not conform to the requirements of the drawings and specifications. Inspection shall not relieve the Contractor from any obligation to construct the work strictly in accordance with the drawings and specifications. Work not so constructed shall be removed and replaced by the Contractor at his own expense.

11. RIGHT OF OWNER TO TERMINATE CONTRACT:

If the work to be done under this contract is abandoned by the Contractor; or if this contract is assigned by him without the written consent of the Owner; or if the Contractor is adjudged bankrupt, or files for voluntary bankruptcy; or if a general assignment of his assets is made for the benefit of his creditors; or if a receiver is appointed for the Contractor of any of his property or if at any time in writing to the Owner determines that the performance of the work under this contract is being unnecessarily delayed, that the Contractor is violating any of the conditions of this contract, or that he is executing the same in bad faith or otherwise not in accordance with the terms of said contract; or if the work is not substantially completed within the time named for its completion or within the time to which such completion date may be extended; then the Owner may serve written notice upon the Contractor and his surety of the Owner's intention to terminate this contract. Unless within five (5) days after the serving of such notice, a satisfactory arrangement is made for continuance, this contract shall terminate. In the event of such termination, the surety shall have the right to take over and complete the work, provided that if the surety does not commence performance within 30 days, the Owner may take over and prosecute the work to completion, by contract or otherwise. The Contractor and his surety shall be liable to the Owner for all excess cost sustained by the Owner by reason of such prosecution and completion. The Owner may take possession of, and utilize in completing the work, all materials, equipment, tools, and plant on the site of the work, including such materials, etc., as may have been placed on the site by or at the direction of the Contractor.

The Owner may, at its option, terminate the performance of the work in accordance with this section, in whole, or from time to time in part, at any time by written notice thereof the Contractor, whether or not the Contractor is in default. Upon any such termination, Contractor shall waive any claims for damages, including loss of anticipated profits, on account thereof, but as the sole right and remedy of the Contractor, the Owner shall pay Contractor in accordance with subparagraph (b) below, provided, however, that those provisions of the contract documents which by their very nature survive final acceptance under the contract documents shall remain in full force and effect after such termination.

- (a) Upon receipt of any such notice, the Contractor shall, unless the notice requires otherwise:
 - (1) Immediately discontinue work on the date and to the extent specified in the notice;
 - (2) Place no further order or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of work under the contract that is not terminated;
 - (3) Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to the Owner of all order and subcontracts to the extent they relate to the performance of work terminated, or assign to the Owner those orders and subcontracts, and revoke agreements specified in such notice; and
 - (4) Assist the Owner, as specifically requested in writing, in the maintenance, protection

and disposition of property acquired by the Owner under the contract.

- (b) Upon any such termination, the Owner will pay the Contractor an amount determined in accordance with the following (without duplication of any item):
 - (1) All amounts due and not previously paid to the Contractor for work completed in accordance with the contract prior to such notice, and for work thereafter completed as specified in such notice;
 - (2) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in subparagraph (a) (3) above;
 - (3) The reasonable cost incurred pursuant to subparagraph (a) (4) above;
 - (4) Any other reasonable costs incidental to such termination of work.

The foregoing amounts will include a reasonable sum, under all of the circumstances, as profit for all work satisfactorily performed by the Contractor.

11.1 TERMINATION FOR CONVENIENCE:

Owner hereby reserves the right to terminate this Agreement without regard to fault or breach upon written notice to Contractor, effective immediately unless otherwise provided in said notice to Contractor, effective immediately unless otherwise provided in said notice. In the event of such termination, Owner shall pay as the sole amount due to Contractor in connection with the work (i) all sums due for Work performed to date including allowing profit and overhead (except retainage sums shall not be paid prior to thirty (30) days following the date of termination); and (ii) reasonable cost of termination. Such sums will be due and payable on the same conditions as set forth in this Agreement for final payment to the extent applicable. Upon receipt of such payment, the parties hereto shall have no further obligations to each other except for Contractor's obligations to perform corrective and/or warranty work and to indemnify Owner as provided for in this Agreement. It is understood and agreed that no profit, fee or other compensation shall be due or payable for unperformed work. Contractor agrees that each subcontract and purchase order issued by it will reserve for Contractor the same right of termination provided by this Section 15.1 and Contractor further agrees to require that comparable provisions be included in all lower tier subcontracts and purchase orders.

Upon a determination by any court or body that termination of Contractor, or its successor in interest, was wrongful, such termination will be deemed converted to a termination for convenience and Contractor's remedy for wrongful termination is limited to the recovery of the payments permitted for termination for convenience as set forth above.

The rights and remedies of Owner and Contractor under this Agreement shall be non-exclusive and shall be in addition to all the other remedies available to such parties at law or in equity, subject, however, in the case of Contractor, to the limitation contained above and other pertinent provisions of this Agreement.

12. EQUAL OPPORTUNITY:

The Contractor is aware of, and is fully informed of, the Contractor's obligations under Executive Order 11246, and, where applicable, shall comply with the requirements of such order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-1.4, and the clause therein entitled "Equal Opportunity Clause" which, by this reference, is incorporated herein.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under Executive Order No. 11701, "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such order, and all orders, rules and regulations promulgated thereunder unless

exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR 60-250 et seq. and the clause therein entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era" which, by this reference is incorporated herein.

The Contractor certifies those segregated facilities, including, but not limited to, washrooms, work areas, locker rooms, are not, and will not, be maintained or provided for the Contractor's employees. Where applicable, the Contractor shall obtain similar certification from any of its subcontractors, vendors, or suppliers performing work under this contract.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under the Rehabilitation Act of 1973, and, where applicable, shall comply with the provisions of the Act, and the regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-741 and the clause entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Handicapped Workers" which, by this reference, is incorporated herein. Contractor must also comply with the rules and regulations as established by the Americans with Disabilities Act of 1990.

13. PROTECTION OF WORK AND PROPERTY:

The Contractor shall be responsible for and shall bear any and all risk of loss of, or damage to work in progress, all materials delivered to the site, and all materials, tools, and equipment until completion and final acceptance of the work to be performed under this contract.

The Contractor shall promptly take all precautions, which are necessary and adequate against any conditions created during the progress of the Contractor's activities hereunder which involve a risk of bodily harm to persons or a risk of damage to any property. Contractor shall continuously inspect all work, materials and equipment to discover and determine, and shall be solely responsible for discovery, determination and correction of any conditions which involve a risk of bodily harm to persons or damage to property.

The Contractor shall comply with all applicable safety laws, standards, codes and regulations in the jurisdiction where the work is being performed specifically but without limiting the generality of the foregoing and regardless of any exemptions provided by law, with all rules, regulations and standards adopted pursuant to the Occupational Safety and Health Act of 1970.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interface with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. The Contractor will protect from damage all existing improvements, utilities, roads, and bridges at or near the site of work and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract of the failure to exercise reasonable care in the performance of the work. Under no circumstances will city roads and bridges be subject to greater than normal highway truck loadings.

The Contractor shall provide and maintain such temporary work as is required for the protection of the public and those employed in or about the work site, including all signs, guards, barricades, night lights and any other temporary protection as may be necessary. Contractor shall provide and maintain such temporary work as is required for protection of finished work, including building paper, boxing, planking, protective coating, and such other protection as may be deemed necessary by the Owner. All such work shall be returned to original condition by the Contractor on completion of the contract.

Whenever necessary to maintain proper temperatures for performance of work, or to protect or to close in work in place, Contractor shall provide and maintain temporary enclosures as directed by the Owner for all openings or exterior surfaces that are not enclosed with finishing materials.

The Contractor shall protect all the work including buildings, structures, equipment, excavations,

trenches, etc. from water damage including damage by rainwater, city water main breaks, ground water, backing-up of drains, downspouts of sewers and shall construct and maintain all necessary drainage and do all pumping required to protect or to perform the work. Contractor shall provide protection to any equipment in place, as required to prevent damage by moisture. Contractor, in general, shall at all times carefully protect the work, materials, and equipment against damage from the weather, and comply with the directions of the Owner in order to avoid any adverse effect on the project from weather conditions.

The Contractor assumes all liability for its failure to comply with the provisions of this Article. The Contractor shall include this Article in its entirety in all subcontracts for any work at the project site.

Upon the failure of the Contractor or its subcontractors to comply with any of the requirements of the Article, the Owner shall have the authority to stop any operations of the Contractor or its subcontractors affected by such failure until such failure is remedied. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for increased costs or damages by the Contractor or its subcontractors.

14. SAFETY:

The Contractor shall at all times conduct all operations under the Contractor in a manner to avoid the risk of bodily harm to persons or risk of damage to any property. The Contractor shall promptly take all precautions, which are necessary and adequate against any conditions, which involve a risk of bodily harm to persons or a risk of damage to any property. The Contractor shall continuously inspect all work, materials and equipment to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such conditions. The Contractor shall designate an employee as safety supervisor who is acceptable to the Owner.

The Contractor shall comply with all applicable laws, regulations and standards. The Contractor shall coordinate with other Contractors and subcontractors on safety matters and shall promptly comply with any specific safety directions given to the Contractor by the Owner.

The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazard, promulgating safety regulations and notifying the Owner and users of adjacent properties and utilities.

The Contractor shall maintain a Safety Program with detail commensurate with the work to be performed. Such review shall not relieve the Contractor of its responsibility for safety, nor shall it be construed as limiting in any manner the Contractor's obligation to undertake any action, which may be necessary or required to establish and maintain safe working conditions at the site.

The Contractor shall maintain accurate accident and injury reports.

The Contractor shall hold regular scheduled meetings to instruct its personnel on safety practices. The Contractor shall furnish safety equipment and enforce the use of such equipment by its employees.

All equipment furnished and installed on this project shall be manufactured and installed in accordance with the applicable parts of the Williams-Steiger Occupational Safety and Health Act of 1970, and its subsequent amendments and revisions. All work shall be performed in accordance with the regulations and requirements of the above noted Act, revisions and amendments.

15. TAXES, PERMITS AND LICENSES:

The Contractor shall obtain and pay for all licenses, permits, and inspections required for the work.

The Contractor shall pay all appropriate sales taxes, excluding materials permanently retained by the City of Kingsville franchise taxes, income taxes, gross receipts taxes, and other business or occupation taxes imposed upon the Contractor.

16. PATENTS:

Royalties and fees for patents covering materials, articles, apparatus, devices, equipment, or processes used in the work, shall be included in the contract amount. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees and he shall be liable for any damages or claims for patent infringements. The Contractor shall, at his own cost and expense, defend all suits or proceedings that may be instituted against the Owner for alleged infringement of any patents involved in the work and, in case of an award of damages, the Contractor shall pay such award. Final payment to the Contractor by the Owner will not be made while any such suit or claim remains unsettled.

In the event the Contractor is found to have infringed a patent, the Contractor shall either replace the part or process with a non-infringing part or process approved by the Owner or secure the right to use the infringing part or process. Either choice shall be at the Contractor's expense.

17. MATERIALS AND EQUIPMENT:

Unless specifically provided otherwise in each case, all materials and equipment furnished for permanent installation in the work shall conform to applicable standard specifications and shall be new, unused, and undamaged when installed or otherwise incorporated in the work. No such material or equipment shall be used by the Contractor for any purpose other than that intended or specified, unless such use is specifically authorized by the Owner in each case.

18. GUARANTEE:

Contractor shall guarantee that all products are in accordance with the manufacture's guarantees, warranties, or Policies. Any replacement of defective material or materials will be made in accordance with such guarantee or warranty policies but, in any case, responsibility ends with the replacement of the defective part or parts, and no responsibility will be assumed for unauthorized repair or replacement of said equipment. Nor any expense will be incurred due to failure of said equipment excepting replacement of its defective part or parts by the manufacturer and in accordance with said manufacturer's policies.

Contractor's warranty against defects in material and workmanship shall extend two years from the date of final payment for that project.

19. INSURANCE:

The Contractor shall secure and maintain throughout the duration of this contract insurance of such types and in such amount as may be necessary to protect himself and the interest of the Owner against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be acceptable to the Owner but regardless of such acceptance it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve him of any contractual responsibility or obligation.

Satisfactory certificates of insurance shall be filed with the Owner prior to starting any construction work on this contract. The certificates shall state that 30 days advance written notice will be given to the Owner before any policy covered thereby is changed or canceled.

The Contractor shall comply with all Federal, State and local laws and ordinances relating to Social Security, Unemployment Insurance, Pensions, etc.

19.1 WORKERS COMPENSATION INSURANCE COVERAGE:

(A) Definitions:

Certificate of coverage ("certificate") - 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.

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 ("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.

- (B) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- (C) **The Contractor must provide a certificate of coverage to the governmental entity within 10 days of 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 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 ten days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- (H) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (I) The contractor shall contractually require each person with whom it contracts to provide

services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, §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 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 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- (J) By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for 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 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.

19.2 COMPREHENSIVE AUTOMOBILE LIABILITY:

This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

The liability limits shall not be less than:

Bodily injury \$250,000/person
 \$500,000/occurrence
Property Damage \$100,000/occurrence

The insurance shall be of the occurrence type.

19.3 COMPREHENSIVE GENERAL LIABILITY:

This insurance shall be written in comprehensive form and shall protect the Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act of omission of the Contractor or his agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under the article entitled DEFENSE OF SUITS.

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

The liability limits shall not be less than:

Bodily Injury \$250,000/person
 \$500,000/occurrence
Property Damage \$500,000/occurrence
 \$500,000/aggregate

The insurance shall be of the occurrence type.

20. DEFENSE OF SUITS:

In case any action in court is brought against the Owner, or any officer or agent of the Owner, for the failure, omission, or neglect of the Contractor to perform any of the covenants, acts, matters, or things by this contract undertaken; or for injury or damage caused by the alleged negligence of the Contractor or his subcontractors or his or their agents, or in connection with any claim based on lawful demands of subcontractors, workmen, materialmen, or suppliers the Contractor shall indemnify and save harmless the Owner and his officers and agents, from all losses, damages, costs, expenses, judgements, or decrees arising out of such action.

21. PATENT INDEMNITY:

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified. But, if the Contractor has reason to believe that the design, process, or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner.

22. INDEMNITY AND RELEASE:

The Contractor is solely responsible for and shall defend, indemnify, and hold Owner (or any of Owner's representatives or employees), free and harmless from and against any and all claims, liabilities, demands, losses, damages, costs or expense to all persons (including but not limited to reasonable attorneys' fees) arising out of resulting from or occurring in connection with the performance of the work that is (i) attributable to any bodily or personal injury, sickness, diseases or death of any person or any damage or injury to or destruction of real or personal property (other than the work itself) including the loss of use thereof, and (ii) caused in whole or in part by any negligent, strict liability or other act or omission of contractor, any subcontractor or supplier, their respective agents or employees or any other party for whom any of them may be liable regardless of whether such is caused in part by the negligent, strict liability or other act or omission of a party or parties indemnified hereunder.

Said indemnity and hold harmless agreement shall also apply to claims arising from accidents to contractor, its agents or employees, whether occasioned by contractor or its employees, the owner or his employees, or by any other person or persons.

The foregoing indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

23. FINAL PAYMENT AND RELEASE:

Acceptance by the Contractor of last payment shall be a release to the Owner and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the Owner or of any person relating to or affecting the work.

24. INSPECTION:

The Owner shall have the right, without extra charge therefore; to inspect all materials and equipment supplied under this contract at any time, including the place of manufacture, either during performance of the work, on final inspection, or during any applicable warranty period. The Owner or its designated representative shall have the right to reject equipment, materials and work not complying with the requirements of this contract. The Owner shall notify the Contractor in writing that such equipment, material or work is rejected. Thereupon, rejected work shall be satisfactorily corrected, rejected equipment shall be satisfactorily repaired or replaced with satisfactory equipment, and rejected material shall be satisfactorily replaced with satisfactory material, all in accordance with the contract, and the Contractor shall promptly segregate and remove rejected materials and equipment from the premises. All such correcting, repairing, replacing, and removing shall be by and at the expense of the Contractor.

The Owner will perform inspections in such a manner so as not to delay the work unreasonably, and the Contractor shall perform its work in such a manner as not to delay inspection unreasonably.

25. FINAL INSPECTION:

When the work has been completed and at a time mutually agreeable to the Owner and Contractor, the Owner will make a final inspection of the work as to the acceptability and completeness of the work.

26. ESTIMATES AND PAYMENTS:

On or about the first day of each month the Contractor shall make an estimate of the value of the work completed. The Contractor and the Owner shall review the estimate prior to submitting the formal invoice to the Owner. The estimated cost of repairing, replacing, or rebuilding any part of the work or replacing materials which do not conform to the drawings and specifications will be deducted from the estimated value by the Owner.

The Contractor shall furnish to the Owner such detailed information as he may request to aid in the preparation of monthly estimates. After each estimate has been found acceptable, the Owner will pay to the Contractor on or about the 25th day of the month 90% of the estimated value less 10% retainage any previous payments. The Contractor shall be responsible for payment to vendors and subcontractors in accordance with Chapter 2251, Texas Government Code.

Payments to the contractor involving federal funding will require the contractor to submit a copy of the current wage rate for that project with each request for payment.

27. PAYMENTS:

Payments may be withheld by Owner for (1) defective work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to subcontractors or for labor, materials or equipment, (4) reasonable evidence that the work cannot be completed for the unpaid balance of the contract price, (5) damage to the Owner or another contractor, (6) reasonable evidence that the work will not be completed by the scheduled work completion date and that the unpaid balance of the contract price would not be adequate to cover actual or liquidated damages for the anticipated delay, (7) persistent failure to carry out the work in accordance with the Contract Documents, or (8) statutory retainage as described in Chapter 53 of the Texas Property Code.

28. LIENS:

Neither the Contractor, nor any of his subcontractors, workers or suppliers shall have the right of lien against the work performed under this contract, or any property of the Owner to secure payment for labor and materials.

29. STATE LAW:

This contract is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Kleberg County, Texas.

30. NO BOYCOT:

The successful respondent must agree that it does not boycott Israel at the time the contract is executed and that it will not boycott Israel during the term of the contract.

31. PRE-CONSTRUCTION PROCEDURAL REQUIREMENT:

Once all of the required paperwork has been received by the City and a project identified, a mandatory pre-construction meeting will be held between the City and the successful bidder prior to the start of each project and a construction schedule will need to be provided prior to the start of each project.

32. CONSTRUCTION OF UTILITIES:

Contractor will pay for temporary power, including but not limited to construction cost, meter connection fees, and permits.

33. WATER FOR CONSTRUCTION:

Contractor will provide temporary water. Potable water may be purchased from the City by obtaining a water meter from the City and transporting water from a water hydrant. Non-potable water may be used for hydraulic testing of non-potable basins or pipelines. Include the cost of water in the Contract Price.

34. TEMPORARY SANITARY FACILITIES:

- a. Provide sanitary facilities at the Site from the commencement of the Project until Project conclusion. Maintain these facilities in a clean and sanitary condition at all times, and comply with the requirements of the local health authority. On large sites, provide portable toilets at such locations that no point in the Site shall be more than 600 feet from a toilet.
- b. Use these sanitary facilities. Do not use restrooms within existing or Owner-occupied buildings.

THE CITY OF KINGSVILLE RESERVES THE RIGHT TO REFUSE AND REJECT ANY OR ALL RFP AND TO WAIVE ANY OR ALL FORMALITIES OR TECHNICALITIES, AND TO MAKE SUCH AWARDS OF CONTRACT AS MAY BE DEEMED TO BE THE BEST VALUE AND MOST ADVANTAGEOUS TO THE CITY OF KINGSVILLE.

PRICING SHEET – 18-12
PUBLIC WORKS SCOPE OF WORK*

Prices must include the cost of insurance and bonding.

ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	500	Cu. Yd.	Installation of 6 flex base material		
2	500	Cu. Yd	Remove of existing flex base and asphalt material and dispose		
3	600	Gal	Prime Coat MC-30		
4	1,000	Gal	Single Course Seal AC-5		
5	25	Ton	Single Course Seal Pre-Coat #4 Grade Gravel		
6	150	Cu. Yd.	2" HMAc Pavement Type D		
7	4500	Sq. Yd.	Geo-Grid Base Reinforcement		
8	4500	Sq. Yd.	Asphalt Rejuvenating Agent		
9	500	L.F.	Rubber-Asphalt Crack Sealer		
10	4500	Sq. Yd.	Micro-Seal		
11	1	L.S.	Striping		
12	3500	Ton	Asphalt Material Type D		
13	2000	Sq. Yd.	Wedge Mill (1"-2")		
14	2000	Sq. Yd.	Wedge Mill (2"-4")		
15	2000	Sq. Yd.	Wedge Mill (4"-6")		
16	3	EACH	Vertical adjustment of manholes to grade		
17	5	EACH	Vertical adjustment of water valve stacks, meter cans, sewer cleanouts or irrigation control boxes to grade		
18	20	Cu. Yd.	Replacement of topsoil fill material		
19	1	L.S.	Traffic Control		
20	1	L.S.	Mobilization		
TOTAL					

*Quantities shown hereon are estimated and approximate for the purpose of pricing and may not represent actual quantities that are constructed.

**CITY OF KINGSVILLE GENERAL SPECIFICATIONS FOR
REQUEST FOR PROPOSAL AGREEMENT FOR STREET REHABILITATION PROJECT**

It is the intent of these specifications to describe the types of repairs that may be required during the term of this agreement. Method of payment shall be based on bidder's proposed unit price in accordance with the stated measure for each item. For any bid item which includes the words "replacement of" or "remove and replace", the bid price shall include removal and disposition of the existing item. All mechanically placed ASPHALT for street and drive approach repair shall be TYPE D HMAC. All hand placed ASPHALT for street and drive approach repair shall be TYPE D HMAC. The bid price shall include all necessary traffic control, base preparation, material testing, surveying for grade/drainage verification, joint sealing, clean up, irrigation repairs, backfilling, concrete, asphalt, all barricading, and signage. Generally, if the disturbed area outside of the paved location is kept to a minimum (less than six inches), replacement of grass or sod will not be required. If damage occurs, contractor will repair the area with like grass or sod. If the back of curb is left low as a result of the elevation change and/or sidewalk repairs, to the extent that proper drainage is not achieved, the back of curb is to be leveled and like sod replaced. When additional backfill material is necessary to level the back of curb and is beyond the normally required amount of fill dirt needed, then the contractor may use pay item #18 to cover their additional costs. When sod is required, pay items #19 and #20 are to be used. All traffic control must be in accordance with the details and provisions of the latest version of the TxDOT "Manual on Uniform Traffic Control Devices". All work shall be performed in accordance with City of Kingsville General Design Standard Specifications and Detail sheets.

STORM WATER POLLUTION PREVENTATIVE MEASURES

The Contractor will be responsible to follow Best Management practices for storm water pollution prevention. This will include inlet protection in the area of their construction (see D-7 of the General Design Standards). During saw cutting the Contractor shall ensure the concrete slurry does not run down the street and into the storm water system. The slurry must be contained within the immediate area of the saw cutting and then removed.

STREET REPAIRS – GENERAL INFORMATION

Generally, all existing pavements will be reinforced concrete and shall be replaced with reinforced concrete. The repair shall be "doweled into" the remaining pavement with "deformed" half inch (#4) bars on 12 inch centers.

The replacement of concrete within the street, alley or sidewalk will include the following: Sawing and removal of adjacent damaged concrete to provide squared and vertical sides, compacting and leveling of fill material, surveying as necessary to verify proper grading and ensure positive drainage, replacement of like sod, barricades and lights necessary to maintain safety in and around work areas prior to, and during placement of concrete. Barricades will remain in place during curing of concrete. All reinforcing steel and other material necessary to insure quality and maintain strength equivalent to adjacent concrete shall be furnished by the Contractor.

For preparation of the base, removal of 6" of existing base material is required and will be replaced with 6" of compacted flex base material, to be paid with pay item #1.

Minimum Thickness of Asphalt Pavement (with flexbase):

Residential	2 inches		
Residential Collector	2 inches	Local Industrial	3 inches
Major Collector	2.5 inches	Minor Arterial	2.5 inches
Major Arterial	2.5 inches	Major Arterial	2.5 inches

Testing: All testing associated with pavement improvements will be conducted by a certified laboratory selected by the Contractor and approved by the Engineering Department. The Contractor will pay for all tests to be performed.

Subgrade compaction shall be tested for density and moisture following standard test procedures. Density testing shall be performed on each lift of properly placed and compacted material. Minimum requirements for density shall be ninety-five (95) percent of the maximum density as determined by ASTM D698. Moisture content of the material shall be from optimum moisture content. Retesting of materials shall be performed at the original test locations at the Contractor’s expense, as shall additional testing, to assure specifications compliance.

Cost of these items will be calculated and paid for on a square yard basis.

INSTALLATION OF FLEX BASE MATERIAL

This item relates to base preparation for street repairs and covers the removal and disposition of 6” of existing fill material at street and driveway repair locations and placement of 6” of compacted flex base material.

Cost of this item will be calculated and paid for on a cubic yard basis.

REMOVE AND REPLACE SIDEWALKS

This item covers the replacement of sidewalks that are deemed to be sub-standard or constitute a trip hazard. This work is performed in conjunction with adjacent street repairs being made by the Contractor, so additional mobilization is not needed. The minimum thickness for sidewalk replacement shall be four inches. Cost of sidewalk replacement will include: Sawing and removal of damaged concrete, leveling and compacting soil under area to be replaced, placement and removal of forms, backfilling and clean-up around finished job. If the sidewalk to be repaired is adjacent to a back of curb, the sidewalk shall be “doweled” into the existing street with epoxy below the flow line or bottom of curb, on an approximate 45-degree angle with #3 rebar on 12 inch centers. (Refer to City of Kingsville, Detail Sheet)

Cost of this item will be calculated and paid for on a square yard basis.

18 INCH CURB AND GUTTER REPLACEMENT

Remove existing curb and gutter. Replace to match existing. Concrete shall be reinforced with three #3 rebar continuous. Expansion joints shall be placed at 200 foot maximum intervals and at intersections, returns and other rigid structures. The repair shall be “doweled into” the remaining pavement with “deformed” half inch (#4) bars on 12 inch centers.

Cost of this item will be calculated and paid for on a linear foot basis.

VERTICAL ADJUSTMENT OF MANHOLES

This item shall provide for the vertical adjustment of manholes due to grade changes as a result of adjacent construction. Contractor must consult with the Contract Administrator to determine whether or not adjustment of these items is necessary on a case-by-case basis.

Cost of this item will be calculated and paid on a per-each basis.

VERTICAL ADJUSTMENT OF WATER VALVE STACKS, METER CANS, SEWER CLEAN OUTS or IRRIGATION CONTROL BOXES

This item shall provide for the vertical adjustment of water valve stacks, meter cans, sewer clean outs or irrigation control boxes due to grade changes as a result of adjacent construction. Contractor must consult with the Contract Administrator to determine whether or not adjustment of these items is necessary on a case-by-case basis.

Cost of this item will be calculated and paid on a per-each basis.

REPLACEMENT OF TOPSOIL FILL MATERIAL

This item shall provide for additional backfill material needed above and beyond a normally required amount for the work, such as leveling parkways. The material is to be free of rocks, roots and other foreign materials and of a good quality for this purpose. Standard backfilling of the concrete work is to be included in the unit price for that type of work.

Cost of this item will be calculated and paid on a per cubic yard basis.

REPLACEMENT OF COMMON BERMUDA SOD

This item shall provide for the replacement of like sod, typically when the work disturbs more than six-inches of the sod adjacent to the work or when leveling of the parkway is necessary. The sod is to be placed uniformly, watered and rolled with a grass roller designed for this purpose.

Cost of this item will be calculated and paid on a square yard basis.

REPLACEMENT OF RALEIGH ST. AUGUSTINE SOD

This item shall provide for the replacement of like sod, typically when the work disturbs more than six-inches of the sod adjacent to the work or when leveling of the parkway is necessary. The sod is to be placed uniformly, watered and rolled with a grass roller designed for this purpose.

Cost of this item will be calculated and paid on a square yard basis.

ADDITIONAL SPECIFICATIONS

H.1 PROJECT:

The project is located within the City of Kingsville.

H.2 SITE INVESTIGATION & EXISTING UTILITIES:

The Contractor shall carefully examine the site and satisfy himself about all conditions, which can in any way affect the work or the cost thereof. The Contractor will be responsible for adjusting all utilities as needed within the repair area. Typical adjustments shall be manholes, water valves and clean outs. Prior to demolition, Contractor will notify Inspector and the Water Department shall verify the water valve stacks are intact and operable. Should a valve stack be damaged or need replacement, the Water Department will replace the valve stack prior to preparation of the sub grade for new pavement.

H.3 SPECIFICATIONS:

All construction must comply with current City of Kingsville standards and specifications and the Texas Department of Transportation Standard Specifications.

H.4 PROPOSAL:

Bidders shall fill out the proposal completely, stating all prices in both script and figures.

The prices bid in the proposal shall be full compensation for all material, labor, equipment and incidental items required to complete the project ready for use. The cost of all material, labor, equipment and incidental work required to complete the project ready for use must be included in the unit or lump sum prices for the bid items provided in the proposal, and no direct compensation will be made for any other work. In case of error, ambiguity, or lack of clearness the Owner reserves the right to consider the bid in the manner that is most advantageous to the Owner.

H.5 ADDENDA:

Bidders desiring further information, or interpretation of the plans or specifications, must make request for such information in writing as directed on page 3 of this packet, prior to 48 hours before the bid opening. Answers to all such Addenda will be bound with and made a part of the Contract Documents. No other explanation or interpretation will be considered official or binding. Should a bidder find discrepancies in or omissions from the plans, specifications, or other contract documents, or should he be in doubt as to their meaning, he should at once notify the appropriate person in order that a Written Addendum may be sent to all bidders. Any Addenda issued prior to 24 hours of the opening of bids will be mailed or delivered to each Contractor contemplating the submission of a proposal on this work. The proposal as submitted by the Contractor is to include any Addenda if such are issued by the appropriate person prior to 24 hours of the opening of bids. Verbal changes in the work, made prior to submission of bids will not be binding.

H.6 SPECIFICATIONS/CONTRACT DOCUMENTS:

Titles to divisions and paragraphs in these Contract Documents are introduced merely for convenience and are not to be taken as part of the Specifications and are, furthermore, not to be taken as a correct and complete segregation of the several units of material and labor. No responsibility, either direct or implied, is assumed by the appropriate person/Owner for omissions or duplications by the Contractor or his Sub-Contractor, due to real or alleged error in arrangement of matter in these Contract Documents.

H.7 CONFLICTS BETWEEN SPECIFICATIONS AND PROPOSAL:

In the event of conflicts between methods of measurement and payments for the various items of work between the Proposal and the Specifications, the Proposal shall prevail.

H.8 CLEAN UP:

The Contractor shall, at all times, keep the site free from accumulation of waste material, debris, or rubbish caused by his employees or work. At the completion of the work, he shall remove from the site all his tools, surplus materials, debris, and shall leave the site and his work "broom clean", or its equivalent at his expense, unless otherwise noted on the drawings or specified herein.

All vendors / contractors are required to use City of Kingsville Solid Waste collection services, at the Contractors expense.

H.9 BARRICADES, WARNING AND DETOUR SIGNS:

The Contractor shall not close a street to traffic or interfere with traffic movement on a street without first notifying the City Engineer and securing permission to do so. When any street or any section of a street is closed, or traffic flow is restricted, the Contractor shall furnish and maintain barricades, warning and directing signs, lights and red flags along the entire street within the limits of the project in accordance with the Texas Manual on Uniform Traffic Control Devices. All lights shall be kept burning between the hours of sunset and sunrise.

All expense incurred for furnishing and maintaining flagmen, barricades, warning and directing signs, flags and lights and any incidentals necessary for the proper direction, safety and convenience of traffic during the contract period shall be borne by the Contractor.

Flagmen shall be provided when deemed necessary by the Director of Public Works or his representative.

The Contractor shall provide same day access to all businesses and residents throughout the project.

H.10 PRE-CONSTRUCTION CONFERENCE:

A mandatory pre-construction conference will be scheduled upon award of bid and prior to the start of each project. A construction schedule shall be provided to City prior to the start of each project.

H.11 SANITARY FACILITIES:

The Contractor shall provide and maintain sanitary facilities at a location satisfactory to the Owner, for use by the employees of the Contractor, and by the appropriate person. They shall be well ventilated, but provide concealment, and shall be kept scrupulously clean at all times by the Contractor. The facilities shall be removed, and the site restored to its original condition upon completion of the work. All such facilities shall conform to the requirements of State and local health authorities, ordinances and laws.

"Porta Can" or other similar facilities, which may be rented from commercial concerns, will be acceptable.

H.12 HOLD HARMLESS AGREEMENT:

Prior to any commencing work or storing materials on private property, the Contractor shall arrange for permission to do the work or storage from each property owner. The Contractor shall be responsible for obtaining a "Hold Harmless Agreement" for the City with each property owner. This should be in writing and one copy given to the City for their files.

H.13 PROTECTION OF TREES, PLANTS, SPRINKLER SYSTEMS, FRENCH DRAINS, MAILBOXES AND SOIL:

Any trees or other landscape features scarred or damaged by the Contractor's operations shall be restored or replaced at the Contractor's expense. Should any sprinkler systems, French drains mail boxes or any other property private or public be damaged by the Contractor, Contractor shall replace or repair to original condition at Contractor's own expense. **NOTE: State Law and City Ordinance require that any person performing irrigation work shall be a licensed plumber or irrigator that is registered as a contractor with the City of Kingsville.** In the event the Contractor has disturbed more than six inches of surrounding area to facilitate the construction, the Contractor shall be required to install a like sod to the area. If that area is on private property, only one foot into the property will be required to be replaced with like sod. Trimming or pruning to facilitate the work will be permitted only by experienced workmen in an approved manner. Pruned limbs of 1" (one inch) diameter or larger, shall be thoroughly treated as soon as possible with a tree wound dressing. Contractor is to notify property owner before pruning begins. The Contractor shall take all precautions required to prevent soil erosion during the construction. If excessive erosion occurs, the Contractor shall take immediate measures to prevent further erosion and restore the disturbed surface with topsoil at completion of the work.

H.14 AS-BUILTS:

Upon the completion and acceptance by City of each project, Contractor shall provide the City with “as-built” drawings for that project.

H.15 LIQUIDATED DAMAGES:

The City and Contractor recognize that time is of the essence of each project under this Agreement and that City will suffer financial loss if the work is not completed within the time specified in the construction schedule for each project, plus any extensions thereof allowed in accordance with the General Conditions.

They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by City if the work is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay City two hundred & 00/100 dollars (\$200.00) for each calendar day that expires after the time specified in the construction schedule for each project under this Agreement for Substantial Completion until the work is substantially complete. After Substantial Completion if Contractor shall neglect, refuse or fail to complete the remaining work within the Contract Time or any proper extension thereof granted by City, Contractor shall pay City two hundred dollars (\$200.00) for each calendar day that expires after the time specified in the construction schedule for each project under this Agreement for completion and readiness for final payment.

CONFLICT OF INTEREST QUESTIONNAIRE

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code went into effect which requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the City Secretary of the City of Kingsville not less than the 7th business day after the person becomes aware of facts that require the statement to be filed.

A recent amendment to this state law that went into effect on September 1, 2007 now allows for two changes to the original statute:

1. The Conflict of Interest Questionnaire only needs to be filled out and returned with your bid if you or your company are aware of a conflict, and,
2. If the amount of the conflict exceeds \$2,500

It is the responsibility of every vendor filling out and returning this bid to determine if there is a conflict meeting the parameters listed above. If so, **the City of Kingsville requires that this Questionnaire be completed and turned in with your bid.** If there is no conflict, or if the amount of the conflict is less than \$2,500, then you are not required to submit the Questionnaire with your bid.

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

CONFLICT OF INTEREST QUESTIONNAIRE CIQ

FORM

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

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

OFFICE USE ONLY

Date Received

1 Name of person doing business with local governmental entity.

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

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name each employee or contractor of the local government entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.

4 Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.

CONFLICT OF INTEREST QUESTIONNAIRE CIQ

FORM

Page 2

For vendor or other person doing business with local governmental entity

5 Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or other relationship. Attach additional pages to this Form CIQ as necessary.

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

Yes

No

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

Yes

No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves As an officer or director, or holds an ownership of 10 percent or more?

Yes

No

D. Describe each affiliation or business relationship.

6

Signature of person doing business with the governmental entity

Date

CERTIFICATE OF INTERESTED PARTIES

A new law in the state of Texas went into effect on January 1, 2016, which requires your firm to submit a Form 1295 (Certificate of Interested Parties attached) through the Texas Ethics Commission's website, and a notarized original form as printed from the website to the Town prior to approval of the contract. More information can be found at the following link:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

This form must be completely filled out online according to state law.

Once bid evaluations take place by city staff, you will be notified that an award to your company is pending and that this form is mandatory. You will need to provide this form, filled out and filed with the State of Texas Ethics Committee, to the city before City Commission approval can be considered.

You must fill out the form online, get a certificate number, and that number goes in the upper right box.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is no Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address: _____ (street) _____ (city) _____ (state) _____ (zip code) _____ (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
 (month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Must file online at www.ethics.state.tx.us/File

CITY OF KINGSVILLE, TEXAS

CONTRACT AGREEMENT

RFP #18-12 STREET REHABILITATION PROJECT

STATE OF TEXAS)

COUNTY OF KLEBERG)

THIS AGREEMENT, made and entered into this _____ day of _____, A.D., 2018 by and between the City of Kingsville, a municipal corporation, located in the County of Kleberg and State of Texas, acting through Jesus Garza, City Manager, thereunto authorized so to do hereafter termed OWNER, and _____, hereinafter termed CONTRACTOR.

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, and under the conditions expressed in the bond bearing even date herewith, the said CONTRACTOR, hereby agrees with the OWNER to commence and complete the construction of certain improvements described as follows:

RFP #18-12 Street Rehabilitation Project

and all extra work in connection therewith, under the terms as stated in the General Conditions of the Agreement and at CONTRACTOR'S own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Contractors, General and Special Conditions of Agreement, Plans and other drawings and printed or written explanatory matter thereof, together with the CONTRACTOR'S written proposal, the General Conditions of the Agreement, and the Performance, Maintenance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract. All terms, conditions, pricing, and other details presented by the Contractor in their Request For Proposal response are to be made a part of this agreement.

The OWNER agrees to pay the CONTRACTOR in current funds the price or prices shown in the proposal, which forms a part of this contract, such payments to be subject to the General and Special Conditions of the Contract.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day above written.

The City of Kingsville _____
OWNER

CONTRACTOR

By: _____
Jesus Garza, City Manager

By: _____

Print or Type Name

Title: _____
(President/Vice-President)

ATTEST:

ATTEST:

Mary Valenzuela, City Secretary

Corporation Secretary

Date:

By authority of City Commission Action Date

Print or Type Name

Approved as to Content:

Courtney Alvarez, City Attorney