

RESOLUTION NO. R-2020-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AWARDING A CONTRACT TO PERFORM THE DESIGN AND COORDINATION WITH THE CITY OF BASTROP'S CONSULTANT LANDSCAPE ARCHITECT AND CONSTRUCT THE FISHERMAN'S PARK WHEELED SPORTS PLAZA, PHASE I TO ARTISAN CONCRETE SERVICES, INC., IN THE AMOUNT OF TWO HUNDRED FORTY-SIX THOUSAND DOLLARS (\$246,000), AS ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

**WHEREAS**, The City Manager is responsible for the proper administration of all affairs of the City; and

**WHEREAS**, The City Council has the steadfastness to ensure the quality of our City recreational opportunities; and

**WHEREAS**, The City of Bastrop has received all bids, and determined the best value contract.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:**

**Section 1:** That the City Manager is hereby authorized to execute a contract with Artisan Concrete Services, Inc. in the amount of two hundred forty-six thousand dollars (\$246,000). (Attached as Exhibit A)

**Section 2:** That the City Council of the City of Bastrop has found Artisan Concrete Services, Inc., to be skilled and qualified for construction of the Fisherman's Park Wheeled Sports Plaza, Phase I.

**Section 3:** All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 4:** That this Resolution shall take effect immediately upon its passage, and it is resolved.

**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop this 10<sup>th</sup> day of March, 2020.

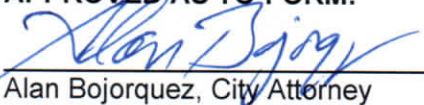
**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

PO 20-00715

# PURCHASING SUMMARY DOCUMENT

City of Bastrop  
(Purchases over \$3,000 in total)

## REASONS FOR PURCHASE/ADDITIONAL PURCHASE INFORMATION

WHEELED SPORTS PLAZA PHASE I

### Purchase Recommendation:

Recommended Vendor: ARTISAN CONCRETE SERVICES, INC.			
Goods or Services to be Purchased: DESIGN/CONSTRUCTION OF WHEELED SPORTS PLAZA			
Description	QTY	Unit Cost	TOTAL COST
WHEELED SPORTS PLAZA PHASE I	1.00	\$246,000.00	\$246,000.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
TOTAL			\$246,000.00

If the lowest Bid was not selected please give explanation here: *(CM Approval Required)*

Empty box for explanation.

### Is this purchase with:

- COOPERATIVE CONTRACT COOP NAME: \_\_\_\_\_  
(if using Coop. contract you must attach proof from vendor that purchase was made through Coop)
- SOLE SOURCE – Attachments required (refer to Purchasing Policy for details)  
(CM approval required)
- EMERGENCY PURCHASE – Attach memo stating why the purchase is an emergency  
(CM approval required)
- CONTRACTED SERVICE *(Finance must have a copy of the contract on file)*
- PROFESSIONAL SERVICE (those allowable under Gov't Code CH 2254)
- QUOTES (required if none of the above apply)

	COMPANY NAME	HUB*	COST
1.	ARTISAN CONCRETE SERVICES, INC.		\$ 246,000.00
2.	AMERICAN RAMP COMPANY		\$ 247,500.00
3.	GRINDLINE SKATEPARKS		\$ 287,800.00

\*Historically underutilized Business (HUB)-Two quotes must be from HUB's if available and if over \$3,000

Budgeted in GL # \$190K 400 PHS1 &/or # 520 00-00-6000 400 PHS1 #56K JW

Requested by: DAVID JUNEK *[Signature]* Date: 06/03/2020

Approved by: [Signature] Date: 6-3-2020  
*(Dept. Director)*

Approved by: [Signature] Date: 6-4-2020  
*(CFO)*

Approved by: [Signature] Date: 5 June 2020  
*(City Manager)*

CHRISTY HANCOCK  
DALE CLARKE

Latest copy

BID TABULATION SHEET

City of Bastrop - Fisherman's Park Wheeled Sports Plaza - Phase 1		American Ramp Co.	Grindline Skateparks	SPT	ARTISAN Conc Services		
Pre-Design Phase and Meetings	7,500		7605.	17,400-	1500-		
Final Design Phase	15,000		32-695.	11,680-	4500-		
Construction of Wheeled Sports Plaza	225,000		247,500	261,000-	240,000		
Total Lump Sum Bid	247,500		287,800	290,000	246,000		
Addendum #1 received	✓		X	✓	✓		
Addendum #2 received	✓		X	✓			
Completion Days: Substantial/Final	02/106		521/125	240/220	170/150		
Bid Bond	✓		✓	✓	✓		
Letter of Surety	✓		✓	✓	✓		
Insurance				✓	✓		

DOCUMENT 00510  
CONSTRUCTION CONTRACT

STATE OF TEXAS

COUNTY OF Bastrop

This Contract is made and entered into this Thirteenth day of April 2020, by and between THE CITY OF BASTROP, TEXAS, hereinafter referred to as "CITY", and

Artisan Concrete Services, Inc.

Hereinafter referred to as "CONTRACTOR", and is as follows:

ARTICLE I  
THE PROJECT

- 1.1 The PROJECT is generally referred to as the construction of the City of Bastrop, Fisherman's Park Wheeled Sports Plaza, together with the additional and subtractive Alternates indicated by this Contract, all in accordance with project drawings and specifications as submitted to the PROJECT ARCHITECT Burditt Consultants, 310 Longmire Road, Conroe Texas, 77304

ARTICLE II  
ADMINISTRATION

- 2.1 Contract Administrator: \_\_\_\_\_

Who is hereinafter called ADMINISTRATOR and who is to act as CITY'S representative, assume all duties and responsibilities and have the rights and authority assigned to CONTRACT ADMINISTRATOR in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE III  
COMPENSATION

- 3.1 For the performance of the Work, the lump sum of:

Two Hundred Forty Six Thousand & 00/100 Dollars  
(246,000).

Including all items 1 through 3 as described in the proposal form:

- 3.2 Additional provisions regarding progress and final payment are contained in the Contract Documents.

ARTICLE IV  
CONTRACT TIME

- 4.1 Time is of the essence to this Contract.

- 4.2 The Work shall be substantially completed within the time proposed which shall run from the date when the notice to proceed is given to Contractor.

ARTICLE V  
CONTRACT DOCUMENTS

- 5.1 The Contract Documents consist of the documents hereinafter described, the terms and conditions of which are incorporated herein by reference. The terms of these documents are the terms of the Contract. The Contract Documents are hereinafter listed in order of precedence. In the event of any conflict between the terms and conditions of one document and that of another, the document first listed shall be deemed controlling over a subsequent document. In the event of any conflict between the terms and conditions of any document, and the provisions of an amendment to that document, then the terms of such amendment shall be deemed controlling. In order of precedence, the Contract Documents are:
- 5.1.1 This Contract;
  - 5.1.2 The Contractor's executed Offer Proposal Form;
  - 5.1.3 The Project Plans and Specifications dated \_\_\_\_\_ together with all subsequent addenda thereto;
  - 5.1.4 The Instructions to Proposers and Special Provisions to the City of Bastrop, Texas Contract.
  - 5.1.5 Any Amendments to General Conditions.
  - 5.1.6 The General and Special Conditions of the Contract for Construction.

ARTICLE VI  
ENTIRE AGREEMENT

- 6.1 This Contract contains the whole agreement between the parties and there are no representations, terms, conditions, or collateral agreements other than those expressly set forth herein.

Effective as of the date hereinabove first set forth.

CONTRACTOR

BY: 

NAME PRINTED: Thomas Andy Duck

TITLE: President

COMPANY: Artisan Concrete Services, Inc.

CITY

BY: 

Mayor City Manager

BY: 

City Secretary

(IF THIS CONTRACT IS WITH A CORPORATION, IT MUST BE EXECUTED BY AN OFFICER THEREOF AND THE SEAL OF THE CORPORATION IMPRESSED.)

END OF DOCUMENT



**PROPOSAL FORM - Competitive Sealed Proposal - Lump Sum**

**PROJECT:** CITY OF BASTROP  
FISHERMAN'S PARK Wheeled Sports Plaza, Phase I  
BASTROP, Texas

**OWNER:** CITY OF BASTROP  
1311 Chestnut  
P.O. Box 427  
BASTROP, Texas

**ARCHITECT:** BURDITT CONSULTANTS, LLC  
310 Longmire Road  
Conroe, Texas 77304

**PROPOSER:**

Artisan Concrete Services, Inc.

Company Name

4600 Tamarack Dr.

Company Address

Kitty Hawk, NC 27949

City, State, Zip

252.202.1333

Telephone

**APPLICABLE CONTRACT DOCUMENTS**

**Bid Documents and Specifications:**

- 00040 Notice for Competitive Sealed Proposals
- 00050 General Information
- 00100 Instructions to Proposers
- 00200 Project Descriptions, Scope and Proposal Submission
- 00300 Offer Proposal Form
- 00510 Construction Contract Form of Agreement Between Owner & Contractor
- 00520 Bid Bond, Performance Bond and Payment Bond
- 00600 General Conditions of the Agreement
- 00700 Special Conditions of the Agreement

- Exhibit A- Conceptual Plan
- Exhibit B - Proposed Elements
- Exhibit C - Site Survey
- Exhibit D - Tree Preservation

**PROPOSAL FORM - Competitive Sealed Proposal - Lump Sum**

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Having examined the Contract Documents, including the Instructions to Bidders, Form of Agreement, the General and Supplemental Conditions of the Contract, the Drawings and Specifications dated Jan 2020, including Addenda numbered one through one inclusive as prepared by the Architect named above, the undersigned proposes to perform the complete Work required by the said Documents for the total Base Bid for:

**CITY OF BASTROP – FISHERMAN'S PARK WHEELED SPORTS PLAZA, PHASE I**

Item 1: Pre-Design Phase and Meetings

One thousand five hundred

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Amount written in words. (This governs)

(\$ 1,500 ).

(Amount in figures.)

Item 2: Final Design Phase

Four thousand five hundred

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Amount written in words. (This governs)

(\$ 4,500 ).

(Amount in figures.)

Item 3: Construction of Wheeled Sports Plaza Complete in Place

Two hundred forty thousand

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Amount written in words. (This governs)

(\$ 240,000 ).

(Amount in figures.)

Item 4 Total Lump Sum Bid:

Combined Total of Items 1 Thru 3

Two hundred forty-six thousand

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Amount written in words. (This governs)

(\$ 246,000 ).

(Amount in figures.)



**PROPOSAL FORM - Competitive Sealed Proposal - Lump Sum**

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Where applicable, if the City elects to subtract any or all of the Alternate items, the undersigned agrees to modify the Lump Sum Bid as stipulated in the Total Contract Award above. Alternate amounts shall include all variations in profit, overhead, bonds, insurance, and other related items. Time of completion shall not be changed if alternates are subtracted. To be a valid proposal, all alternates must be bid. A "no bid" on any alternate will be reason for rejection of the entire proposal.

The undersigned bidder, pursuant to the right reserved by the City under Consideration of Bids as to rejection of bids, agrees to accept the award of said contract and hereby agrees to furnish performance and payment bonds in the amount of Contract Price and to enter into a Contract within ten (10) days after date of due notification from the City of award of the Contract; and further agrees to achieve Substantial Completion including the furnishing of all labor, tools, materials, plant and equipment and perform all services as set out in this Agreement, in accordance with the terms of the same. The work for this project is to be substantially complete within 120 calendar days and complete in full within 150 calendar days after notification to proceed.

The undersigned accepts that this Bid Form becomes a part of the Contract Documents upon the signing of the City/Contractor Agreement and failure of the Bidder to comply with any part of this proposal may be taken as failure to comply with the Contract Documents and may be just cause of rejection of the Work.

The undersigned further certifies that the bid prices contained in the proposal have been carefully checked and are correct and final and shall remain firm for a period of sixty (60) days from the bid due date.

The undersigned states that the cost of payment and performance bonds in an amount equal to 100% of the Contract Price and shall be included as part of the Lump Sum Bid.

The undersigned states that charges for overhead and profit in connection with authorized changes in the Work shall be as follows:

1. Changes that result in a net increased cost:
  - a. Cost for labor and material provided by the General Contractor's own forces shall include a maximum General Contractor's mark-up of 5.0 % overhead and 12.5 % profit.
  - b. Cost of labor and material provided by Subcontractors shall include a maximum General Contractor's mark-up of 5.0 % overhead and 10.6 % profit.
  
2. Changes that result in a net decreased cost:
  - a. Credit for labor and material to have been provided by the General Contractor's own forces shall include credits for General Contractor's mark-up of 3.0 % overhead and 12.0 % profit.
  - b. Credit for labor and materials to have been provided by Subcontractors shall include credits for General Contractor mark-up of 3.6 % overhead and 8.6 % profit.

PROPOSAL FORM - Competitive Sealed Proposal - Lump Sum


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**NAMING SUBCONTRACTORS**

It is required that a Subcontractor shall be named for each of the categories of Work listed below. If Work will be performed by your "own forces", so state. After the award of Contract, no substitutions of Subcontractors may be made without written approval of the City and Architect.

CIVIL / EARTHWORK:	N/A _____ (List only one (1) Subcontractor) N/A
CONCRETE:	_____ (List only one (1) Subcontractor) N/A
ELECTRICAL:	_____ (List only one (1) Subcontractor) N/A
MECHANICAL:	_____ (List only one (1) Subcontractor) N/A
PLUMBING:	_____ (List only one (1) Subcontractor)

I agree to provide all accompaniments to this Proposal as required by the Instructions to Proposers, General Conditions and Special Conditions of the agreement.

Signature: 

Typed Name: Andy Duck

Title: President

Artisan Concrete Services, Inc.

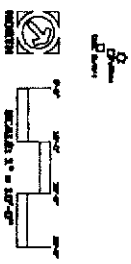
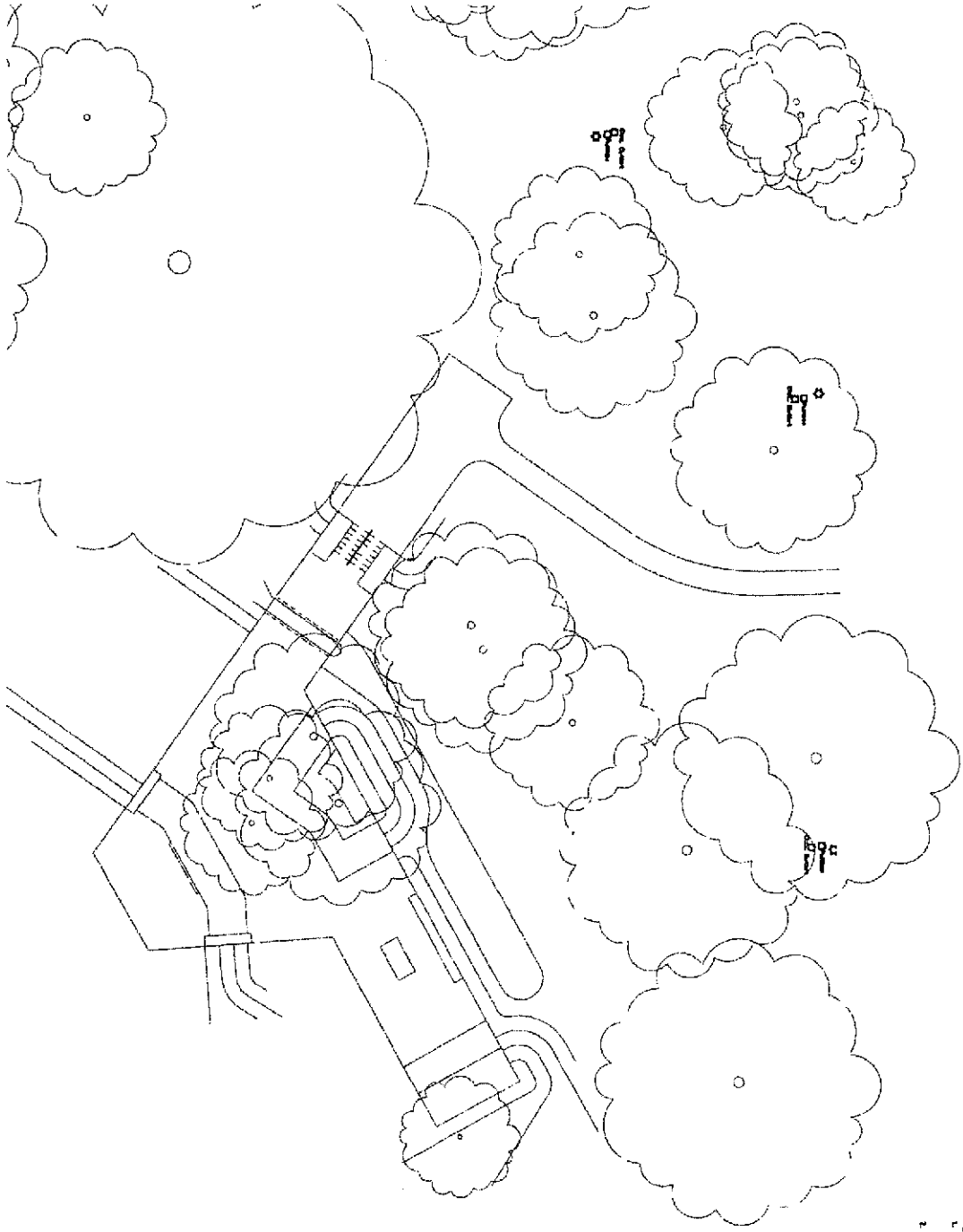
Name of Corporation, Partnership or Joint Venture

4600 Tamarack Dr., Kitty Hawk, NC 27949

Legal Mailing Address

2.6.2020

\_\_\_\_\_  
Date Signed



- NOTES**
- ALL SKATEPARK AREAS ARE TO BE CONSTRUCTED BY THE CITY OF BASTROP.
  - ALL SKATEPARK AREAS SHALL BE CONSTRUCTED TO MEET THE REQUIREMENTS OF THE CITY OF BASTROP.

**LEGEND**

SYMBOL	DESCRIPTION	NOTES
(Symbol)	SKATEPARK AREAS	SEE PLAN
(Symbol)	LANDSCAPING	SEE PLAN
(Symbol)	EXISTING UTILITIES	SEE PLAN



**SECTION 00100**

**INSTRUCTIONS TO PROPOSERS AND SPECIAL PROVISIONS TO THE CONTRACT**

*SECTION 1*  
DEFINITIONS

- 1.1 "Landscape Architect" means Burditt Consultants LLC., 310 Longmire Road, Conroe, Texas, 77304.
- 1.2 "City" means the City of Bastrop, Texas.
- 1.3 "Contractor" means the Proposer who is awarded the Contract.
- 1.4 "Project" means the construction of the City of Bastrop, Fisherman's Park Wheeled Sports Plaza, Phase 1 including the provision of all labor, materials, services, equipment, and appliances necessary to complete the Work in accordance with project drawings and specifications.

*SECTION 2*  
INSTRUCTIONS TO PROPOSERS

- 2.1 Examination of Proposal Documents and Work Site. Before submitting a proposal, the proposer shall examine carefully all contract documents including the form of the contract to be executed. In addition, the proposer shall examine the site of the work and fully inform themselves as to all conditions and matters, which can in any way affect the costs thereof. The submission of a Proposal shall be conclusive evidence that proposer has complied with this requirement.
- 2.2 Preparation of Proposal. The proposer shall submit its proposal on the prescribed form accompanying the proposal documents. The proposal form shall be executed with ink in the complete and correct name of the individual, firm, corporation or combination thereof making the offer and shall be signed by a person or persons authorized to contractually obligate the proposer. All offers must be submitted to the City Secretary by the prescribed deadline in a sealed opaque envelope prominently marked with the proposer's name, the project title and the notation SEALED PROPOSAL – DO NOT OPEN Fisherman's Park Wheeled Sports Plaza prominently displayed thereon.
- 2.3 Proposal / Bid Bond. The bond may consist of a surety bid bond executed by a surety licensed to do business in the State of Texas, or a certified check or cashier's check in the required amount drawn on a bank doing business in the State of Texas and made payable to the City of Bastrop, Texas.  
  
The proposal / bid bond of the successful proposer shall be returned upon issuance of a notice to proceed to the proposer. The bonds of unsuccessful proposer's shall be returned upon the earlier of (1) the issuance of a notice to proceed to the successful proposer, or (2) the expiration of thirty (30) days following the proposal opening.
- 2.4 Withdrawal of Proposals Prior to Opening. A proposal may be withdrawn by the offeror for any reason without penalty at any time prior to the deadline for proposal submission. A proposer desiring to withdraw an offer must do so by written notice delivered to the City Secretary prior to the deadline for submission.
- 2.5 Firm Offer Following Opening. Once the deadline for proposal submission has passed, an offer remains open and may not be withdrawn but may be accepted by the City for a period of sixty (60) days following the date of opening, regardless of whether or not a notice of award has been previously issued to another proposer.

SECTION 3  
CONTRACT AWARD AND POST AWARD REQUIREMENTS

- 3.1 Award of Contract. The City of Bastrop reserves the right to reject any and all proposals, award parts of proposals and to waive informalities in submission of proposals. The City also reserves the right to award the Proposal to the proposer meeting all the qualifications and specifications or to the proposer who provides goods or services at the best value for the City, taking certain evaluation factors into consideration as set forth in this request for proposal.

The proposal documents may provide for deduct alternates in addition to a base offer. Where proposals for deduct alternates are solicited, such deduct alternates may be awarded or rejected. Where deduct alternates are accepted, the lowest best offer shall be determined upon the basis of the total of the base proposal and any deduct alternates actually to be awarded.

- 3.2 Execution and Delivery of Contract, Required Bonds and Certificates of Insurance. Not later than three (3) days following notice of award the successful proposer shall submit (1) two executed original copies of the required contract form, (2) the performance and payment bonds, if required, and (3) certificates of insurance evidencing all required coverages. Failure to deliver any such documents within the time required may result in forfeiture of the proposal / bid bond. Award of the contract is not final until all documents required by this paragraph have been submitted and accepted by City.

- 3.3 Post Proposal Award Submissions. If directed by the notice of award, the proposer who is selected as the Contractor shall attend a post award meeting with the City's Representative. Either at the post award meeting, or not later than ten (10) calendar days following notice of award if no post award meeting is scheduled, the Contractor shall submit the following items to the City's Representative:

- a. Schedules of the work, including the starting date and anticipated date of substantial completion, as well as the starting and ending date of each major component stage of the work.
- b. The names and addresses of all proposed subcontractors, together with a description of the scope of the work to be performed by each subcontractor and the anticipated starting and ending dates of the subcontractor's work.
- c. The name of the Contractor's Project Manager, together with the local office addresses and phone number where such person may be reached.
- d. Review Pre-Construction Meeting Guidelines and Requirements.

- 3.4 Notice to Proceed. The Contractor shall not begin the work until authorized to do so by a written notice to proceed issued by the City's Representative. When authorized to proceed, the Contractor shall commence the work within fifteen (15) calendar days of receiving the notice to proceed.

SECTION 4  
BONDS AND INSURANCE

- 4.1 Performance and Payment Bonds.

- 4.1.1 The Contractor shall provide separate performance and payment bonds, each in an amount equal to the contract price and executed by both Contractor and a surety company authorized to execute surety bonds and to do surety business in the State of Texas.
- 4.1.2 Contractor shall provide a copy of the payment bond to each subcontractor and to each person or entity alleging a claim against the project or appearing to be a potential beneficiary of the payment bond.

- 4.1.3 If the Contract price does not exceed \$50,000, then no performance or payment bond shall be required, provided however, City shall retain the entire contract price until final completion and acceptance of the work.
- 4.1.4 Contractor shall be exclusively responsible for the payment of Contractors, employees, subcontractors, suppliers and materials and shall promptly obtain the release of any lien or claim filed against the property of City by such persons as a result of the project.

4.2 Workers' Compensation Insurance Coverage:

4.2.1 Definitions:

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

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

*Persons providing services on the project* ("subcontractor" in Texas Labor Code, § 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.

- 4.2.2 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- 4.2.3 The Contractor must provide a certificate of coverage to the City prior to being awarded the contract.
- 4.2.4 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- 4.2.5 The Contractor shall obtain from each person providing services on a project, and provide it to the City:
  - 4.2.5.1 a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - 4.2.5.2 no later than seven (7) 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 project.

- 4.2.6 The Contractor shall retain all required certificates of coverage for the duration of the project and one (1) year thereafter.
- 4.2.7 The Contractor shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affect the provisions of coverage of any person providing services on the project.
- 4.2.8 The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 4.2.9 The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
  - 4.2.9.1 provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all of its employees providing service to the project for the duration of the project;
  - 4.2.9.2 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;
  - 4.2.9.3 provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - 4.2.9.4 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 on the current certificate of coverage ends during the duration of the project;
  - 4.2.9.5 retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - 4.2.9.6 notify the City in writing by certified mail or personal delivery, within ten (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
  - 4.2.9.7 Contractually require each person with whom it contracts, to perform as required by paragraphs 4.2.9.1 through 4.2.9.7, with the certificates of coverage to be provided to the person for whom they are providing services.



- 4.2.10 By signing the Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the City that all employees of the Contractor who will provide services on the project will be covered by workers' compensation for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Texas Workers' Compensation 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.
- 4.2.11 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City.
- 4.3 General Provisions Applicable to Other Required Insurance. At all times during the term of the contract the Contractor shall keep in effect (1) a Commercial General Liability Policy and (2) an Automobile Liability Policy.
- 4.3.1 Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
- 4.3.2 "Claims Made" policies will not be accepted.
- 4.3.3 The City of Bastrop, Texas, its officials, employees and volunteers are to be added as "Additional Insureds" to the General Liability Policy. The coverage shall contain no special limitations applicable to such additional insureds.
- 4.3.4 Each insurance policy shall be endorsed to City of Bastrop that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to the City of Bastrop, Texas.
- 4.3.5 Contractor waives all rights, including that of subrogation, against Owner, Architect, their officers, employees, agents or assigns with respect to personal injury or property damage arising out of the Project or the Work to the extent that such loss or damage is insured, or required to be insured by the Contractor under the Contract Documents.
- 4.4 Commercial General Liability Insurance.
- 4.4.1 A minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage must be provided.
- 4.4.2 General liability coverage shall cover all risks described in AIA Document A201-1997 Subparagraph 11.1.1, except those related to the use of an automobile, which shall be addressed under paragraph 4.5 of these Instructions to Proposers.
- 4.5 Automobile Liability Insurance. A minimum combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage must be provided.
- 4.6 Indemnity. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, OR FOR BREACH OF CONTRACT, ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY THE CONTRACTOR UNDER THE AGREEMENT, REGARDLESS OF WHETHER SUCH INJURIES, DEATH, DAMAGES OR BREACH ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF CITY.**

SECTION 5  
COMPENSATION AND METHOD OF PAYMENT

- 5.1 Lump Sum Contract Price. For the performance of the work Contractor shall be compensated the lump sum amount indicated by the Contract. Such lump sum amount includes complete compensation for all labor, equipment, materials or service which may be reasonably inferred from the Contract Documents as necessary to the completion of the intended work, regardless of whether or not specifically called for by the Contract Documents.
- 5.2 Extra Work. Extra work shall be authorized only through a written Change Order or Construction Change Directive approved by City. If directed to perform work which Contractor believes to be extra work, Contractor shall, within ten (10) days of such directive notify City of its intention to seek additional compensation. The Contractor shall be compensated for approved extra work by payment of the direct costs of labor and materials incurred together with an additional percentage of such direct costs as compensation for overhead and profit. The percentage allowance for overhead and profit is established by the Contractor's proposal.
- 5.3 Progress Payments. If the Contract Price exceeds \$25,000, progress payments will be made monthly in accordance with the Contract Documents. If the Contract Price does not exceed \$25,000, such sum shall be withheld by City in its entirety until final completion of the work.
- 5.4 Retainage. The Contract shall have (10%) of each approved progress payment shall be retained by City until final payment is made.
- 5.5 Final Payment. Final payment, including all previously retained funds from previously approved progress payments shall be made within thirty (30) days of the date of final completion.

SECTION 6  
PREVAILING WAGE RATE

- 6.1 Wage Rates. The project is a public project within the meaning of Texas Government Code, Chapter 2258. Wage rates paid on this project shall not be less than specified in the schedule of general prevailing wages attached hereto. In addition, Contractor shall be responsible for compliance with all applicable requirements of Chapter 2258.

<https://ftp.dot.state.tx.us/pub/txdot-info/des/specs/local-government/special/wage-rates.pdf>

**SECTION 00600**  
**GENERAL CONDITIONS**

**Article I - General Contract Definitions**

Unless the context clearly requires another meaning, the following terms shall have the meaning assigned herein:

- 1.1 *Change Order* means a written modification of the Contract between the City and Contractor, signed by the City and the Contractor.
- 1.2 *Close-out documents* means the standard product brochures, product/equipment maintenance and operations instructions, manuals, etc., and as may be further defined or identified and required by the Contract Documents.
- 1.3 *Contract* means the Contract Documents between the City and the Contractor.
- 1.4 *Contract Date* is the date the City-Contractor Agreement is effective between the City and Contractor.
- 1.5 *Contract Documents* means the City-Contractor Agreement, the Conditions of the Contract (General and Special Conditions), the Drawings, the Specifications, the Bidding Documents, Advertisement, Invitation and Instruction to Bidders, Contractor's Proposal, Contract Award and all Addenda issued prior to and any Change Orders issued after execution of the Contract.
- 1.6 *Contractor* means the individual, corporation, company, partnership, firm or other organization that has contracted to perform the Work under the Contract with the City.
- 1.7 *Contract Sum* means the total compensation payable to the Contractor for completion of the Work in accordance with the Contract Documents as originally contracted for and as subsequently adjusted by Change Order.
- 1.8 *Contract Time* means the period between Date of Commencement and the date scheduled for substantial completion in the Contract Documents, as may be amended by Change Order.
- 1.9 *Date of Commencement* means the date designated in the Notice to Proceed that Contractor shall commence the Work.
- 1.10 *Day* means a calendar day, unless otherwise specifically stipulated.
- 1.11 *Drawings* means the work product of the Architect/Engineer which depicts the location and quantity of elements of the Work.
- 1.12 *Final Completion* means the date when the Contract is fully performed according to the Contract Documents and is acceptable to City.
- 1.13 *Owner* means the City of Bastrop, Texas acting through its designated representative.
- 1.14 *City's Designated Representative (CDR)* means the individual appointed or assigned by the City to be its on-site representative during the Project, to exercise certain power on behalf of the City and to undertake certain contract administration activities as specifically outlined in the Contract.
- 1.15 *Project* means the Work as described by the Contract Documents.
- 1.16 *Site* means the geographical area at the location where the Work is to be performed.

- 1.17 *Special Conditions* means the documents containing terms and conditions, which relate to specific project and are peculiar to it. Special Conditions when used are a part of the Contract Documents and supersede the Uniform General Conditions to the extent of conflict.
- 1.18 *Specifications* means the Architect's/Engineer's work product which establishes the quality of the products and processes to be used to produce the Work.
- 1.19 *Subcontractor* means a person or organization that, as an independent contractor, contracts directly or indirectly with Contractor to perform part or the entire Contract between the City and the Contractor. The term does not include the Architect/Engineer.
- 1.20 *Substantial Completion* means the date when the Work or a designated portion thereof, is so sufficiently complete, in accordance with the Contract Documents, as to be fully operational in all its components and fit for the use for which it is intended.
- 1.21 *Unit Price Work* means Work to be paid for on the basis of unit prices.
- 1.22 *Unilateral Change Order (ULCO)* means a Change Order issued by the City without the agreement of the Contractor.
- 1.23 *Work* means all labor, plant, materials, facilities, and all other things, including the construction and services necessary or incidental to fulfill Contractor's obligations for the Project in conformance with the Contract Documents.

**Article II - General Laws Governing Construction**

- 2.1 Compliance with Laws. In the execution of the Contract Documents and the Work, the Contractor shall comply with all applicable local State and Federal laws, including but not limited to, laws governing labor, equal employment opportunity, safety, environmental protection and prevailing wage rates. The Contractor shall make himself familiar with and at all times shall observe and comply with all Federal, State and Local laws, ordinances and regulations which in any manner affect the conduct of the Work. **THE CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS OFFICIAL REPRESENTATIVES AGAINST ANY CLAIM ARISING FROM VIOLATION OF ANY SUCH LAW, ORDINANCE OR REGULATION BY HIMSELF, HIS SUBCONTRACTORS AND HIS EMPLOYEES.** Except where expressly required otherwise by applicable laws and regulations, neither City nor the Architect/Engineer shall be responsible for monitoring Contractor's compliance with any laws or regulations.
  - 2.1.1 The Contractor shall cooperate with City permitting officials and authorities at all times where their jurisdiction applies. The Contractor shall make application to obtain all local permits that are required for the performance of the Work. Contractor has a continuing obligation throughout the term of the Contract to conduct his operations under duly issued permits and, in the event Contractor loses or has revoked a necessary permit, Contractor must take immediate steps to apply for and receive another permit. City shall waive or be responsible for the payment of all fees necessary for the issuance of municipal permits.
- 2.2 State Sales and Use Taxes. The City qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of Chapter 151, Texas Tax Code. The Contractor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.
- 2.3 Venue for Suits. The venue for any suit brought as to matters arising out of or related to this Contract shall be in a court of competent jurisdiction in Bastrop County, Texas.

- 2.4 Licensing of Trades. The Contractor shall comply with all applicable provisions of state law related to require licensing of skilled tradesmen, contractors, materialmen, suppliers and or laborers, as necessary to accomplish the Work.
- 2.5 Environmental Regulations. At all times, Contractor shall conduct its activities in compliance with applicable laws and regulations relating to the environment, and its protection.

### **Article III- Compliance with and Enforcement of Prevailing Wage Laws**

- 3.1 Duty to Pay Prevailing Wage Rates. The Contractor shall pay not less than the wage scale of the various classes of labor as shown on the "Prevailing Wage Schedule" provided by the City. The specified wage rates are minimum rates only. The City will not consider any claims for additional compensation made by any Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract. The "Prevailing Wage Schedule" is not a representation that quantities of qualified labor adequate to perform the Work may be found locally at the specified wage rates.
- 3.2 Prevailing Wage Schedule. The "Prevailing Wage Schedule" shall be determined by the City in compliance with Chapter 2258, Texas Government Code. Should the Contractor at any time become aware that a particular skill or trade not reflected on the Owner's Prevailing Wage Schedule will be or is being employed in the Work, whether by the Contractor or by a subcontractor, the Contractor shall promptly inform the CDR and the City shall specify a wage rate for that skill or trade, which shall bind the Contractor.
- 3.3 Penalty for Violation. The Contractor and any Subcontractor shall pay to the City a penalty of sixty dollars (\$60.00) for each worker employed for each calendar day, or portion thereof, that the worker is paid less than the wage rates stipulated in the Prevailing Wage Schedule or any supplement thereto pursuant to §3.2. The Contractor and each Subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all workers employed in connection with the Work, and showing the actual per diem wages paid to each worker, which records shall be open at all reasonable hours for the inspection by the City.

### **Article IV - Drawings and Specifications**

- 4.1 Ownership of Drawings and Specifications. All Drawings, Specifications and copies thereof furnished by the Architect/Engineer are, and shall remain, his property. They are not to be used on any other project and, with the exception of one contract set for each party to the Contract, are to be returned to the Architect/Engineer, upon request, following completion of the Work.
- 4.2 Copies Furnished. The Contractor will be furnished two sets of the Contract Documents free of charge. Additional complete sets will be furnished at reproduction cost to the one requesting such additional sets.
- 4.3 Interrelation of Documents. The Drawings depict the location and quantity of elements of the work. The specifications indicate quality. All documents are intended to be complimentary to produce the Work.
- 4.4 Resolution of Conflicts in Documents.
- 4.4.1 In the event of conflict between Drawings and Specifications, the Specifications shall prevail.
- 4.4.2 In the event of conflict among the drawings, the large-scale drawings prevail over the small-scale drawings.

- 4.5 Contractor's Duty to Review Contract Documents. In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, the Contractor shall examine and compare: the Contract Documents; information furnished by the City, relevant field measurements made by the Contractor; and any visible conditions at the Site affecting the Work.
- 4.6 Discrepancies and Omissions in Drawings and Specifications.
- 4.6.1 If in the course of the performance of the obligations in §4.5, the Contractor discovers any errors, omissions or inconsistencies in the Contract Documents, the Contractor shall promptly report them to the City. It is recognized, however, that the Contractor is not acting in the capacity of a licensed design professional, and that the Contractor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations.
- 4.6.2 The Contractor has no liability for errors, omissions, or inconsistencies described in § 4.6.1 unless the Contractor knowingly failed to report a recognized problem to the City. If, however, the Contractor fails to perform the examination and reporting obligations of these provisions, the Contractor shall be responsible for any avoidable costs or direct damages.
- 4.6.3 The City shall develop a solution and provide it to Contractor. If the solution prompts changes to the Contract Sum or Contract Time, the contract shall be equitably adjusted.
- 4.7 Other Information Provided to Contractor.
- 4.7.1 The City may provide Contractor with information, reports, pictures or other items which are not contained within the Contract Documents, but which Contractor should review and use pursuant to § 4.5.

#### **Article V - Construction Bonds**

- 5.1 Performance and Payment Bonds. The Contractor is required to tender to City, prior to commencing the Work, performance and payment bonds, as required by Chapter 2253, Texas Government Code.
- 5.1.1 A Performance Bond is required if the Contract Price is in excess of \$100,000. The performance bond is solely for the protection of the City, in the full amount of the Contract and conditioned on the faithful performance of the Work in accordance with the Contract Documents.
- 5.1.2 A Payment Bond is required if the Contract Price is in excess of \$50,000. A payment bond is payable to the City of Bastrop, in the full amount of the Contract and solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the Contractor or a supplier of required materials or labor.
- 5.1.3 Corporate sureties authorized to issue bonds shall be qualified and comply with relevant provisions of the Texas Insurance Code.
- 5.2 The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with Chapter 2253, Texas Government Code. If for any reason a statutory payment or performance bond is not honored by the surety, the Contractor shall fully indemnify and hold the City harmless of and from any costs, losses, obligations or liabilities it incurs as a result.
- 5.3 City shall furnish certified copies of a payment bond and the related Contract to any qualified person seeking copies who complies with §2253.026, Texas Government Code.

- 5.4 Claims on Payment Bonds. Claims on payment bonds must be sent directly to the Contractor and his surety in accordance with § 2253.041, Texas Government Code. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to the Contractor on such Contract, and that reliance on notices sent to the City may result in loss of their rights against the Contractor and/or his surety. The City is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.
- 5.5 Payment Claims when Payment Bond not Required. When the value of the Contract between the City and the Contractor is less than \$50,000.00, claimants and their rights are governed by Texas Property Code, §§ 53.231 – 53.239. These provisions set out the requirements for filing a valid lien on funds unpaid to the Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claims.

#### **Article VI - Insurance Requirements**

- 6.1 Insurance requirements are set out in the Special Conditions of the Agreement.

#### **Article VII - General Responsibilities of City and Contractor**

##### **7.1 City's General Responsibilities.**

- 7.1.1 The City is the entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number.
- 7.1.2 City's Designated Representative. Prior to the start of construction, City shall designate in writing the City's Designated Representative (CDR), who shall have express authority to act and bind the City to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract. Unless otherwise specifically provided for, the CDR is the single point of contact between the City and Contractor. Notice to the CDR, unless otherwise noted, constitutes notice to the City under the Contract.
- 7.1.3 The foregoing is in addition to the specific duties and authority of City and the CDR found in other Articles of the Contract.
- 7.2 Limitation on City's and CDR's Duties. City and CDR will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, technologies, sequences or procedures of construction or the safety precautions and programs incident thereto. Owner and CDR are not responsible for any failure of Contractor to comply with laws and regulations applicable to furnishing or performing the Work. City and CDR are not responsible for the failure of Contractor to perform or furnish the work in accordance with the Contract Documents. City and CDR are not responsible for the acts or omissions of Contractor, or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.
- 7.3 Role of Architect/Engineer.
- 7.3.1 In General. Unless otherwise provided for in the Contract Documents, the Architect/Engineer will perform the duties of the Architect/Engineer as described in this Contract during construction and until final payment, including advising the CDR on matters where assistance is needed. The assignment of any authority, duties or responsibilities to the Architect/Engineer under the Contract Documents, or under any agreement between City and Architect/Engineer, or any performance thereof by Architect/Engineer is for the exclusive benefit of City and not for the benefit of Contractor, any Subcontractors, suppliers or their respective employees or sureties.



- 7.3.2 The Architect/Engineer shall have the authority to recommend to City to reject work performed by the Contractor, which, in the opinion of the Architect/Engineer, does not meet the requirements of the Contract Documents. Architect/Engineer shall communicate with the CDR upon discovery of non-compliant Work and shall provide a recommendation upon request for review by the CDR. The CDR shall order in writing such work removed and replaced in accordance with Article XII.
- 7.4 Limitations on Architect/Engineer Authority. Architect/Engineer will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto. Architect/Engineer is not responsible for any failure of Contractor to comply with laws and regulations applicable to the furnishing or performing the Work. Architect/Engineer is not responsible for Contractor's failure to perform or furnish the Work in accordance with the Contract Documents. Architect/Engineer is not responsible for the acts or omissions of Contractor, or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.
- 7.5 Contractor's General Responsibilities.
- 7.5.1 The Contractor is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. The Contractor shall supervise and direct the Work using the best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, safety, sequences and procedures, and for coordinating all portions of the Work under the Contract. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- 7.5.2 Contractor's Superintendent. The Contractor shall employ a competent resident superintendent who shall be in attendance at the Project Site during the progress of the Work. The superintendent shall be satisfactory to the City, and shall not be changed except with the written approval of the City unless s/he leaves the employment of the Contractor. The superintendent shall represent the Contractor at the Site and shall have full authority to act on behalf of the Contractor. All communications given to the superintendent shall be binding on Contractor. All oral communications affecting Contract Time, Contract Sum and contract interpretation will be confirmed in writing to City.
- 7.5.3 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- 7.5.4 Services, Materials, and Equipment. Unless otherwise specified in the Supplementary General Conditions, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- 7.5.5 No Substitutions Without Approval. The Contractor may make substitutions only with the consent of the City, after evaluation and recommendation by the Architect/Engineer and in accordance with a Change Order.

- 7.6 Should Work be identified by either the Architect/Engineer and/or the CDR as not being in compliance with the Contract Documents, the CDR shall communicate the finding to Contractor and such Work shall be corrected by the Contractor at its expense. The approval of Work by either the Architect/Engineer or CDR does not relieve the Contractor from compliance with all requirements of the Contract Documents where such requirements are not judged at the time of observation of the Work due to work sequences by the Contractor or the lack of time to judge the performance characteristics of the particular Work item.
- 7.7 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom City may have reasonable objection. City will communicate such objections in writing. If a rejection causes a change to the Contract Sum, Contractor may file a contractor-initiated claim under Article XVIII. Contractor shall not be required to employ any Subcontractor, supplier or other person or organization to furnish any of the work to whom Contractor has reasonable objection. Contractor will not substitute Subcontractors without the approval of City.
- 7.7.1 Contractor shall enter into written agreements with all Subcontractors and suppliers which specifically bind the Subcontractors and suppliers to the applicable terms and conditions of the Contract Documents for the benefit of the City and the Architect/Engineer. The City reserves the right to specify that certain requirements shall be adhered to by all Subcontractors and sub-subcontractors as indicated in other portions of the Contract Documents and these requirements shall be made a part of the agreement between Contractor and Subcontractor or supplier.
- 7.7.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor shall require all Subcontractors, suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with City through Contractor.
- 7.8 Continuing the Work. Contractor shall carry on the Work and adhere to the progress schedule during all disputes, disagreements or alternative resolution processes with City. No Work shall be delayed or postponed pending resolution of any disputes, disagreements or processes, except as City and Contractor may agree in writing.
- 7.9 Cleaning. The Contractor shall at all time keep the Site and the Work clean and free from accumulation of waste materials or rubbish caused by the construction activities under the Contract. Upon completion of the Project, and prior to the final inspection, the Contractor shall have the Work in a neat and clean condition.
- 7.10 Acts and Omissions of Contractor, his Subcontractors and employees. The Contractor shall be responsible for acts and omissions of his employees and his subcontractors, their agents and employees.
- 7.11 Indemnification of Owner. **CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS, AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF**

PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, OFFICERS OR EMPLOYEES, SEPARATE CONTRACTORS OR ASSIGNED CONTRACTORS, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 7.11.1 The provisions of this Indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 7.11.2 Contractor shall promptly advise the City in writing of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor's activities under this Contract.
- 7.11.3 The duties listed above are in addition to the duties, responsibilities and activities to be undertaken by Contractor as specified throughout the Articles of the Contract.

#### **Article VIII – Reserved**

#### **Article IX - The Contractor's Responsibility for Jobsite Safety**

- 9.0 Unless otherwise specified, Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It shall be the duty and responsibility of the Contractor and all of its Subcontractors to be familiar and comply with all requirements of Public Law 91-596, 29 U.S.C. §§ 651 et. seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto, and to enforce and comply with all of the provisions of the Act. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury or loss and shall erect and maintain all necessary safeguards for such safety and protection.

#### **Article X - Materials and Workmanship; Licensing and Testing**

- 10.1 Materials and Workmanship. The Contractor warrants and guarantees that all Work shall be executed in a good and workmanlike matter in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs. Unless otherwise specified, all materials and equipment incorporated into the Work under the Contract shall be new.
- 10.2 Contractor's Warranty of Workmanship.
  - 10.2.1 Limits on Warranty. Contractor's Warranty and guarantee hereunder excludes defects or damage caused by:
    - a. Abuse, modification or improper maintenance or operation by persons other than Contractor, Subcontractors, suppliers or any other individual or entity for whom Contractor is responsible, or
    - b. Normal wear and tear under normal usage.
- 10.3 Events Not Affecting Warranty. Contractor's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

- 10.3.1 Observations by City and/or Architect/Engineer;
  - 10.3.2 City's payment of any progress or final payment;
  - 10.3.3 The issuance of a certificate of Substantial Completion or any payment by City to Contractor under the Contract Documents;
  - 10.3.4 Use or occupancy of the Work or any part thereof by City;
  - 10.3.5 Any acceptance by City or any failure to do so; or
  - 10.3.6 Any inspection, test or approval by others.
- 10.4 City shall have the right to require testing of mechanical systems installed hereunder.

**Article XI – Substitutions**

- 11.1 Intent of Contract Documents. It is not the intent of the Specifications or Contract Documents to limit materials, equipment or fixtures to the product of any particular manufacturer. Where definite materials, equipment and/or fixtures have been specified by name, manufacturer or catalog number, it has been done to set a definite standard and a reference for comparison as to quality, application, physical conformity, and other characteristics. It is the City's or Architect/Engineer's intention to not discriminate against or prevent any dealer, jobber or manufacturer from furnishing materials, equipment, and/or fixtures which meet or exceed the characteristics of the specified items. Substitution of materials shall not be made without prior written approval from the City.
- 11.2 Unauthorized Substitutions at Contractor's Risk. All proposed substitution of materials, equipment or fixtures shall be presented through the submittal process. The Contractor shall be financially responsible for any additional costs or delays resulting from using materials, equipment or fixtures other than those specified, and shall reimburse the City for any increased design or contract administration costs resulting from such unauthorized substitutions.

**Article XII - Inspection of the Project During Construction**

- 12.1 Contractor Quality Control. Contractor is responsible for controlling the quality of the work as set forth in the Contract Documents.
- 12.2 City Quality Assurance.
- 12.2.1 The City will make periodic visits to the site to familiarize itself with the progress and quality of the Work, conduct inspections and tests and to determine if the Work is proceeding in accordance with the Contract Documents. The Contractor shall provide sufficient, safe and proper facilities at all reasonable times for observation and/or inspection of the Work by the authorized representatives of the City.
  - 12.2.2 The Contractor shall not cover up any work with finishing materials or other building components prior to an inspection of the work by the City. Should corrections of the work be required for approval, cover up shall be delayed until another inspection can be made and approval is indicated.
  - 12.2.3 The Contractor shall be responsible for providing notification of at least five (5) working days or as mutually agreed, to the City of the anticipated need for a cover up inspection. Should the City fail to make the necessary inspection within the five (5) working day period, or as mutually agreed, the Contractor may proceed with cover up work.

### 12.3 Rejection and Removal of Defective Work.

- 12.3.1 The CDR has the authority to reject Work which does not meet the requirements of the Contract and to order such work removed and replaced with conforming Work. The approval of a work item by the CDR does not relieve the Contractor from compliance with the Contract Documents where such requirements are not judged at the time of observation of the Work due to work sequences by the contractor or the lack of time to judge the performance characteristics of the particular work item.
- 12.3.2 If any materials or Work furnished under this Contract are rejected by the City, the Contractor shall, after notice from the City, proceed to remove materials, whether worked or unworked, and to take down all portions of the Work condemned. Contractor shall make good all Work damaged or destroyed by the removal and replacement process.
- 12.3.3 Upon notice of rejection, the Contractor may request to prove to City, at Contractor's sole cost, that the Work should be accepted because it meets performance, and other relevant standards. City shall respond to Contractor's showing of proof in writing.

### Article XIII – Contract Payments

- 13.1 Progress Payments. Periodic progress payments will be made to the Contractor for Work performed, and materials in place. Payment shall not become due until receipt by the CDR of a correct and complete Pay Application.
- 13.2 City's Duty to Pay. The City shall have no duty to pay the Contractor except on receipt by the CDR of a complete Pay Application.
- 13.3 Retainage. The City shall withhold from each progress payment, as retainage, the amount authorized by law, as set out in §5.4, Section 00100, Special Provisions. Retainage so withheld shall be managed in conformance with Subchapter B, Chapter 2252, Texas Government Code.
- 13.4 Reduction to Cover Loss. The City may reduce any Invoice prior to payment to the extent necessary to protect the City from loss on account of actions of the Contractor, including, but not limited to:
- a. Defective work not remedied;
  - b. Damage to work of a separate contractor;
  - c. Failure to maintain scheduled progress;
  - d. Failure to comply with the requirements of Texas Government Code Chapter 2258 (Prevailing Wage Law); or
  - e. For Contracts with a value of less than \$50,000 for which no payment bond is posted, receipt of written notice by the Owner of unpaid bills, filed in conformance with § 53.232, Texas Property Code. Any funds so withheld shall be released to the Contractor if he furnishes a bond for release of lien as provided in § 53.236, Texas Property Code.
- 13.5 Title to all material and Work covered by progress payments transfers to the City upon payment. Transfer of title to City does not relieve the Contractor of the sole responsibility for the care and protection of materials and work upon which payments have been made, or the restoration of any damaged work, or waive the right of the City to require the fulfillment of all the terms of the Contract.
- 13.6 Progress payments to the Contractor shall not release the Contractor or his surety from any obligations under this Contract. Progress payments shall be made at intervals of not less than thirty (30) days.

#### **Article XIV - Closing Inspections**

- 14.1 Substantial Completion Inspection. When the Contractor considers the entire Work Substantially Complete, the Contractor shall so notify the CDR in writing that the Work will be ready for Substantial Completion Inspection on a date certain. The Contractor shall include with this notice a list of items to be completed or corrected prior to final inspection. On the date indicated by Contractor, or as soon thereafter as is practicable, the CDR and the Contractor shall inspect the work and if the CDR agrees that the Work is Substantially Complete a Certificate of Substantial Completion shall be issued to the Contractor, fixing the date of Substantial Completion. The CDR shall submit with this certificate a list of items to be completed prior to final inspection (the Pre-Final Punchlist). This list may include additional items not included on the Contractor's list, which are deemed necessary by the City to correct or complete prior to Final Inspection.
- 14.2 Final Inspection. The Contractor shall fully complete the list of items listed on the Prefinal Punchlist prior to Final Inspection. Unless otherwise specified in Special Conditions, or otherwise agreed in writing by the parties, the Contractor shall complete this work within fifteen (15) days of the certified date of Substantial Completion. When the Contractor has completed the Prefinal Punchlist, he shall give written notice to the CDR that the Work will be ready for Final Inspection on a date certain. On this date, or as soon thereafter as is practicable, the CDR and Contractor shall inspect the Work and the CDR shall issue a certificate fixing the date of Final Completion or direct such final items as shall be necessary to the issuance of a certificate of Final Completion. Final Completion shall be a condition precedent to the Contractor's right to receive Final Payment.

#### **Article XV - Reserved**

#### **Article. XVI - Contract Final Acceptance and Payment**

- 16.1 Request for Final Payment. At any time following the date of Final Completion the Contractor may submit a certified Application for Final Payment.
- 16.2 Final Payment Documentation. The Contractor shall submit, prior to or with the Application for Final Payment, all close out documents, including maintenance and operating instructions, guarantees and warranties, certificates, record documents and all other items required by the Contract Documents. The Contractor shall also submit an affidavit that all payrolls, bills for materials and equipment, subcontracted work and other indebtedness connected with the Work, except as specifically noted, have been paid or will be paid or otherwise satisfied within the period of time required by Chapter 2251, Texas Government Code. If required by the City, the Contractor shall furnish documentation establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims arising out of the Contract, to the extent and in such form as may be designated by the City. The City is entitled to rely upon this affidavit; the Contractor may not submit a claim on behalf of a subcontractor or vendor if that claim has not been noted as an exception in the affidavit.
- 16.3 Offsets and Deductions: The City may deduct from the Final Payment all sums due from the Contractor for any reason, all deductions authorized by Article 13, and as Liquidated Damages. If the Certificate of Final Completion notes any Work remaining incomplete or defects not remedied, the City may deduct the reasonable cost of remedying such deficiencies from the Final Payment. If such deductions are made, the City shall identify each deduction made and the reason therefore, and furnish the Contractor with an explanation of the deduction and the amount deducted on or by the 21st day after City's receipt of an approved, or deemed approved Application for Final Payment.
- 16.4 Final Payment Due. Final Payment shall become due and payable by City, subject to all allowable offsets and deductions, on the 31st day next following the receipt of the approved or deemed approved Application for Final Payment. If the Contractor disputes any amount deducted by the City, the Contractor shall give notice of the dispute on or before the 30th day next following receipt of Final Payment; failure to do so will bar any subsequent claim for payment of amounts deducted.

## Article XVII - Contract Warranty and Guarantee

- 17.1 Contractor's General Warranty and Guarantee. Contractor warrants to the City that all Work shall be executed in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. The City may, at its option, agree in writing to waive any failure of the Work to conform to the Contract Documents, and to accept a reduction in the Contract Price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, however, the Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute and is not waived by any inspection or observation by the Owner, Architect/Engineer or others, by making any progress payment or final payment.
- 17.2 Warranty Period. Except as otherwise specified, the Contractor shall repair all defects in materials, equipment or workmanship appearing within one (1) year from the date of Substantial Completion of the Work as a whole. Upon receipt of written notice from the City of the discovery of any defects, the Contractor shall promptly and at its own cost remedy the defects and replace any property damaged therefrom. In case of emergency where delay would cause serious risk of loss or damage to the City, or if the Contractor, after notice, fails to proceed promptly and remedy within thirty (30) days or within another period of time which has been agreed to in writing, in compliance with the terms of the warranty and guarantee, the City may have the defects corrected and the Contractor and his surety shall be liable for all expenses incurred.

## Article XVIII - Change Orders

- 18.1 Effect of Change Order. A Change Order authorizes a change in the Scope of the Work or an adjustment in the Contract Sum or the Contract Time. Work performed under a Change Order is subject to all provisions of the Contract Documents.
- 18.2 Modifications for which a Change Order is Required. All changes in the scope of the Work, the Contract Sum and the Contract Time shall be documented by a Change Order. Change Orders are the exclusive method for modifying the Contract Sum or Contract Time.
- 18.3 Agreed and Unilateral Change Orders. A Change Order may be either an Agreed Change Order or a Unilateral Change Order. An Agreed Change Order is a Change Order jointly executed by the City and the Contractor, in which each agrees to all of the terms of the amendment. A Unilateral Change Order is a Change Order issued by the City without the agreement of the Contractor. Contractor shall comply with a Unilateral Change Order but shall be entitled to an equitable adjustment of the Contract Time and Contract Price.

## Article XIX – Contract Time

- 19.1 Contract Time. The Contract Time will be measured from the date designated in the Notice to Proceed to the date specified for completion by the Contract Documents, including any modification by Change Order. Failure to achieve Substantial Completion within the Contract Time will subject the Contractor to Liquidated Damages. Unless otherwise specified in the Special Conditions or elsewhere in the Contract Documents, the date of Contract Completion shall be the date on which the Work is certified as Substantially Complete.
- 19.2 Contractor Delayed. When Contractor, without fault and for reasons beyond the control of Contractor, is delayed from completing the Work within the Contract Time, the Contractor shall be entitled to an extension of time commensurate with the period of delay.



19.3 Failure to Complete Work Within the Contract Time. Time is of the essence of this Contract. The Contractor's failure to complete the Work within the Contract Time will cause damage to the City. These damages shall be liquidated by agreement of the Contractor and the City, as set forth in the Special Conditions.

19.3.1 Collection of Liquidated Damages. The City may collect Liquidated Damages due from the Contractor directly or indirectly by reducing the contract sum in the amount of Liquidated Damages stated in the Special Conditions and the Contract.

#### **Article XX - Termination for Cause by Owner**

20.1 Termination by City for Cause. The City may, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, under the following circumstances:

- a. Persistent or repeated failure or refusal, except during complete or partial suspensions of work authorized under the Contract Documents, to supply enough properly skilled workmen or proper materials;
- b. Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;
- c. Persistent failure to prosecute the work in accordance with the Contract Documents, and to insure its completion within the time, or any extension thereof, specified in this contract;
- d. Failure to remedy defective work;
- e. Failure to pay subcontractors, laborers, materialmen and suppliers pursuant to Texas Government Code Chapter 2251;
- f. Persistent endangerment, by the Contractor or its Subcontractors or other vendors, of the safety of labor or of the Work itself;
- g. Failure to supply or maintain statutory bonds, pursuant to Article V, or the supply or maintain Required insurance, pursuant to Article VI ;or
- h. Any other material breach of the Contract.

The City reserves the right to terminate at any time for any of the above listed causes. Failure to exercise the right to terminate in any instance or for any proper reason shall not be construed as waiver of the right to do so in any other instance or for any other proper reason.

20.1.1 The CDR shall give the Contractor and its Surety thirty (30) days' prior written notice of its intent to terminate for any of the above reasons. If the Contractor or the Surety demonstrates, to the satisfaction of the City, that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, then the City shall rescind the notice and the Contract shall continue unmodified, and the Contractor shall not be entitled an extension of time.

20.1.2 Should the Contractor or the surety fail to so demonstrate within thirty (30) days following receipt of such notice, or fail to satisfy the City that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the City may arrange for completion of the Work and deduct the cost thereof from the unpaid Contract sum remaining. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Architect/Engineer's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor or his surety shall pay the difference to the City. This obligation for payment shall survive the termination of the Contract. The City reserves the right, where the Contract is terminated for cause, to take assignment of any and all contracts between the Contractor and its Subcontractors, vendors and suppliers, and the CDR shall promptly notify the Contractor of the contracts the City elects to assume. Upon receipt of such notice, the Contractor shall promptly take all steps necessary to affect such assignment.

## Article XXI – Miscellaneous

- 21.1 Computation of Time. In computing any time period set forth in this Contract, the first day of the period shall not be included, but the last day shall be.
- 21.2 Survival of Obligations. All representations, indemnifications, warranties and guarantees made in accordance with the Contract Documents will survive final payment, completion and acceptance of the Work, as well as termination for any reason. All duties imposed upon the Contractor by reason of termination, including without limitation the duty to assign subcontracts and contracts with vendors and suppliers, shall likewise survive the termination of the Contract.
- 21.3 No Waiver of Performance. The failure of either party in any instance to insist on the performance of any of the terms, covenants or conditions of the Contract Documents, or to exercise any of the rights granted thereunder, shall not be construed as waiver of any such term, covenant, condition or right with respect to further performance.
- 21.4 Governing Law and Venue. This Contract shall be governed by the law of the State of Texas. Exclusive venue of any cause of action arising out of or related to the Contract or the performance of the Work shall lie in the District Court of Bastrop County, Texas.
- 21.5 Captions and catchlines. The captions and catchlines used throughout the Uniform General Conditions are for ease of reference only and have no effect on the meaning of the terms and conditions set forth herein.
- 21.6 Independent Contractor Status. The Contract Documents create an independent contractor relationship between the City and Contractor and neither party's employees or contractors shall be considered employees, contractors, partners or agents of the other party.
- 21.7 No third-party beneficiaries. The parties do not intend, nor shall any clause be interpreted to create in any third party, any obligations to, or right of benefit by, such third party under these Contract Documents from either the Owner or Contractor.
- 21.8 Entire Agreement. These Contract Documents supersede in full all prior discussions and agreements (oral and written) between the parties relating to the subject matter hereof and constitutes the entire agreement.
- 21.9 Assignment. This Contract may not be assigned by either party without the prior written consent of the other, except either party may, upon notice to the other party but without the other party's consent, assign this Contract to a present or future Affiliate or successor, provided that any such assignment by Contractor shall be contingent on City's determination that the assignee is qualified to perform the work, is in good standing with the City of Bastrop and otherwise eligible to do business within the State of Texas.
- 21.10 Severability. If any provision, sentence, clause or article of this Contract is found to be invalid or unenforceable for any reason, the remaining provisions shall continue in effect as is the invalid or unenforceable provision were not in the Contract. All provisions, sentences, clauses and articles of this Contract are severable for this purpose.
- 21.11 Parties Bound. Execution of this Contract by each party binds the entity represented as well as its employees, agents, successors and assigns to its faithful performance.
- 21.12 No waiver of Sovereign Immunity. Nothing herein shall be construed as a waiver of the State's and City's sovereign immunity.

## SECTION 00700

### SPECIAL CONDITIONS OF THE AGREEMENT

- 1.1 Permits. Contractor shall make any and all arrangements and pay for any and all permits required for this work. Any City permits will be free of charge. EPA and TCEQ rules and regulations must be followed regardless of whether they are specified individually or not.
- 2.1 Utilities. Contractor shall make all arrangements for, and pay for, any utility services required during construction of this project. Water will be provided at no charge by the City, however, all water usage must be metered and tap fees shall be paid by the Contractor.
- 3.1 Materials Testing.
- 3.1.1 The City will provide for materials testing at our cost for laboratory certification of materials and workmanship in construction of this project.
  - 3.1.2 The Contract Administrator has the right to temporarily halt construction or repairs for the purpose of acquiring test samples.
  - 3.1.3 Copies of the test results will be forwarded to the Contractor.
- 4.1 Protection of Existing Facilities. Existing facilities, including utility or paved facilities, disturbed or damaged by, or because of, performance of this Contract shall be promptly restored or repaired at Contractor's expense. Contractor shall be responsible for all areas of the site used by him and all subcontractors in the performance of the Work. Contractor will exert full control over the actions of all employees and other persons with respect to the use and preservation of property and existing facilities, except such controls as may be specifically reserved to City or others. Contractor has the right to exclude from the site all persons who have no purpose related to the Work or its inspection, and may require all persons on the site (except City's authorized employees) to observe the same regulations, as required of Contractor's employees.
- 5.1 Timing and Sequence of Work.
- 5.1.1 Contractor is advised that the timing of the work is of critical concern to the Owner, who desires to utilize the proposed facility as quickly as possible.
  - 5.1.2 Contractor is therefore informed that time is of the essence in this Contract and that the time allowed for completion is shown in the Proposal subject to extensions in accordance with the General Conditions.
  - 5.1.3 Contractor is further advised of liability for liquidated damages in the amount of \$200.00/day for each day the Project is not completed in the time allowed, plus extensions.
- 6.1 Final Approval and Guarantee.
- 6.1.1 The Work is to be completed to the satisfaction of the City.
  - 6.1.2 Contractor is to guarantee all work to be free from defect due to faulty workmanship or materials for a period of one year from the date of final acceptance of the work by the City. Contractor shall repair defects, which develop in construction, during that time, upon notice by the City. No provisions of this Contract shall relieve Contractor of this guarantee. Failure of the Contractor to repair or replace a defect upon notice shall entitle City to perform necessary work and recover the cost of the same from Contractor and/or his surety.

7.1 Form of Specifications.

- 7.1.1 Specifications are of the abbreviated, simplified or streamlined type and include incomplete sentences. The omission of words or phrases such as "the Contractor shall", "inconformity therewith", "Shall be", "as noted on the drawings", "according to the plans", "a", and "an", shall be supplied by inference in the same manner as they are when a "note" occurs on drawings.
- 7.1.2 The specifications are interpreted to require that the Contractor shall provide all items, articles, materials, operations or methods listed, mentioned or scheduled whether on the plans or specified therein, or both, including all labor, material, equipment and incidentals necessary and required for their completion.
- 7.1.3 Whenever the words "approved", "satisfactory", "designated", "submitted", "observed", or similar words or phrases are used it shall be assumed that the word "Contract Administrator" follows the verb as the object of the clause, such as "approved by the Contract Administrator".
- 7.1.4 All references to standard specifications or manufacturer's installation directions shall mean the latest edition thereof.
- 7.1.5 Reference to technical society, organization or body is made in specifications in accordance with the following abbreviations:
  - AASHO - American Association of State Highway Officials
  - ASTM - American Society for Testing Materials
  - AWWA - American Water Works Association EPA Environmental Protection Agency
  - TCEQ - Texas Commission on Environmental Quality

7.2 Some specification items cover construction requirements and materials in a comprehensive manner, and only pertinent portions of these items apply.

7.3 For construction specifications or details not detailed in plans and/or specifications, use relevant City of Bastrop or Texas Commission on Environmental Quality standards.

8.1 Other Contractors. The Contractor is advised that other work may be underway simultaneously in the Project area. Each Contractor will be required to coordinate activities with others and the City at no increased time or cost to the City.

9.1 General Prosecution of Work. The Contractor is expected to prosecute the work diligently and continuously, weather permitting, and is also expected to maintain site in a safe and orderly condition. These steps will be expected to be performed at no extra cost to the City.

10.1 Storage of Equipment and Materials.

- 10.1.1 Contractor furnished equipment and materials shall be stored in such manner as to protect them from the elements, and prevent damage to, corrosion of, deterioration of, or loss of materials or components.
- 10.1.2 Materials and equipment shall be stored on high ground on a suitable working surface free of mud and water.
- 10.1.3 Equipment and materials storage shall be limited to areas designated by the Contract Administrator to protect existing vegetation.
- 10.1.4 Contractor shall immediately move stored material or equipment if determined necessary for any reason by the City.

- 11.1 Access to Construction Site.
- 11.1.1 Contractor should investigate the site and define any potential construction problems and/or delivery route restrictions for the components to be supplied, prior to submitting a Proposal. No blocking or redirection of traffic shall be done as part of this Project.
  - 11.1.2 Access to the Project can be obtained from public roads and City of Bastrop property. Access across private property is strictly forbidden unless written permission has been obtained from the landowner.
- 12.1 Land for Construction Purposes. Contractor will be permitted to use available land belonging to City, on or near the site of the Work, for construction purposes. The location and extent of the areas so used shall be as designated by the City.
- 13.1 Salvage of Materials and Equipment.
- 13.1.1 At the option of the City, all existing materials and equipment removed, and not reused as a part of the Work, shall remain the property of the City, unless otherwise noted. (Items not to be salvaged shall be removed and legally disposed of by the Contractor, as part of this contract.)
  - 13.1.2 Contractor shall carefully remove and protect salvaged items which are to be reused or remain the property of the City. Salvaged items not to be reused in the Work, but to remain City's property, shall be delivered by Contractor to a site designated by the City.
- 14.1 General Provisions Applicable to Other Required Insurance. At all times during the term of the Contract the Contractor shall keep in effect (1) a Commercial General Liability Policy and (2) an Automobile Liability Policy.
- 14.1.1 Only insurance carriers licensed and admitted to conduct business in the State of Texas will be accepted.
  - 14.1.2 "Claims Made" policies will not be accepted.
  - 14.1.3 The City of Bastrop, Texas, its officials, employees and volunteers are to be added as "Additional Insureds" to the General Liability Policy. The coverage shall contain no special limitations applicable to such additional insureds.
  - 14.1.4 Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to the City of Bastrop, Texas.
  - 14.1.5 Contractor waives all rights, including that of subrogation, against City, Architect, their officers, employees, agents or assigns with respect to personal injury or property damage arising out of the Project or the Work to the extent that such loss or damage is insured, or required to be insured by the Contractor under the Contract Documents.
- 15.1 Independent Contractor Relationship. The Contractor is, and shall perform these services as, an Independent Contractor, and as such, shall have and maintain complete control over all of its employees, agents, and operations. Neither the Contractor nor anyone employed by it shall be, represent, act, or purport to act or be deemed to be the agent, representative, employee or servant of the City of Bastrop.

No person listed as a registered sex offender in the central database maintained by the Texas Department of Public Safety may be allowed by Contractor to perform work related to this Contract in, or within 500 feet of any park or recreation facility of the City of Bastrop, or within 500 feet of any public or private school or childcare facility. Contractor and its subcontractors shall use due diligence to investigate the criminal history of all employees assigned to perform work under or related to this contract to ensure compliance with this requirement. Internet access to the DPS database is available to the general public at <https://records.txdps.state.tx.us>.

The Bidder selected by this Proposal will be working as an Independent Contractor and will be required to acquire, and keep in force, all permits, licenses, certifications, other approvals, and or insurance that may be required by the City of Bastrop, any local or regional governmental agency, the State of Texas, or the federal government. Failure to comply with any of these items is grounds for immediate cancellation of the Contract.

- 16.1 Notice Before Commencing Work. The Contractor shall give the Contract Administrator at least forty-eight (48) hours' notice in writing before commencing work on any portion of the Contract, or renewing work at any place where work has been stopped for any cause. Contractor shall give the same notice to all authorized inspectors, superintendents, or persons in charge of utilities, or roadways affected by his operations. Any work done contrary to the provisions of this clause must be taken up and rebuilt immediately upon order from the Contract Administrator.

- 17.1 Environmental Protection. The Contractor shall be responsible for compliance with all applicable federal, state, and local laws, rules, requirements, codes and regulations.

The Contractor and any subcontractors shall recognize the environmental requirements of the project. Disturbed areas shall be strictly limited to boundaries established by the Contract Administrator. Particular attention is drawn to the avoidance of any pollution of nearby streams, sewers, wells or other water sources.

All work shall be performed in such a manner as may be required to avoid pollution of the air by dust or other contaminants and also to control noise.

Contractor shall keep the premises free from accumulations of waste materials and rubbish. Contractor shall provide adequate onsite trash receptacles and shall promptly empty the containers when filled.

Contractor shall neatly stack construction materials when not in use. Contractor shall promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids and cleaning solutions from surfaces to prevent marring, runoff, or other damage.

Volatile wastes shall be properly stored in covered metal containers and removed daily.

The Contractor shall comply with the U.S. Environmental Protection Agency (EPA) and TCEQ including submitting a Notice of Intent (NOI) and adhering to the terms and conditions imposed by EPA's National Pollutant Discharge Elimination System (NPDES) storm water baseline general permit. Among the conditions and requirements of this permit, the Contractor must prepare and implement a Pollution Prevention Plan (PPP) that is tailored to the construction site. Once the facility is authorized to discharge under this stormwater baseline construction general permit, the Contractor remains responsible for compliance with all terms and conditions to maintain coverage. The Contractor shall be responsible for any breach of terms or conditions imposed by the stormwater baseline construction general permit and is responsible for any resulting penalties.

The Contractor shall prevent erosion of soil and excess runoff of surface or subsurface water from the construction site during the construction period. To retain existing drainage patterns external to the construction site, the Contractor shall construct temporary earth berms, sedimentation basins, retaining areas, and temporary ground cover as needed to control conditions.

The Contractor shall legally dispose of all solid waste materials and other materials to be removed from the site by transporting them to disposal areas that are approved by all Federal, State and Local authorities.

- 18.1 Declaration. By my signature below I agree to comply with all the provisions of this Contract. I further understand any breach of the Contract entitles the City of Bastrop, a governmental entity, to declare the Contract void within ten (10) days after receipt of notice of breach.

SIGNED this 23 day of March, 2020.

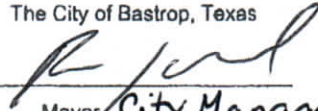
Contractor: Artisan Concrete Services

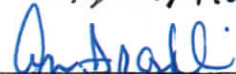
By: 

Printed Name: Andy Duck

Title: President

The City of Bastrop, Texas

By:   
Mayor/City Manager

Attest:   
City Secretary

RESOLUTION NO. R-2020-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AWARDING A CONTRACT TO PERFORM THE DESIGN AND COORDINATION WITH THE CITY OF BASTROP'S CONSULTANT LANDSCAPE ARCHITECT AND CONSTRUCT THE FISHERMAN'S PARK WHEELED SPORTS PLAZA, PHASE I TO ARTISAN CONCRETE SERVICES, INC., IN THE AMOUNT OF TWO HUNDRED FORTY-SIX THOUSAND DOLLARS (\$246,000), AS ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

**WHEREAS**, The City Manager is responsible for the proper administration of all affairs of the City; and

**WHEREAS**, The City Council has the steadfastness to ensure the quality of our City recreational opportunities; and

**WHEREAS**, The City of Bastrop has received all bids, and determined the best value contract.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:**

**Section 1:** That the City Manager is hereby authorized to execute a contract with Artisan Concrete Services, Inc. in the amount of two hundred forty-six thousand dollars (\$246,000). (Attached as Exhibit A)

**Section 2:** That the City Council of the City of Bastrop has found Artisan Concrete Services, Inc., to be skilled and qualified for construction of the Fisherman's Park Wheeled Sports Plaza, Phase I.


**Section 3:** All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 4:** That this Resolution shall take effect immediately upon its passage, and it is resolved.

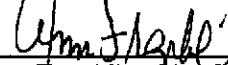


**DULY RESOLVED AND ADOPTED** by the City Council of the City of Bastrop this 10<sup>th</sup> day of March, 2020.

**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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 CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 Artisan Concrete Services, Inc.  
 Kitty Hawk, NC United States

**Certificate Number:**  
 2020-603580

**Date Filed:**  
 03/31/2020

**Date Acknowledged:**  
 06/03/2020

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

**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.**  
 PKS 2020-1.  
 Turnkey Design Build Concrete Skatepark

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 is \_\_\_\_\_ (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)

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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 CERTIFICATION OF FILING

Certificate Number:  
2020-603580

Date Filed:  
03/31/2020

Date Acknowledged:

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

Artisan Concrete Services, Inc.  
Kitty Hawk, NC United States

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

City of Bastrop

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.

PKS 2020-1.  
Turnkey Design Build Concrete Skatepark

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.

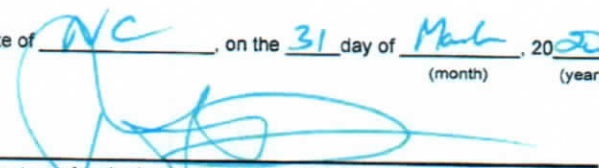
### 6 UNSWORN DECLARATION

My name is Thomas Andy Duck, and my date of birth is 10.18.66.

My address is 4600 Tamarack Dr. Kitty Hawk NC 27949 USA  
(street) (city) (state) (zip code) (country)

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

Executed in Dare County, State of NC, on the 31 day of March, 2020.  
(month) (year)

  
\_\_\_\_\_  
Signature of authorized agent of contracting business entity (Declarant)