

**DRAFT DOCUMENT ONLY
FINAL DOCUMENT TO
INCLUDE ALL ADDENDUM
ISSUED DURING BID**

SPECIFICATIONS

AND

CONTRACT DOCUMENTS

FOR

KELLER SANITARY SEWER RELOCATION
At the Keller Municipal Service Center

JUNE 2025

CITY OF KELLER

ARMIN MIZANI
MAYOR

CITY COUNCIL

SHANNON DUBBERLY
GREG WILL
KAREN BRENNAN

TAG GREEN
CHRIS WHATLEY
ROSS MCMULLIN

AARON RECTOR
CITY MANAGER

LIÑÁN ALONZO
DIRECTOR OF PUBLIC WORKS



a **Westwood** company

Peloton Land Solutions, a Westwood company

9800 Hillwood Parkway, Suite 250

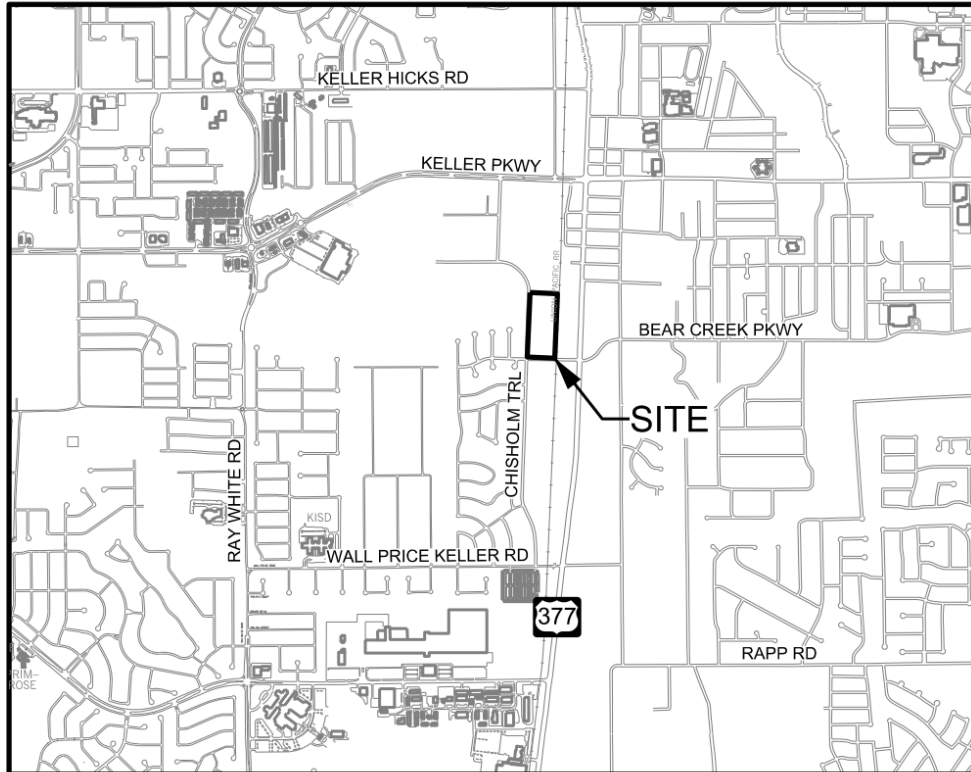
Fort Worth, Tx 76177

(817) 562-3350

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The technical specifications reference the following documents:		
<ul style="list-style-type: none">• Project Specifications (Available from engineer if not included in contract documents.)• 2014 TxDOT Standard Specification for Construction and Maintenance of Highways, Streets, and Bridges (Not all specifications are provided in contract documents. Contractor responsible for obtain standard specifications from TxDOT.)• 5th Edition of the Public Works Construction Standards from the North Central Texas Council of Governments (Not all specifications are provided in contract documents. Contractor responsible for obtain standard specifications from NCTCOG.)		
	013233	Video and Photographic Documentation
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SECTION 1 - BID REQUIREMENTS



MAPSCO NO. 23N

LOCATION MAP

KELLER SANITARY SEWER RELOCATION KELLER MUNICIPAL SERVICE CENTER


NORTH
NOT TO SCALE
DATE: APRIL 2025

 **PELTON**
LAND SOLUTIONS
A WESTWOOD COMPANY
9800 HILLWOOD PARKWAY
SUITE 250
FORT WORTH, TX 76177
PHONE: 817-562-3350

NOTICE TO BIDDERS

Keller Sanitary Sewer Relocation at the Keller Municipal Service Center and more specifically:

Sealed proposals for the above referenced project will be received at the City Hall, City of Keller, 1100 Bear Creek Parkway, Keller, Texas, 76248 until **2:00p.m. (C.S.T.) on July 9, 2025**. Each bidder shall identify his sealed proposal by typing on the outside of the envelope:

City of Keller
Keller Sanitary Sewer Relocation
Attn: Liñán Alonzo,
1100 Bear Creek Parkway
Keller, TX 76248

The City shall receive, publicly open, and read aloud the names of the bidders and the amounts bid.

A non-mandatory pre-bid conference will be held at 2:00 p.m., June 25, 2025, at the City of Keller, 1100 Bear Creek Parkway, Keller, Texas, 76248. All prospective bidders are encouraged to have a representative from your firm attend this pre-bid conference. Should you have any questions or comments pertaining to this project, contact Tanya Warbritton, P.E. at Peloton Land Solutions, Inc. a Westwood Company at (817) 562-3350, tanya.warbritton@westwoodps.com or Liñán Alonzo, City of Keller Director of Public Works at (817) 743-4081. All questions are due by end of business on July 1, 2025.

Bid Documents may be downloaded from the website, civcastusa.com under the project name, **Keller Sanitary Sewer Relocation** or Project **ID R0046897.00** to any general contractor desiring to submit a bid for this project **beginning June 15, 2025**.

The City of Keller reserves the right to reject any or all bids, and to waive any formalities.

The City of Keller is committed to the ideals of equal opportunity, and strongly encourages participation by HUB/MBE/WBE business enterprises.

INSTRUCTIONS TO BIDDERS

COMPETITIVE BID LAW

The City of Keller, as well as all other cities in the State of Texas, are governed by the state competitive bid law. The purpose and intent for the competitive bidding process is to help cities obtain the best products/projects at the lowest practical prices by stimulating competition. The City of Keller is committed to fair and equal competition among all vendors. In addition, the state competitive bid law does not allow favoritism to be shown to any vendor.

HOW TO SUBMIT OFFICIAL COMPETITIVE BIDS

Each invitation to bid that is posted contains all the following elements:

1. DATE, TIME, AND PLACE BID IS TO BE OPENED

It is absolutely mandatory that all bids be delivered in accordance with those instructions. Bids that are received late may not be accepted. All bids must be delivered to the City of Keller unless otherwise stated by the date and time specified in the bid document for the bid to be considered. All bids must be sealed when presented to the City representative. Faxed bids or emailed bids are not acceptable unless otherwise specified in the original solicitation document.

2. DETAILED SPECIFICATIONS

Many times brand names and model numbers are utilized in the bid specifications as a way of communicating minimum requirements of the city. This in no way prevents a company from bidding alternatives as the City of Keller will always consider brand names and model numbers that are equal to the original minimum specifications. However, all deviations must be stated in the bid document, or the bidder will be required to supply the item completely as specified. All alternates must meet or exceed the specifications to be considered. Bids shall be considered on all other brands submitted and on the equal quality product of other manufacturers. On all such bids, the Bidder shall clearly indicate the product on which it is bidding, and shall supply sufficient data, on its own letterhead, to enable an intelligent comparison to be made with the particular brand or manufacturer specified.

3. GENERAL STIPULATIONS/CONDITIONS

Bidder is to fill out the Conflict of Interest Form and Felony Conviction Forms located in the appendix of contract documents.

4. PRE-BID MEETINGS

A pre-bid conference will be required for this project. See the notice to bidders for location, date, and time. These meetings are an opportunity for bidders and City of Keller Staff to meet, discuss the bid specifications and ask questions necessary to enable the supplier to prepare their bid response. Contact between solicited vendors and the City user departments during the request for sealed bid or proposal process outside of the pre-bid/pre-proposal meeting is available, however, the response is in writing and provided to all plan holders as an addendum to the bid.

5. BID ADVERTISEMENTS

By state law, notice of the time, date and location of bid openings are published in a newspaper in accordance with state bid law requirements (Two consecutive weeks in accordance with Texas Local Government Code). Any company or individual interested in obtaining a bid specification package may contact the City of Keller to request a copy.

6. BID OPENING PROCEDURES

All bids are opened publicly and promptly on the date and at the time stated in the bid solicitation. All interested vendors are welcome to attend. Bid tabulations are available to all plan holders after final approval of award. Once bids are opened, no changes can be made or will be accepted.

7. BID EVALUATIONS

It is the intent of the City of Keller to obtain the best quality materials/projects at the lowest prices possible. The bid evaluation process will begin at the lowest bid price. If that bid meets all requirements and specifications an award will be recommended. If the lowest bid price does not meet all requirements and specifications, the next lowest bidder will be considered until a valid and acceptable bid is found that meets all requirements.

8. BID AWARD NOTIFICATION

The City of Keller representative will issue all official bid award notifications following City of Keller Council approval. Award notifications from any other department or staff member of the City prior to formal Council approval which occurs monthly may not be valid information.

9. SCOPE OF WORK

The scope of work for this project consists of furnishing all labor, materials, equipment, and incidentals for the installation of electrical outlets along Oak Street in the City of Keller.

10. PREPARATION AND SUBMISSION OF PROPOSAL

In the bid proposal, the bidder shall fill in the blanks for the "Unit Price" in words and numerals and the "Total Amount."

See Section 2 (Contract Requirements), Proposal Page P-1 for proposal requirements and conditions.

11. INTERPRETATION OF QUOTED PRICES

In case of difference between the written words and any figure in a proposal, the amount stated in writing will be considered as the bid. The contract method will be unit pricing based on actual quantities of work installed.

12. DISCREPANCIES IN BIDS

In case of lack of clearness of a proposal, the owner will adopt the most advantageous construction thereof or reject the bid.

13. UNBALANCED BIDS

Unreasonable or unbalanced unit prices will be cause for rejection of any bids.

14. INTERPRETATION OF SPECIFICATIONS

Any questions as to the meaning of any specifications will be answered by addendum which will be sent to all who have been furnished with contract documents and plans.

15. LOCAL LABOR

The Contractor, in so far as is practicable, will be expected to give preference to employment of local citizens.

16. MATERIALS FURNISHED BY CONTRACTOR

The Contractor shall furnish all materials, regardless of their nature except as noted in the special provisions and/or plans.

17. MANUFACTURER'S CERTIFICATE

The Contractor shall furnish, if the owner so requests, a certificate from each of the manufacturers whose materials are used on this project stating that the materials and supplies fulfill or exceed the requirements set out in these specifications. All materials must be certified domestic materials.

18. AFFIDAVIT OF BILLS PAID

Prior to final acceptance of this project by the owner, the contractor shall execute an affidavit that all bills for labor, material, rental, subcontractor's work and any other incidentals have been paid in full and there are no claims pending of which he has been notified.

19. PLANS TO CONTRACTOR

The successful contractor will be furnished with three (3) sets of contract documents and specifications. Should the contractor desire more than three (3) sets, the contractor may buy them for \$500.00 per complete set.

20. LABOR CLASSIFICATION AND MINIMUM WAGE SCALE

Attention is called to the fact that a minimum scale of wages to be paid to employees engaged in the work under this contract does not release the contractor from compliance with any state wage law that may be applicable. The contractor shall abide by the wage and hour laws of the state and must not pay less than the rates prescribed.

21. TIME ALLOWED FOR CONSTRUCTION

The contractor shall commence work in not more than (refer to Section 2: Contract Requirements - Proposal) calendar days after the work order has been issued and shall be complete within (refer to Section 2: Contract Requirements - Proposal) calendar days of issuance of the work order. Liquidated damages shall be charged per the NCTCOG Schedule for liquidated damages under Item 108.8.1 as shown below:

Schedule 108.8.1. (a) Liquidated Damages

Amount of Contract (\$)		Amount of Liquidated Damages (\$)	
Less than	25,000.00	200.00	Per Day
25,000.00	to 99,999.99	350.00	Per Day
100,000.00	to 999,999.99	500.00	Per Day
More than	1,000,000.00	1000.00	Per Day

The days charged shall begin at the earlier of the date the contractor proceeds with construction or 10 working days after the work order has been issued by the City of Keller. The Contractor may bid a shorter time of completion, which will be considered by the City in evaluation of the bids. The bid proposal has a place for the bidder to reflect the construction time.

22. SPECIAL INFORMATION - SALES TAX

The Owner qualifies as a tax-exempt agency as defined by the statutes of the State of Texas. The Contractor shall comply with all statutes and rulings of the State Comptroller. The Contractor may purchase materials for incorporation into this project by issuing his supplier a tax exemption certificate. However, materials purchased, but not incorporated into the project, such as form materials, equipment rental, etc., are not exempt from sales taxes.

23. INSURANCE

Refer to General Conditions for insurance requirements. The Contractor shall furnish and maintain during the life of the contract adequate Worker's Compensation and Commercial General Liability (Public) Insurance in such amounts as follows:

<u>Type of Insurance</u>		<u>Amount</u>	
1.	Worker's Compensation	As set forth in the Worker's Compensation Act.	
2.	Commercial General Liability (Public)	Each Occurrence	\$500,000
		General Aggregate	\$1,000,000
		Products Comp/Ops Agg.	\$1,000,000

The City of Keller shall be named as an additional insured on the Commercial General Liability (Public) Insurance Policy furnished by the Contractor.

Each insurance policy shall contain a provision requiring that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given by certified mail to the City of Keller, 500 S. Oak Street, Keller, Texas 76262.

Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are at the sole responsibility and risk of the Contractor.

A Certificate of Insurance indicating that the insurance is in force shall be furnished to the City.

The coverages provided herein shall be primary and noncontributory with any other insurance maintained by the City of Keller, Texas, for its benefit, including self insurance.

In the event any insurance policy shown on the Certificate of Insurance has an expiration date that is prior to the completion and final acceptance of the project by the City of Keller, the Contractor shall furnish the City proof of identical continued coverage no later than thirty (30) days prior to the expiration date shown on the Certificate of Insurance.

The Contractor shall not commence work on any Contract in the City of Keller until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the City.

24. BONDS

A bid bond in the form of a cashier's check, a certified check, or an acceptable bidder's bond made payable without conditions to the "City of Keller" in the amount not less than five percent (5%) of the total amount of bid submitted, must accompany each bid as a guarantee that if awarded the contract, the bidder will promptly enter into a contract and execute such bonds as required. Refer to General Conditions for bond requirements. The bond amounts are summarized below:

	<u>Type of Bond</u>	<u>Amount</u>
1.	Bid Bond	5% of Total Bid Amount
2.	Maintenance Bond	20% of Total Contract Price
3.	Performance Bond	100% of Total Contract Price
4.	Payment Bond	100% of Total Contract Price

Other procurement procedures utilized:

1. QUOTES (Written And Verbal)

Written and verbal quotes may be utilized for categories that will not reach the bid limit and at times when a particular bid agreement possesses a roster of providers who have been awarded for same or similar goods/services.

2. RFQ (Request for Qualifications) and RFP (Request for Proposals)

These processes are primarily utilized for the procurement of goods and services that are not considered straight forward but more specialized and/or particular needs (i.e. – financial consultant, technology programmer or consultant, etc.).

3. TAX EXEMPTION

The City of Keller is State tax-exempt on the basis that it is a governmental entity – municipality

4. DISCRIMINATION

Vendors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. A bidder must certify that their

company complies with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in the Department of Labor Regulations.

SECTION 2 – CONTRACT REQUIREMENTS

PROPOSAL

To: City of Keller

For: **Keller Sanitary Sewer Relocation**

The undersigned Bidder having thoroughly examined the contract documents, including specifications, the site of the project and understanding the amount of work to be done and the prevailing conditions, hereby proposes to do all the work, furnish all labor, equipment, and material, except as specified to be furnished by the City, which is necessary to fully complete all of the work as provided in the contract documents and subject to the inspection and approval of the City of Keller, Texas, and binds himself upon acceptance of this Proposal to execute a contract and furnish an approved Performance Bond, Payment Bond, and such other bonds, if any, as may be required by the contract documents for the performing and completing of said work. Contractor proposes to do the work within the time stated and for the following sum:

PROPOSAL

PROPOSAL FORM

UNIT PRICE BID

Bidder's Application

KELLER SANITARY SEWER RELOCATION

SECTION I - GENERAL						
Project Item Information				Bidder's Proposal		Technical Specifications
Bidlist Item No.	Description	Unit of Measure	Bid Quantity	Unit Price	Bid Value	
1	Mobilization (5% Max)	LS	1			017113
2	General Site Preparation (5% Max)	LS	1			024100
3	Pre-Construction Video	LS	1			013233
4	Barricades, Signs, and Traffic Handling	MO	1			TXDOT 502
5	SWPPP	LS	1			NCTCOG 202
<u>TOTAL GENERAL</u>						

SECTION II - PAVING IMPROVEMENTS						
Project Item Information				Bidder's Proposal		Technical Specifications
Bidlist Item No.	Description	Unit of Measure	Bid Quantity	Unit Price	Bid Value	
6	Remove & Reinstall Chain Link Fence with Privacy Screen	LF	42			NCTCOG 203.1
7	Gravel Storage Area Removal and Relocation	LS	1			NCTCOG 201.2
8	Remove Ex Asphalt Pvmnt	SY	481			NCTCOG 203.1
9	Remove Ex Concrete Pvmnt	SY	629			NCTCOG 203.1
10	Remove Ex Sidewalk Concrete Pvmnt	SF	63			NCTCOG 701.2
11	Remove 6" Curb and Gutter	LF	118			NCTCOG 203.1
12	Asphalt Pavement Replacement (4" Type D HMAC, 6" Class D Conc & Type B Backfill)	SY	481			NCTCOG 302 & 303
13	Concrete Pavement Replacement (12" Class P2 Conc & Type B Backfill)	SY	629			NCTCOG 303
14	Install 4" Sidewalk Concrete Pavement	SY	7			NCTCOG 305.2
15	Install 6" Curb and Gutter	LF	118			NCTCOG 305.1
16	4" Topsoil	SY	224			NCTCOG 204.2
17	Sodding	SY	224			NCTCOG 204.5
TOTAL PAVING IMPROVEMENTS						

SECTION III - SANITARY SEWER IMPROVEMENTS						
Project Item Information				Bidder's Proposal		Technical Specifications
Bidlist Item No.	Description	Unit of Measure	Bid Quantity	Unit Price	Bid Value	
18	Temp Sewer Bypass System	LS	1			-
19	Abandon Ex 6" Sewer Pipe (By Grout Fill)	LF	36			NCTCOG 701.2
20	Abandon Ex 8" Sewer Pipe (By Grout Fill)	LF	822			NCTCOG 701.2
21	Abandon Ex Sewer Manhole	EA	3			NCTCOG 701.2
22	Remove Ex 6" Sewer Pipe	LF	107			NCTCOG 701.2
23	Remove Ex 8" Sewer Pipe	LF	242			NCTCOG 701.2
24	Remove Ex Sewer Manhole	EA	2			NCTCOG 701.2
25	Connect to Ex Sewer Manhole	EA	1			NCTCOG 502.1
26	Connect to Ex Sewer	EA	1			NCTCOG 502.1
27	Install 6" SDR-35 PVC Sewer Pipe	LF	32			NCTCOG 501.17
28	Install 10" SDR-35 PVC Sewer Pipe	LF	1,072			NCTCOG 501.17
29	Install 10" x 8" Eccentric Reducer	EA	1			NCTCOG 502.5
30	Install 4' Manhole	EA	1			NCTCOG 502.1
31	Install 5' Manhole	EA	5			NCTCOG 502.1
32	Install 5' Drop Manhole	EA	2			NCTCOG 502.1
33	Install 6" Cleanout	EA	1			NCTCOG 502.2
34	Manhole Vacuum Testing	EA	9			NCTCOG 507.5
35	Post-Construction TV Inspection	LF	1,104			013233
36	Trench Safety	LF	1,104			TXDOT 402
TOTAL SANITARY SEWER IMPROVEMENTS						

Bid Summary

SECTION I - GENERAL	
SECTION II - PAVING IMPROVEMENTS	
SECTION III - SANITARY SEWER IMPROVEMENTS	
TOTAL CONSTRUCTION BID	

PROPOSAL SUMMARY:

TOTAL BID FOR KELLER SANITARY SEWER RELOCATION

\$0 _____

***TOTAL PROJECT**

\$0 _____

***Total Project Cost includes bonds, traffic control and other incidentals necessary to complete the work scope of this contract.**

This total must agree with the total amount bid.

For purposes of complying with the Texas Tax Code, the Contractor agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no more than the invoice price for such material to the Contractor.

Within ten (10) days after acceptance of this Proposal, the undersigned will execute the formal contract and will deliver an approved Surety Bond and such other bonds as required by the Contract Documents, for the faithful performance of the Contract. The attached bid security in the amount of 5% is to become the property of the Owner in the event the contract and bond or bonds are not executed and delivered within the time above set forth, as liquidated damages for the delay and additional work caused thereby.

The undersigned assures that its employees and applicants for employment and those of any labor organization, subcontractors, or employment agency in either furnishing or referring employee applicants to the undersigned are not discriminated against.

The bidder agrees to begin construction within ten (10) calendar days after the issuance of the Notice to Proceed with Construction (Work Order), and to complete the contract within 93 calendar days for substantial completion and 123 calendar days for final completion after receipt of said notice.

Receipt is acknowledged of the following addenda:

Addendum No. 1 _____

(Seal) if bidder Corporation

Addendum No. 2 _____

Addendum No. 3 _____

Respectfully submitted

Company: _____

Name: _____

Signature: _____

Title: _____

Address: _____

City, State, Zip: _____

Phone: _____

Fax: _____

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ**For vendor or other person doing business with local governmental entity**

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

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

Name of Officer

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

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

4

Signature of person doing business with the governmental entity

Date

VENDOR COMPLIANCE TO STATE LAW

The 1985 Session of the Texas Legislature passed House Bill 620 relative to the award of contracts to non-resident bidders. This law provides that, in order to be awarded a contract as low bidder, non-resident bidders (out-of-state contractors whose corporate offices or principal place of business are outside of the state of Texas) bid projects for construction, improvements, supplies or services in Texas at an amount lower than the lowest Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a non-resident bidder in order to obtain a comparable contract in the state in which the non-resident's principal place of business is located. The appropriate blanks in Section A must be filled out by all out-of-state or non-resident contractors to do so will automatically disqualify that bidder. Resident bidders must check the blank in Section B.

- A. Non-resident vendors in _____ (give state), our principal place of business, are required to be _____ percent lower than resident bidders by state law. A copy of the statute is attached.
- B. _____ Our Principal place of business or corporate offices are in the State of Texas.

BIDDER:

By: _____

Signature: _____

Address _____

Title: _____

City State Zip

THIS FORM MUST BE RETURNED WITH YOUR BID

CONTRACTOR COMPLIANCE TO TEXAS SALES TAX CODE

Comply with all requirements of the Texas Sales Tax Code. The Contractor hereby certifies that the Contract Amount is divided as follows:

Material incorporated into the Project
(Resold to the Owner as defined in Tax Code) \$ _____

All other charges and costs \$ _____

Total * \$ _____

* The total must equal the total amount of the Contract:

CONTRACTOR:

By: _____
(signature of authorized person)

Address _____

Signature: _____

City State Zip

Title: _____

THIS FORM MUST BE RETURNED WITH YOUR BID

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

_____ as
Principal,

and _____ as
Surety,

are hereby held and firmly bound unto the City of Keller, Texas as Owner in the penal

sum of _____ for payment which, well
and truly

to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Singed, this _____ day of _____, 20_____.

The Condition of the above obligation is such that whereas the Principal has submitted to the City of Keller, Texas a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the construction of the Keller Sanitary Sewer Relocation project.

NOW THEREFORE,

- (a) If said Bid shall be rejected, or
- (b) If said Bid shall be accepted and the principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and Certificates of Insurance and shall in all other respects perform the agreement created by the acceptance of said Bid,

then this obligation shall be void, otherwise the same shall remain in force and effect: it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation and herein stated.

The Surety for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal L.S.

Surety

By: _____

IMPORTANT – Surety companies executing BONDS must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State of Texas.

CITY OF KELLER
ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

I acknowledge that by submitting a bid for this project, I am aware of the insurance requirements outlined in these specifications. If I am awarded the bid, I will comply with all insurance requirements within 10 working days of the bid award, including providing proof that I have insurance which may include, but not be limited to, true and accurate copies of the policies. If I fail to forward all insurance requirements within the 10 working days of the award of the bid, I understand my bid bond will be forfeited.

Signature Printed name

Name of Company: _____

Address of Company: _____

City, State & Zip: _____

Telephone Number: () _____ Date: _____

****THIS PAGE MUST BE COMPLETED OR BID WILL BE REJECTED****

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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

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

PRODUCER	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL: ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

FOR DISADVANTAGED BUSINESS ENTERPRISES ONLY

Disadvantaged Business Enterprises (DBE) are encouraged to participate in the City of Keller BID process. The City of Keller will provide additional clarification of specifications, assistance with BID Proposal Forms, and further explanation of bidding procedures to those DBEs who request it.

Representatives from DBE companies should identify themselves as such and submit a copy of the Certification.

The City recognizes the certifications of both the State of Texas Building and Procurement Commission HUB Program and the North Central Texas Regional Certification Agency. All companies seeking information concerning DBE certification are urged to contact:

State of Texas HUB Program
Texas Building & Procurement Commission
P O Box 13047
Austin, TX 78711-3047
(512) 463-5872

OR

North Central Texas Regional
Certification Agency
616 Six Flags Drive, #416-LB24
Arlington, TX 76011
(817) 640-0606

If your company is already certified, attach a copy of your certification to this form and return with BID.

COMPANY NAME: _____

REPRESENTATIVE: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NO. _____ **FAX NO.** _____

INDICATE ALL THAT APPLY:

_____ **Minority-Owned Business Enterprise**
_____ **Women-Owned Business Enterprise**
_____ **Disadvantaged Business Enterprise**

CERTIFICATE OF INTERESTED PARTIES**FORM 1295****OFFICE USE ONLY**

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.

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

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

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

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

5 Check only if there is **NO** Interested Party. ☐

6 UNSWORN DECLARATION

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

My address 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)

ADD ADDITIONAL PAGES AS NECESSARY

Form TCG 2270
VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2279

Contract identifier: _____

Department: _____

By signing below, Company hereby verifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

SIGNED BY: _____

Print Name of Person: _____
Signing, Title, and
Company _____

Date signed: _____

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned Notary Public on this day personally appeared _____ (Name), on behalf of _____ (Company) who being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct..

SWORN AND SUBSCRIBED TO before me, this _____ day of _____, 20____.

NOTARY OF PUBLIC,
FOR THE STATE OF TEXAS

My Commission Expires:

Government Code § 2270.002. Provision Required in Contract

Effective: September 1, 2017

A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

The following definitions apply:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

(3) "Governmental entity" means a state agency or political subdivision of this state.

State law requires verification from a Company for contracts involving goods or services (regardless of the amount) before the City can enter into the contract.

STANDARD FORM OF AGREEMENT
BETWEEN CITY AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2025, by and between the City of Keller, Texas (hereinafter called OWNER) and _____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Keller Sanitary Sewer Relocation at the Keller Municipal Service Center.

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

City of Keller

Article 2. ENGINEER.

The City Engineer who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assumes all duties and responsibilities and has the rights and authority assigned to ENGINEER by the OWNER in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1. CONTRACTOR agrees to commence work within ten (10) calendar days after the date of written notice to commence work, and to complete the work on which he has bid within (refer to Section 2: Contract Requirements - Proposal) calendar days as provided in the General Conditions.

Article 4. CONTRACT PRICE.

4.1. OWNER shall pay CONTRACTOR for completion of the Work on a Unit Price Work Basis in accordance with the Contract Documents in current funds based on the measured quantities and the unit prices stated in the Proposal.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment on work completed during the previous month on the first day of the month. CONTRACTOR shall present only one Application for Payment each month. Applications for Payment will be processed by ENGINEER and OWNER shall make payment to CONTRACTOR within forty-five (45)

days of the date of the invoice. The City of Keller shall retain 10% of each pay application until the work has been completed by the Contractor.

Article 6. INTEREST.

All moneys not paid when due shall bear interest at the maximum rate allowed by law at the place of the Project.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

7.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7.2. CONTRACTOR binds itself to use such materials and so construct the work that it will remain in good repair and condition for and during the period of two (2) years from the date of the repair and to maintain said work in good repair and condition for said term of two (2) years. CONTRACTOR binds itself to repair or reconstruct the work in whole or in part at any time within said period, if in the opinion of the ENGINEER, it be necessary.

7.3. To the fullest extent permitted by laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER and ENGINEER and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, and Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Laws and Regulations regardless of the negligence of any such party.

7.4. In any and all claims against OWNER or ENGINEER or any of their consultants, agents or employees by any employee of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 7.3 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

Article 8. Contract Documents

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

1. SECTION 1 BID REQUIREMENTS
2. SECTION 2 CONTRACT REQUIREMENTS
3. SECTION 3 TECHNICAL SPECIFICATIONS
4. SECTION 4 APPENDICES

Refer to General Conditions for "Precedence of Contract Documents."

Article 9. TERMINATION.

OWNER may terminate contract if CONTRACTOR persistently fails to perform the work in accordance with the Contract Documents including, but not limited to, failure to supply sufficient skilled workers, or suitable materials or equipment, or otherwise violates in any substantial way any provisions of the Contract Documents. OWNER may, after giving CONTRACTOR seven (7) days written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work.

Article 10. MISCELLANEOUS.

10.1. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound, and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.2. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed five (5) copies of the Agreement. Two counterparts each have been delivered to OWNER and CONTRACTOR, and one counterpart has been delivered to ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This agreement will be effective on the _____ day of _____, 2025.

OWNER:

CONTRACTOR:

City of Keller, Texas

By: _____ By: _____
Aaron Rector, City Manager

ATTEST: _____ ATTEST: _____
Kelly Ballard, City Secretary

Address for giving notices:

Address for giving notices:

1100 Bear Creek Parkway

Keller, Texas 76248

(If OWNER is a public body, attach resolution authorizing execution of Agreement.)

List name of person to whose attention notices are to be sent:

(If CONTRACTOR is a Corporation, attach evidence of authority to sign.)

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF TARRANT

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

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 2025, to

Build and Construct the Keller Sanitary Sewer Relocation to Keller Municipal Service Center

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Contract and the Plans and Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect;

“PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of (Article 5160 for Public Work) (Article 5472d for Private Work)* of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Article to the same extent as if it were copied at length herein.”

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder

*Not applicable for federal work. See “The Miller Act,” 40 U.S.C. S270.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2025.

PRINCIPAL

SURETY

By: _____

By: _____

Title: _____

Title: _____

Address: _____

Address: _____

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

PAYMENT BOND

STATE OF TEXAS
COUNTY OF TARRANT

KNOW ALL MEN BY THESE PRESENTS: That _____
of the City of _____, County of _____, and State of _____, as principal,
and _____ authorized under the laws of the State of Texas to
act as surety on bonds for principals, are held and firmly bound unto City of Keller (Owner), in
the penal sum of _____

_____ Dollars (\$_____) for the payment whereof, the said Principal and Surety bind
themselves, and their heirs, administrators, executors, successors and assigns, jointly and
severally, by these presents:

**Build and Construct the Keller Sanitary Sewer Relocation at the Keller Municipal Service
Center.**

WHEREAS, the Principal has entered into a certain written contract with the Owner,
dated the _____ day of _____, 2025, to

which contract is hereby referred to and made a part hereof as fully and to the same extent as if
copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the
said Principal shall pay all claimants supplying labor and material to him or a subcontractor in
the prosecution of the work provided for in said contract, then, this obligation shall be void;
otherwise to remain in full force and effect;

“PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of
Article 5160 of the Revised Civil Statutes of Texas as amended and all liabilities on this bond
shall be determined in accordance with the provisions of said Article to the same extent as if it
were copied at length herein.”

Surety, for value received, stipulates and agrees that no change, extension of time,
alteration or addition to the terms of the contract, or to the work performed thereunder, or the
plans, specifications, or drawings accompanying the same, shall in any way affect its obligation
on this bond, and it does hereby waive notice of any such change, extension of time, alteration or
addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2025.

PRINCIPAL

SURETY

By: _____

By: _____

Title: _____

Title: _____

Address: _____

Address: _____

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

**TWO YEAR / TWENTY PERCENT
KELLER
MAINTENANCE BOND**

STATE OF TEXAS
COUNTY OF TARRANT

KNOW ALL MEN BY THESE PRESENTS: That _____

AS PRINCIPAL, AND _____
(NAME OF SURETY)

a corporation organized under the laws of _____

and _____

as sureties, do hereby expressly acknowledge themselves to be held and bound to pay unto the

City of Keller
(NAME OF OWNER)

a municipal corporation, the sum of _____

(AMOUNT DETERMINED BY 20% OF TOTAL CONTRACT PRICE)

Dollars (\$_____) for the payment of which sum will and truly to be made unto said

City of Keller
(NAME OF OWNER)

and its successors, said principal and sureties do hereby bind themselves their assigns, and successors jointly and severally.

This obligation is conditioned, however, that, whereas said _____

(NAME OF CONTRACTOR)

has this day entered into a written contract with said _____
City of Keller
(NAME OF OWNER)

to build and construct the Keller Sanitary Sewer Relocation at the Keller Municipal Service Center
(DESCRIPTION OF PROJECT AS IT APPEARS ON COVER OF CONTRACT DOCUMENTS)

which contract and the plans and specifications therein mentioned and adopted by the

City of Keller

are hereby expressly made a part thereof as though the same were written and embodied herein.

WHEREAS, under the specifications and contract, it is provided that the Contractor shall maintain and keep in good repair the work constructed and/or equipment furnished by him as contemplated by the plans, specifications, drawings, etc., and perform for a period of Two (2) year(s). The period shall be one (2) years from the date of acceptance as shown on the "Certificate of Completion" as issued by the Engineer, or the date of final payment by the Owner, whichever bears the later date, all necessary repairs, reconstruction and renewal of any part of said construction, and to furnish the labor and materials to make good and to repair any defective condition growing out of or on account of the breakage or failure of any substance or the improper function of any part of the construction work. The Contractor shall reimburse the Owner for the costs of all Engineering and special services required to be furnished by the Owner which are directly attributable to the restoration of the constructed work. Said maintenance contemplates the complete restoration of the constructed work to a functional use during the said period as set forth above. It is being understood that the purpose of this section is to require the correction of all defective conditions resulting from materials furnished or work and labor performed by the said Contractor under the conditions prescribed by the plans and specifications; and in case the said Contractor shall fail or refuse to perform as provided within ten (10) days after proper written notifications have been furnished to him by the Owner, it is agreed that the Owner may do said work and supply such materials and the said Contractor and Sureties herein shall be subject to the liquidated damages mentioned in said Contract for each calendar day's failure on its part to comply with the terms of the said provision of said Contract of this Maintenance Bond.

NOW THEREFORE, if the said Contractor shall keep and perform its said agreement to maintain said work and keep the same in good repair for the said maintenance period as provided above, then these presents shall be null and void and have no further effect, but if default shall be made by the said Contractor in the performance of its contract to do so maintain and repair damages in the premises, as provided, and it is further understood and agreed that this obligation shall be a continuing one against the principal and sureties hereon, and that successive recoveries may be had hereon for successive breaches until the amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected from any clause during said time.

IN WITNESS WHEREOF, the said _____
(NAME OF CONTRACTOR)

has caused these presents to be executed by _____
(NAME OF CONTRACTOR'S AUTHORIZED SIGNER)

and the said _____
(NAME OF SURETY)

has caused these presents to be executed by its _____

_____ and the said _____
(ATTORNEY-IN-FACT OR OFFICIAL) (ATTORNEY-IN-FACT OR OFFICIAL)

has hereto set his hand this the _____ day of _____, 2025.

SURETY

PRINCIPAL

By: _____

ATTEST:

ATTEST:

By: _____
SURETY

By: _____
SECRETARY

NOTE: Date of Maintenance Bond must not be prior to date of contract.
Power of Attorney must be attached.

GENERAL CONDITIONS

1. DEFINITIONS: Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.

- 1.1 Acceptance, Final Acceptance: The formal action by the City in accepting the Work as being complete.
- 1.2 Addenda: Written or graphic supplemental documents issued prior to the opening of bids that modify or interpret the Contract Documents, by additions, deletions, clarifications, or corrections.
- 1.3 Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- 1.4 Bidder: Any individual, partnership, corporation, or combination thereof submitting a proposal for the Work contemplated, acting directly or through an authorized representative.
- 1.5 Bonds: Bid, performance, payment and/or maintenance bonds and other instruments or security, furnished by the Contractor and his surety in accordance with the Contract Documents.
- 1.6 Change Order: A document recommended by the Engineer which is signed by the Contractor and City and authorizes an addition, deletion, or revision in the Work, which may include an adjustment in the Contract Price and/or the Contract Time, issued on or after the Effective Date of the Construction Agreement (Agreement”).
- 1.7 Claim: A demand or assertion by City or Contractor seeking an adjustment in Contract Price or Contract Time or both, or other relief with respect to the terms of the Agreement. A demand for money or services by a third party is not a claim.
- 1.8 Contractor: The individual, partnership, corporation, or combination thereof that has entered into the Agreement with the City for the performance of the Work called for in the Contract Documents.
- 1.9 Construction Agreement: The written instrument between the City and Contractor covering the work to be performed. The Agreement supersedes prior negotiations, representations, or agreements, whether written or oral.
- 1.10 Contract Documents: Construction Agreement; Properly executed Change Orders and Field Orders in writing and executed by the City, the last in time being first in precedence; Any listed and numbered addenda; Special Provisions; Supplementary Conditions; Construction Drawings or Plans; Technical Specifications; *Occupational Safety and Health Standards – Excavation*, 20 CFR

Part 1926 (by reference); *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference); The General Conditions; The most current edition of the *Public Works Construction Standards North Central Texas* (by reference); Notice to Bidders; Instructions to Bidders; The City's written notice to proceed to Contractor; The Contractor's Bid Proposal; The Performance Bond, Payment Bond and Maintenance Bond; and Bid materials distributed by the City that relate to the Project are each and all included in this Agreement and the Work shall be done in accordance therewith.

- 1.11 Contract Price: The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.12 Contract Time: The time set forth in the Agreement for the performance and completion of the Work contracted for. The time may be expressed as calendar days, Working Days or a specific date. The term day as used in the Contract Documents shall mean calendar day unless specifically designated otherwise.

Calendar Day: Any successive days of the week or month, no days being excepted.

Working Day: A working day is defined as a calendar day not including Saturdays, Sundays or those legal holidays celebrated by the City of Keller, in which weather or other conditions not under control of the Contractor shall permit the performance of the principal units of work underway for a continuous period of not less than seven hours between 7 a.m. and 7 p.m.. A principal unit of work shall be that unit which controls the completion time of the Agreement. Nothing shall be construed as prohibiting the Contractor from working on Saturdays if he so desires and permission of the Owner has been granted. Work on Sundays or legal holidays, as specified by the Owner, shall not be permitted except in cases of extreme emergency and then only with the written permission of the Owner. If Saturday or Sunday work is permitted, working time shall be charged on the same basis as week days. Where the working time is expressed as calendar days or a specific date, the concept of Working Days shall no longer apply.

- 1.13 Effective Date of the Agreement: The date indicated in the Notice to Proceed as the date to proceed with the Work, the date from which Contract Time is measured.
- 1.14 Engineer: The individual or firm designated, appointed, or otherwise employed or delegated by the City for the Work, or their duly authorized agents, such agents acting within the scope of the particular duties entrusted to them in each case. The Supplementary Conditions shall specify if the Consulting Engineer or the City Project Engineer will be the Engineer for the contract.

City Project Engineer or Project Engineer: The City's duly authorized representative overseeing the City's administration of the Agreement and the Contractor's performance thereunder. Unless specifically provided otherwise in the Contract Documents, the Project Engineer is an employee of the City of Keller and is not the Consulting Engineer.

Consulting Engineer: The person, firm or entity hired as an independent Consultant by the City to design the Project and represent the City in the administration of the Agreement in whatever capacity the City designates. The City may, at its sole option, designate the Consulting Engineer to be the Project Engineer for the purposes of administration of the Agreement. The Consulting Engineer shall be understood to be the Consulting Engineer of the City, and nothing contained in the Contract Documents shall be construed to make the Consulting Engineer an employee of the City, nor shall they be construed to create any contractual or agency relationship between the Consulting Engineer and the Contractor. The term includes the officers, associates, agents, and sub-consultants of Consulting Engineer, if any.

- 1.15 Field Order: A written order issued by the Engineer that orders minor changes in the Work but which does not involve a change in the Contract Price or the Contract Time.
- 1.16 Final Completion: For the purpose of tracking time, issuing payment of retainage or bonuses and assessing liquidated damages, Final Completion shall be defined as the date upon which all items identified during the walk-through as being incomplete or not functioning as designed (the punch list) have been completed or corrected and the Contractor has requested final acceptance of the Project.
- 1.17 Laws and Regulations: Any and all applicable laws, rules, regulations, statutes, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
- 1.18 Liens: Charges, security interests, or encumbrances upon real property, or personal property.
- 1.19 Maintenance Bond: The approved form of security furnished by the contractor and his sureties conditioned upon the repair and maintenance of any defect arising in any part of the construction of said improvements, and to take all steps necessary to provide the City with a product and/or installation equal to that required by the Contract Documents for such construction for a period as specified in the referenced contract, but not less than two (2) years, following the date of final acceptance.
- 1.20 Milestone: A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

- 1.21 Notice of Award: The written notice of the acceptance of the bid from the City to the successful Bidder.
- 1.22 Notice to Proceed: Written communication issued by the City to the Contractor authorizing him to proceed with the Work and establishing the date of commencement of the Work, also referred to as the Effective Date, or Effective Start Date of the Agreement.
- 1.23 Owner: The City of Keller, Texas. The term Owner means the Owner or its authorized representative.
- 1.24 Partial Utilization: Use by the City of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.
- 1.25 Payment Bond: The approved form of security furnished by the Contractor and his sureties for the protection of all claimants supplying labor and materials in the prosecution of the Work.
- 1.26 Performance Bond: The approved form of security furnished by the Contractor and his sureties conditioned upon faithful performance of the Work in strict accordance with the plans, specifications, and contract documents.
- 1.27 Plans: The part of the Contract Documents that show the locations, characteristics, dimensions, and details of the Work to be performed and which have been prepared or approved by the Engineer.
- 1.28 Proposal: The offer or proposal of the Bidder submitted on the prescribed form bound herein, setting forth the prices for the elements of the Work to be performed.
- 1.29 Resident Project Representative or Inspector: The authorized representative of the Engineer who is assigned to the site or any part thereof.
- 1.30 Samples: Physical examples, which illustrate materials, equipment or workmanship, and establish standards by which the Work will be judged.
- 1.31 Shop Drawings: All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

- 1.32 Site: Land or areas indicated in the Contract Documents as being furnished by the City upon which the Work is to be performed, including rights-of-way, and easements for access thereto, and such other lands furnished by the City which are designated for use by the Contractor.
- 1.33 Specifications: Those portions of the Contract Documents consisting of written technical descriptions of material, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto, including these General Conditions and the Supplementary Conditions.
- 1.34 Subcontractor: An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
- 1.35 Substantial Completion: The Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer as evidenced by Engineer's definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended.
- 1.36 Superintendent: The employee of the Contractor at the Site who shall have sole responsibility and authority for supervision of the Contractor's forces and construction operations on the Project. The superintendent shall have authority to act on behalf of the Contractor. All communications given to the Superintendent shall be as binding as if given to the Contractor.
- 1.37 Supplementary Conditions: The part of the Contract Documents, which amends or supplements these General Conditions.
- 1.38 Supplier: A manufacturer, fabricator, supplier, distributor, material man or vendor.
- 1.39 City: The City of Keller, Texas with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.
- 1.40 Underground Facilities: All pipes, pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasement containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.
- 1.41 Work: The entire completed construction of the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such Project, and furnishing, installing, and

incorporating all materials and equipment into such Project effect all as required in the Contract Documents.

2. TERMINOLOGY:

- 2.1 Whenever in these Contract Documents the words “as ordered”, “as directed”, “as required”, “as permitted”, “as allowed”, or words or phrases of like import are used, it shall be understood that the order, directions, requirements, permission or allowance of the City and Engineer is intended.
- 2.2 Similarly the words “approved”, “reasonable”, “suitable”, “acceptable”, “properly”, “satisfactory”, or words of like effect and import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the City and Engineer.
- 2.3 Whenever any statement is made in the Contract Documents containing the expression “it is understood and agreed”, or an expression of like import, such expression means the mutual understanding and agreement of the parties executing the Agreement of which these General Conditions are a part.
- 2.4 The word “defective” when modifying the word “Work” refers to Work that is unsatisfactory, faulty, or deficient in any manner and not conforming to the Contract Documents, or failure to meet the requirements of any inspection, reference, standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion).
- 2.5 The word “furnish” when used in connection with services, materials or equipment shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition. The word “install” when used in connection with services, materials or equipment shall mean to put into use - or place in final position - said services, materials or equipment and ready for their intended use. The words “perform” or “provide” when used in connection with services, materials or equipment shall mean to furnish and install said services, materials, or equipment complete and ready for intended use. When “furnish”, “install”, “perform”, or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- 2.6 Unless stated otherwise in the Contract Documents, words or phrases, which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

3. ABBREVIATIONS

When references are made to the following abbreviations, they refer to the specifications, standards, or methods of the respective national association. All references to such specifications, standards, or methods shall, in each instance, be understood to refer to the latest issue in effect (including all amendments).

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
AI	The Asphalt Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
APWA	American Public Works Association, Inc.
AREMA	The American Railway Engineering and Maintenance-of-Way Association
ASTM	ASTM International (Succeeding American Society for Testing Materials)
AWS	American Welding Society
AWWA	American Water Works Association, Inc.
CRSI	Concrete Reinforcing Steel Institute
FED SPEC	Federal Specifications
IBC	International Building Code
NBFU	National Board of Fire Underwriters
NEC	National Electric Code
NEMA	National Electrical Manufacturers Association
NCTCOG	North Central Texas Council of Governments
NESC	National Electric Safety Code
NFPA	National Fire Protection Association
OSHA	Occupational Safety and Health Act of 1970
PCA	Portland Cement Association
SSPC	The Society for Protective Coatings
TCEQ	Texas Commission on Environmental Quality
TDLR	Texas Department of Licensing and Regulation
TWCC	Texas Workers' Compensation Commission
UL	Underwriters Laboratories, Inc.

When references are made to the following abbreviations, the intent and meaning shall be as follows:

Ave.	Avenue	Min.	Minimum
Blvd.	Boulevard	No.	Number
CI	Cast Iron	%	Percent
CL	Center Line	PI	Plasticity Index
CO	Cleanout	psi	Pounds per Square Inch
Conc.	Concrete	R	Radius
Cond.	Conduit	Reinf.	Reinforced

Corr.	Corrugated	Rem.	Remove
Cu.	Cubic	Rep.	Replace
Culv.	Culvert	R/W	
CY	Cubic Yard	R of W	
Dia.	Diameter	ROW	Right-of-way
Dr.	Driveway	Sani., San.	Sanitary
Elev.	Elevation	Std.	Standard
Ft. or '	Foot or Feet	Str.	Strength
Gal.	Gallon	SY	Square Yard
Hr.	Hour	Vert.	Vertical
In. or "	Inch or Inches	Vol.	Volume
Lb.	Pound or Pounds	Yd.	Yard
LF.	Linear foot or feet	Max.	Maximum
MH	Manhole		

4. VERBAL STATEMENTS NOT BINDING: It is specifically understood and agreed that the written provisions, specifications, and quantities under this Agreement shall supersede all prior and contemporaneous verbal statements of any and every official and/or other representative of the City, and such statements shall not be effective or be construed as entering into, or forming part of, or altering in any way whatsoever, the written Agreement.
5. INTENT OF CONTRACT DOCUMENTS: The intent of the Contract Documents is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents. The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.
6. INTENT OF PLANS AND SPECIFICATIONS: Plans prepared by the Engineer on behalf of the City and elsewhere described and named accompany and supplement these Specifications and constitute a part of the Contract Documents. Such Plans are agreed to be constructively attached to these Specifications for all purposes although convenience may prevent physical attachment.
 - 6.1 Modifications or Additions to Plans: The City shall have the right to modify minor details of these Plans, to provide final or checked plans in lieu of any preliminary or unchecked plans, to supplement these Plans with additional plans or with additional information as the Work proceeds, all of which shall be considered as Plans accompanying these Specifications.
 - 6.2 Organization of Specifications: The organization of the Specifications into divisions, sections, and articles, and the arrangement of Plans shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade.

7. PRECEDENCE OF CONTRACT DOCUMENTS: In case of conflict between the Contract Documents, the following order of precedence shall govern:
1. Construction Agreement;
 2. Properly executed Change Orders and Field Orders in writing and executed by the City, the last in time being first in precedence;
 3. Any listed and numbered addenda;
 4. Special Provisions;
 5. Supplementary Conditions;
 6. Construction Drawings or Plans;
 7. Technical Specifications;
 8. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);
 9. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference)
 10. The General Conditions;
 11. The most current edition of the *Public Works Construction Standards - North Central Texas* (by reference);
 12. The most current edition of the *Standard Specifications for Construction Maintenance of Highway, Streets, and Bridges – Texas Department of Transportation* (by reference);
 13. Notice to Bidders;
 14. Instructions to Bidders;
 15. The City's written notice to proceed to Contractor;
 16. The Contractor's Bid Proposal;
 17. The Performance Bond, Payment Bond and Maintenance Bond; and
 18. Bid materials distributed by the City that relate to the Project.

Figure dimensions of Plans shall govern over scale dimensions, and detailed drawings shall govern over general drawings. In all cases, where a conflict is cited, the Engineer shall be duly informed.

8. DISCREPANCIES, ERRORS, AND OMISSIONS: Any discrepancies, errors, omissions, or ambiguities found in the Contract Documents shall be promptly reported to the Engineer. The Engineer shall clarify such discrepancies or omissions, in writing within a reasonable amount of time. Work done by the Contractor after his discovery of such discrepancies, inconsistencies, or ambiguities shall be at Contractor's own risk in that subsequent corrective measures may be required.
9. REUSE OF DOCUMENTS: Neither the Contractor nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the City shall have or acquire any title to or ownership rights in any of the Plans, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of the Engineer; and they shall not reuse any of said documents on extensions of the Project or any other project without prior written consent of the City.
10. PRECONSTRUCTION CONFERENCE: Before the Contractor starts work at the Site, a conference attended by the Contractor, Superintendent, Engineer and others as

appropriate will be held to discuss the procedures for handling Shop Drawings and other submittals and for processing Payment Estimates, and to establish a working understanding among the parties as to the Work.

11. **SHOP DRAWINGS:** Where called for in the Contract Documents, the Contractor shall submit to the Engineer for review, six (6) prints of each Shop Drawing. Shop Drawings shall be understood to include detailed calculations, reinforcement bar bending diagrams, fabrication, erection and installation drawings, parts lists, graphs, wiring diagrams, operation instructions, etc. Drawings shall be submitted in sufficient time to allow the Engineer not less than ten (10) working days for review of such drawings, and to accommodate the rate of construction progress required under the Agreement.

The review of Shop Drawings by the Engineer will be limited to checking for general agreement with the Contract Documents and shall in no way relieve the Contractor of responsibility for errors or omissions contained in the Shop Drawings. Fabricating dimensions, quantities of material, applicable code requirements, and other Contract requirements shall be the Contractor's responsibility. When the Shop Drawings have been reviewed by the Engineer, four (4) sets of submittals will be returned to the Contractor appropriately stamped. If major changes or corrections are necessary, the Shop Drawings may be rejected and one (1) set will be returned to the Contractor with the required changes or corrections indicated, and the Contractor shall promptly make the required changes or corrections. The Contractor shall make a complete and acceptable second submittal to the Engineer. Revisions to the Shop Drawings shall be limited to changes necessary to meet the requirements of the Contract Documents and shall not be taken as the basis of claims for extra work. The Contractor shall have no claims for extra work. The Contractor shall have no claims for damages or extension of time due to any delay resulting from the Contractor's having to make the required revisions.

Portions of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or sample has been reviewed and stamped approved by the Engineer.

12. **WORK DONE WITHOUT LINES OR GRADES:** Any work done without being properly located and work established by base lines, offset stakes, benchmarks, or other basic reference points not properly and correctly located, established, or checked by the Engineer, may be ordered removed and replaced at the Contractor's sole cost and expense.
13. **PRESERVATION OF MONUMENTS AND STAKES:** The Contractor shall carefully preserve all monuments, benchmarks, reference points and stakes, and in case of willful or careless destruction of the same will be charged with the resulting expense of replacement, and shall be responsible for any mistake or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the stakes and marks placed by the Engineer are destroyed through carelessness on the part of the Contractor, and the destruction of those stakes and marks cause a delay in the Work, the Contractor shall have no claim for damages or extensions of time. In the case of any permanent monuments or benchmarks which must of necessity be removed or disturbed in the

construction of the Work, the Contractor shall carefully protect and preserve the same until they can be properly referenced for relocation. The Contractor shall furnish at his own expense such materials and assistance as are necessary for the proper replacement of monuments or benchmarks that have been removed or destroyed.

14. UNDERGROUND FACILITIES:

- 14.1 Shown or Indicated: the information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on the information and data furnished to the City by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

The City shall not be responsible for the accuracy or completeness of any such information or data; and,

The Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Facilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price. This shall include any utilities owned by the City.

- 14.2 Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the Contract Documents and which the Contractor could not reasonably have been expected to be aware of, the Contractor shall, promptly after becoming aware thereof and before performing any work affected thereby (except in an emergency) identify the owner of such Underground Facility and give written notice thereof to that owner and to the Engineer. The Engineer will promptly review Contractor's information and/or the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility. During such time, the Contractor shall be responsible for the safety and protection of such Underground Facility.
- 14.3 Notwithstanding anything to the contrary set forth herein-above in this provision, the Contractor shall be responsible for contacting all private and public utilities for determining the location of existing facilities and compliance with the State of Texas' "Call Before You Dig" program mandated by Texas Utility Code Chapter 251 prior to any digging or excavation.

15. DIFFERING SITE CONDITIONS: If the Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed is of such a nature as to establish that any "technical data" on which the Contractor is entitled to rely

is materially inaccurate, or is of such nature as to require a change in the Contract Documents, or differs materially from that shown or indicated on the Plans, or is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents; then the Contractor shall promptly, after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in the case of emergency), notify the City in writing about such condition. The Engineer will promptly review the information submitted by the Contractor regarding the subsurface or physical condition to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the subsurface or physical condition, and the Contract Documents will be amended or supplemented to the extent necessary.

16. CITY'S RESPONSIBILITIES:

- 16.1 Communications: The City shall issue all communications to the Contractor through the Engineer.
- 16.2 Payments: The City shall make monthly payments to the Contractor within thirty (30) days of receipt of submittal of the Contractor's invoice and Quantity Verifications (*see* Section 17.5, herein below), agreed to by the Contractor and the Engineer. The City shall retain the right to withhold payments in the event that the Engineer disputes the Contractor's invoice and/or Quantity Verifications. The City shall make final payment to the Contractor after the Engineer determines final completion has been achieved and approval by the City Council and signature by the City Mayor.
- 16.3 Land, Easements and Rights-of-Way: Prior to issuance of the Notice to Proceed, the City will obtain all land and rights-of-way necessary for carrying out and for the completion of the Work to be performed pursuant to the Contract Documents, unless otherwise mutually agreed. Nothing contained in the Plans or Specifications shall be interpreted as giving the Contractor exclusive occupancy of the land or rights-of-way provided. Land owned and easements and rights-of-way acquired by the City are shown on the Plans and the Contractor shall comply with any and all encumbrances, restrictions, or special conditions related thereto. The Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities, stockpiling, disposal, or storage of materials and equipment. The Contractor shall furnish the Engineer with a copy of the agreement made with any property owner(s) for the temporary use of their property to include a description of the activities allowed and the condition in which the property is to be left when the property is no longer required.
- 16.5 Encroachments: The City will secure, from the agencies having jurisdiction, the necessary permits to create obstructions, to make excavations if required under the Agreement, and to otherwise encroach upon rights-of-way.

- 16.6 City's Right to Retain Imperfect Work: The City shall never be obligated to accept any Work that is determined to be defective or imperfect. If, however, any part or portion of the Work done or material furnished under this Agreement shall prove defective and not in accordance with the Contract Documents, and if the imperfection in the same, in the opinion of the Engineer, shall not be of sufficient magnitude or importance to make the Work dangerous or undesirable, the City shall have the authority to retain such Work but shall make such deductions in the final payment therefore as may be just and reasonable. If the parties are unable to agree as to the amount of the deduction, the City may order the defective part or portion of the Work removed and completed in compliance with the Contract Documents.
- 16.7 Temporary Suspension of Work: The City may suspend the Work or any portion thereof by written notice to the Contractor for a period of not more than sixty (60) days or such further time as agreed upon by the Contractor due to financing delays, unsuitable weather and/or other unfavorable conditions for prosecution of the Work, delay in delivery of City -furnished equipment or materials, due to government or judicial controls or orders which make performance of this Agreement temporarily impossible or illegal, failure of utilities to be removed or relocated in a timely manner by the City or others, or failure of the Contractor to carry out provisions of the Agreement or to provide materials and workmanship meeting the requirements of the Specifications.

No additional compensation shall be paid to the Contractor for such suspension where same is caused by the fault of the Contractor. When such temporary suspension is not due to the fault of the Contractor, he shall be entitled to:

- (a) An equitable extension of working time for completion of the Work not to exceed the delay caused by such temporary suspension, as determined by the City; and
 - (b) The actual and necessary cost of properly protecting the finished and partially finished Work, unused materials and uninstalled equipment during the period of the ordered suspension, as determined by the City, as being beyond the Agreement requirements.
 - (c) With the permission of the City, where the Contractor elects to move equipment from the job Site and then return it to the Site when the Work is ordered resumed, the actual and necessary costs of these moves, in the amount determined by the City. The Contractor shall document all costs.
- 16.8 Termination of Agreement (Contractor Not at Fault): The City may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement provided that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor and his surety of a Notice of Termination specifying the extent to

which termination becomes effective. Further, it shall be deemed conclusively presumed and established that such termination is made with just cause as therein stated; and no proof of just cause in any claim, demand or suit will be required of the City regarding such discretionary action.

16.8.1 After receipt of the Notice of Termination, and except as otherwise directed by the Engineer, the Contractor shall:

- (a) stop work under the Agreement on the date and to the extent specified in the Notice of Termination.
- (b) place no further orders or subcontracts for materials, services or facilities except as may be necessary for completion of such portion of the Work under the Agreement as is not terminated.
- (c) terminate all orders or subcontracts to the extent they relate to the performance of Work terminated by the Notice of Termination.
- (d) transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the Engineer:
 - (1) the fabricated or non-fabricated parts, work in progress, completed work, supplies and materials produced as a part of, or acquired in connection with the performance of, the Work terminated by the Notice of Termination; and
 - (2) the completed or partially completed plans, drawings, information and other property which, if the Agreement had been completed, would have been required to be furnished to the City.
- (e) complete performance of such part of the Work as shall not have been terminated by the Notice of Termination, and
- (f) take such action as may be necessary, or as the Engineer may direct, for the protection and preservation of the property related to its Agreement, which is in the possession of the Contractor, and in which the City has or may acquire an interest.

16.8.2 Within 60 days after the Notice of Termination, the Contractor shall submit his termination Claim to the Engineer in the form and with the certification prescribed by the Engineer. Unless one or more extensions in writing are granted by the Engineer upon request by the Contractor, within such 60-day period or authorized extension thereof, any and all Claims arising from termination shall be conclusively deemed waived.

16.8.3 Subject to the provisions of 16.8.2. the Contractor and City may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of the Work pursuant hereto, provided that such agreed amount shall never exceed the total Contract price as reduced by the amount of payments otherwise made and further reduced by the Contract price of Work not terminated. No amount shall be due for lost or anticipated profit.

16.8.4 Nothing shall limit or alter the rights, which the City may have for the termination of this Agreement, or any other right, which City may have for default or breach of contract by the Contractor.

16.9 Termination of Agreement (Contractor at Fault): The City may, without prejudice to any other right or remedy, terminate the Agreement after ten (10) days from delivery of a written notice to the Contractor and his surety in the event of breach of the Agreement or of any default by the Contractor. It shall be considered a default by the Contractor whenever the Contractor shall:

(a) declare bankruptcy, become insolvent, or assign his assets for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws;

(b) repeatedly fail to provide a qualified Superintendent, sufficiently skilled workmen, suitable materials or equipment;

(c) repeatedly fail to make prompt payments to Subcontractors or for labor, materials, or equipment delivered;

(d) disregard laws, ordinances, rules, regulations, or orders of any public body having jurisdiction over the Work or if he disregards the authority of the Engineer;

(e) substantially violate any provision of the Contract Documents; or

(f) repeatedly fail to prosecute Work according to the approved progress schedule.

16.9.1 The City may take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

16.9.2 If the unpaid balance of the Contract Price exceeds the direct and indirect cost of completing the Project, including compensation for additional

professional services arising from Termination, such excess will be paid to the Contractor. If such costs exceed the unpaid balance of the Contract Price for the Work performed, the Contractor shall pay the difference to the City. Such costs incurred by the City will be determined by the Engineer and incorporated in a Change Order.

16.9.3 Where the Contractor's services have been terminated by the City, said termination shall not affect any right of the City against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the City due the Contractor will not release the Contractor from compliance with the Contract Documents.

17. **ENGINEER'S AUTHORITY:** The Engineer will be the City's representative during the construction period. The Engineer will be designated the City's representative in the Supplementary Conditions.

17.1 Project Representation: The Engineer will be either the City's Project Engineer or Consultant Engineer. The City, at its option, may furnish a Resident Project Representative to assist the Engineer in observing the performance of the Work. The duties, responsibilities and limitations of authority of any such Resident Project Representative will be as provided in the Supplementary Conditions.

17.2 Clarifications and Interpretations: The Engineer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) as the Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the Contractor believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time, and the parties are unable to agree to the amount or extent thereof, the Contractor may make a Claim on the Agreement.

17.3 Authorized Variations in Work: The Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These minor variations may be accomplished by a Field Order and will be binding on the City, and also on the Contractor who shall perform the Work involved promptly. If the Contractor believes that a Field Order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, the Contractor may make a Claim on the Agreement.

17.4 Rejecting Defective Work: The Engineer will have authority to disapprove or reject Work which the Engineer believes to be defective, and will also have the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed or completed.

- 17.5 Determinations for Payment: The Engineer, or his representative, and the Contractor will determine the actual Work performed by the Contractor. This Work shall be posted on a City prepared form titled "Quantity Verification" and signed by both parties. The completed "Quantity Verification" form will be forwarded to the City's Capital Projects Manager to be used to prepare the estimate for payment to the Contractor. In case of a disagreement of the quantities of Work performed, the Engineer's decision will be final and binding upon the City and the Contractor unless, within ten days after the date of such decision, the Contractor delivers to the City written notice of the intention to appeal such decision. If the Contractor files an appeal, except for the Final Pay Estimate, the Pay Estimate will be processed for payment based on the information furnished by the Engineer. The Engineer shall respond to the appeal within fifteen working days of receipt. If the Engineer agrees with all or any part of the appeal, the corrected quantities will be reflected on the next scheduled Pay Estimate. If the Contractor does not agree with the Engineer's response, he may file a Claim on the Agreement.
- 17.6 Means and Methods of Construction: The Engineer will not be responsible for the Contractor's means, methods, techniques, procedures of construction, or the safety precautions and program incident thereto, and the Engineer will not be responsible for the Contractor's failure to perform or furnish the Work in accordance with the Contract Documents. The Engineer will not be responsible for the acts or omissions of the Contractor, of any Subcontractor, or any Supplier, or of any other person or organization performing or furnishing any of the Work.
18. **CONTRACTOR'S RESPONSIBILITY:** By executing the Agreement, the Contractor represents that he has visited the Site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.
- 18.1 Insurance Requirements: All contracts entered into by the City for construction purposes require the contractor to carry insurance coverage covering both himself and any subcontractors as outlined in Section 21, hereof, entitled "Bonds and Insurance."
- 18.2 Supervision: The Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of Construction, but the Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.

- 18.3 Superintendence of Work: The Contractor shall provide and maintain, continually on the Site of the Work during its progress, adequate and competent superintendence of all operations for and in connection with the Work being performed under this Agreement, either personally or by a duly authorized Superintendent or representative having the skill and authority of a Superintendent (“Representative”).
- 18.3.1 The Superintendent or other Representative of the Contractor on the Work or at the Site shall have authority to act for the Contractor and to receive orders given by the Engineer for the proper prosecution of the Work, and/or notices in connection therewith.
- 18.3.2 The Superintendent shall be a person having considerable experience on similar projects. The Contractor shall submit the name of the proposed Superintendent to the City together with a list of projects on which the proposed individual has served as superintendent. Such list shall detail the size and complexity of projects and shall include references for each such engagement. The Engineer shall review the submitted qualifications. No person shall serve as Superintendent without approval of the City. The City’s approval shall not unreasonably be withheld.
- 18.4 Working Hours: Except in connection with the safety or protection of persons or the Work or property at the Site and adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the Site shall be performed during standard daylight hours which shall be defined as the hours between 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. Saturday. The Contractor must notify the Engineer not later than Thursday of the week for work on Saturday or Sunday. A request to work on Sunday must be in writing and the approval/disapproval by the City must be in writing. No construction equipment or machinery shall be operated before or after standard daylight hours within one thousand feet (1,000’) of any residence. Work on Sundays, legal holidays, or before or after standard daylight hours, shall not be done without the written consent of the City Engineer except for work done in connection with the care, maintenance or protection of equipment or already completed Work or to correct conditions that are unsafe to the public.
- 18.4.1 Concrete placement Work shall be scheduled so that all pouring and finishing shall be completed during standard daylight hours, except as approved in advance by the City Engineer. When working under emergency conditions, or when Work must be concluded under artificial lighting, lighting shall be erected and directed so that it shall not shine upon any residence or create a visual traffic hazard.
- 18.4.2 Certain traffic congestion areas will require that modified standard work hours be enforced where street blockage, traffic flow, channelization,

and/or flagmen are required. These areas will be identified in the Supplementary Conditions.

- 18.4.3 The following holidays are to be observed and construction is not to be undertaken unless Contractor submits a written request and prior written approval is received from the City Engineer:

New Year's Day
Martin Luther King Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving Day and the following Friday
Christmas Eve Day and Christmas Day

- 18.5 Commencement of Work and Progress: The Contractor shall, within ten (10) days after the effective start date as shown in the notice to Proceed, commence the Work to be done under this Agreement; and the rate of progress shall be such that the Work shall be completed in accordance with the terms of the Agreement on or before the termination of the Contract Time stated in the Proposal, subject to any extension or extensions of such time made as hereinafter provided.

- 18.5.1 A minimum of two (2) working days prior to the Pre-Construction conference, the Contractor shall submit to the Engineer for approval an estimated progress schedule and a written program of construction outlining the proposed operations and the order of completion of the various parts in sufficient detail to demonstrate to the Engineer the adequacy of the progress to complete the Work within the time provided. No payment shall be made to the Contractor on any Payment Estimate until such progress schedule and program shall have been submitted and approved.

- 18.5.2 Should it become evident at any time during construction that construction operations will or may fall behind the schedule of this first program of construction the Contractor shall, upon request, promptly submit revised written schedules setting out operations, methods and equipment, added amounts of labor, or of working shifts, night work, etc., by which lost time shall be made up and shall confer with the Engineer until an approved modification of the original program and schedule have been provided by the Contractor. Execution of the Work according to the accepted program of construction, or approved modifications thereof, shall be an obligation of the Contractor.

- 18.5.3 Should the Contractor fail to complete the Work within the Contract Time as stipulated in the Proposal or within such extra time as may have been

allowed by extension through a properly approved and executed Change Order, the City will deduct from any moneys due or coming due to the Contractor, the amount indicated in the Proposal for each calendar day the Work shall remain uncompleted. This sum shall be considered and treated not as a penalty but as fixed, agreed and liquidated damages due the City from the Contractor by reason of interference with business, inconvenience to the public, added cost of engineering, administration, inspection, maintenance of detours and temporary facilities, and other items which have caused or may cause an expenditure of funds resulting from Contractor's failure to complete the Work within the Contract Time.

18.5.4 Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, shall in no way operate as a waiver on the part of the City of any of its rights under the Agreement.

18.5.5 Neither by the act of taking over the Work nor by the annulment of the Agreement nor by requiring the surety to complete the Agreement shall the City forfeit the right to recover liquidated damages from the Contractor or his surety for failure to complete the Agreement within the specified Contract Time.

18.6 Principal Material Orders: The Contractor shall place orders for all principal materials to be needed in the Work within ten days after award of the Agreement and delivery dates shall be obtained, in writing, from the suppliers of each of the materials. One copy of each order for the primary materials in the Agreement together with one copy of the supplier's reply stating the date of delivery shall be furnished to the Engineer prior to the payment of the first partial monthly payment estimate.

18.7 Extensions of Time: Should special conditions arise from war, strikes, fires, floods, epidemics, quarantine restrictions, freight embargos, unusually severe weather conditions or other national emergencies wherein restrictions may prevent or delay the acquirement, delivery or use of materials and be the direct cause of specific delays, extensions of time will be granted. In such event, the Contractor shall file with the Engineer, copies of documentary evidence to substantiate the causes and extent of resultant delays at the time they are occurred. This evidence together with the original orders and written delivery dates will be used by the Engineer to determine the amount of any extension of time to be made on account of such delays. In determining extensions of time, revised delivery dates for primary materials will be computed by extending the original Contract Time by the actual number of days, which elapses during any emergency.

18.7.1 The Contractor is requested to bring to the attention of the Engineer, by letter, during the progress of the Work, the occurrence of events, which

the Contractor considers, may warrant extensions of time under the conditions of the Agreement. If the Agreement is not completed within the Contract Time, the Contractor shall, at the conclusion of the Work, at his option, present to the Engineer a written statement presenting his view upon all matters of time extensions.

18.7.2 The amount of all extensions of time, for whatever reason granted, shall be determined by the Engineer with due consideration given to working seasons and working conditions. In general, only actual and not constructive or hypothetical days of delay will be considered. The City shall have the authority to grant additional extensions of time as the City may deem advisable and justifiable.

18.7.3 No extension of time shall be recognized by the City unless it is specifically identified in and approved through a properly executed Change Order.

18.8 Substitutes or “Or-Equal” Items: Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by the Engineer to determine that the material or equipment proposed is equivalent or equal to that named. If the Contractor proposes using a substitute item of material or equipment, the Contractor shall make written application to the Engineer for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice the Contractor’s achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with the City for Work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and Claims of other contractors affected by the resulting change, all of which shall be considered by the Engineer in evaluating the proposed substitute. The Engineer may require the Contractor to furnish, at the Contractor’s expense, additional data about the proposed substitute.

18.8.1 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Engineer, if the Contractor submits sufficient information to allow the Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents.

18.8.2 The Engineer will be allowed a reasonable time within which to evaluate each proposed substitute. The Engineer will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the Engineer's prior written acceptance, which will be evidenced by a Change Order or an approved Shop Drawing. The City may require the Contractor to furnish, at the Contractor's expense, a special performance guarantee or other surety with respect to any substitute.

18.9 Subcontractors and Suppliers: The Contractor shall not employ any Subcontractor, Supplier or other person or organization, whether initially or as a substitute, against whom the City may have a reasonable objection. The Contractor shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom the Contractor has reasonable objection.

18.9.1 If the Supplementary Conditions require the identification of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) be submitted to the City for acceptance by the City and if the Contractor has submitted a list thereof in accordance with the Supplementary Conditions, the City's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case the Contractor shall submit an acceptable substitute. No acceptance by the City of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of the City to reject defective Work.

18.9.2 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with the Contractor as if such acts or omissions were the Contractor's own acts and omissions. Nothing in the Contract Documents

shall create any contractual relationship between the City and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the City to compensate or provide any moneys due any such Subcontractor, Supplier or other person or organizations, except as may otherwise be required by other applicable laws and regulations, or by separate written agreements.

18.9.3 All Work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor, which agreement shall specifically bind the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the City. The Contractor shall pay each Subcontractor a just share of any insurance moneys received by the Contractor on account of losses under policies issued. The Contractor shall provide reasonable assurances if requested by the City that subcontractor payments have been made prior to the City's payment of Contractor invoices.

18.10 Patent Fees and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and, if to the actual knowledge of the City its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by the City in the Contract Documents. **The Contractor shall indemnify and hold harmless the City and anyone directly or indirectly employed by the City from and against any and all claims, damages, losses and expenses (including attorney's fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use of such patented or copyrighted items, designs or processes in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, produce or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.**

18.11 Permits: Unless otherwise provided in the Supplementary Conditions, the Contractor shall obtain and pay for all construction permits and licenses. The City shall assist the Contractor, when necessary, in obtaining such permits and licenses. The Contractor shall pay all charges of utility owners for connections to the Work, and the City shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

- 18.12 Laws and Regulations: The Contractor shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, the City shall not be responsible for monitoring the Contractor's compliance with any Laws or Regulations. If the Contractor observes that the Plans and Specifications are at variance with any Laws or Regulations, the Contractor shall give the Engineer prompt written notice thereof, and any necessary changes will be authorized by the City. If the Contractor knowingly performs any Work contrary to such Laws or Regulations, and without such notice to the Engineer, the Contractor shall bear all costs arising therefrom; however, it shall not be the Contractor's primary responsibility to make certain that the Plans and Specifications are in accordance with such Laws and Regulations.
- 18.13 Use of Premises: The Contractor shall be responsible for the Project Site during the performance of the Work. The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project Site and land and areas identified in and permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. The Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against the City by any such owner or occupant because of the performance of the Work, the Contractor shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. **The Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold the City harmless from and against any and all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any party against the City to the extent based on a claim arising out of the Contractor's performance of the Work.**
- 18.13.1 Where the space within the Project Site, right-of-way or easements is not available for a construction plant, the Contractor shall provide at his own expense any work area he requires, shall construct and maintain any roadway or other facilities required for this purpose and the cost thereof shall be included in the prices bid for the various items scheduled in the Proposal.
- 18.13.2 During the progress of the Work, the Contractor shall keep the Site free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, the Contractor

shall remove all waste materials, rubbish, and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the Site clean and ready for occupancy by the City. The Contractor shall restore to original condition all property not designated for alteration by the Contract Documents.

18.13.3 The Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall the Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

18.14 Record Documents: The Contractor shall maintain in a safe place at the Site one record copy of all Plans, Specifications, Addenda, Change Orders, Field Orders, and written interpretations and clarifications, NCTCOG Specifications, City of Keller Design Criteria and Construction Standards in good order annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to the Engineer for reference.

18.15 Safety and Protection: The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

18.15.1 The Contractor shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury or loss to any property referred to in these paragraphs caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and the Engineer has issued a notice to the Contractor that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

- 18.15.2 The Contractor shall designate a responsible representative at the Site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated in writing by the Contractor to the City.
- 18.15.3 Where the Work is carried on, in or adjacent to any street, alley, sidewalk, public right-of-way or public place, the Contractor shall at his own cost and expense provide such flagmen and watchmen and furnish, erect and maintain such warning devices, barricades, lights, signs, and other precautionary measures for the protection of persons or property as are required by Laws and Regulations. The Contractor's responsibility for providing and maintaining flagmen, watchmen, warning devices, barricades, signs, and lights and other precautionary measures shall not cease until the Work is accepted by the City. In addition, the Contractor will be liable for all damage to the Work and other public or private property due to the failure of warning devices, barricades, lights, signs or other precautionary measures in protecting said property, and whatever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by and at the cost and expense of the Contractor.
- 18.15.4 Minimum standards for safeguarding pedestrian and vehicular traffic are contained in the most current version of the "TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES", as amended, Texas Department of Transportation. Signage, barricades and other traffic control devices for detouring and maintenance of traffic on this Contract shall be as provided in the above-mentioned manual and as directed by the Engineer. Costs associated with the acquisition, installation, maintenance, and removal of required traffic control devices shall be considered incidental to and included in this Work.
- 18.15.5 If an excavation is required in the Work, the Contractor shall install a trench safety system in accordance with the Occupational Safety and Health Administration Standards 1926.652 "Requirements for Protective Systems." The regulation requires that a competent person make a daily inspection of the excavation prior to start of work and as needed throughout the shift. The Contractor will notify the Engineer, in writing, of the name of the "competent person". The regulation also states "In order to be a 'competent person' for the purposes of this standard one must have had specific training in, and be knowledgeable about, soil analysis, the use of protective systems, and requirements of this standard."

- 18.16 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Engineer prompt written notice if the Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued to document the consequences of the changes or variations.
- 18.17 Losses From Natural Causes: All loss or damage arising out of the nature of the Work, to be done, or from the action of the elements, or from floods or overflows, or from groundwater, or from any unusual obstruction or difficulty, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the Work shall be sustained and borne by the Contractor at Contractor's own cost and expense.
- 18.18 Continuing the Work: The Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Contractor and City may otherwise agree in writing.
- 18.19 **INDEMNIFICATION: CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEY FEES WHICH MAY ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE TO, OR LOSS OF USE OF ANY PROPERTY OCCASIONED BY ERROR, OMISSION, OR NEGLIGENT ACT OF CONTRACTOR, HIS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, INVITEES OR ANY OTHER PERSONS, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT, AND CONTRACTOR WILL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT CITY FROM ANY AND ALL SUCH CLAIMS AND DEMANDS.**
- CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION, AND LIABILITY OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT. SUCH INDEMNITY SHALL APPLY WHETHER THE CLAIMS, LOSSES, DAMAGES,**

SUITS, DEMANDS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY, ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

19. OTHER WORK: The City may perform other work related to the Project at the Site by the City's own forces, have other work performed by utility owners or let other direct contracts therefore which shall contain General Conditions similar to these provisions. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to the Contractor prior to starting any such other work; and, if the Contractor believes that such performance will involve additional expense to the Contractor or require additional time and the parties are unable to agree as to the extent thereof, the Contractor may make a Claim therefore.

19.1 The Contractor shall afford each utility owner and other contractor who is a party to such a direct contract (or the City, if the City is performing the additional work with the City 's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly connect and coordinate the Work with theirs. The Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. The Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the Engineer and the others whose work will be affected. The duties and responsibilities of the Contractor under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of the Contractor in said direct contracts between the City and such utility owners and other contractors.

19.2 If any part of the Contractor's Work depends on proper execution of or relies upon the work of any such other contractor or utility owner (or the City), the Contractor shall inspect and promptly report to the Engineer, in writing, any delays, defects

or deficiencies in such work that render it unavailable or unsuitable for such proper execution and reliance. The Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with the Contractor's Work except for latent or non-apparent defects or deficiencies in the other work.

- 19.3 Coordination: If the City contracts with others for the performance of other work on the Project at the Site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Supplementary Conditions, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Supplementary Conditions. Unless otherwise provided in the Supplementary Conditions, the City shall not have any responsibility or liability resulting from any failure to coordinate the Work and any other work.

20. MISCELLANEOUS PROVISIONS:

- 20.1 Legal Address: The business address of the Contractor given in the Proposal upon which this Agreement is founded is hereby designated as the place to which all notices, letters and other communications to the Contractor may be mailed or delivered. The business address of the City appearing in the Agreement is hereby designated as the place to which all notices, letters and other communications to the City may be mailed or delivered. The delivery by one party to the other party at an address so designated, or the depositing in any mail box regularly maintained by the post office, of any notice, letter or other communication addressed to such address, postage prepaid, registered or certified mail, with return receipt requested, shall be deemed sufficient service thereof, and the date of said service shall be the date of such delivery or mailing. Either party may change the said address or addresses at any time by an instrument in writing delivered to the other party. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon either party personally.
- 20.2 Independent Contractor: The right of general supervision by the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms and corporations, arising from the Contractor's execution and performance of the Work, shall not be lessened because of such general supervision; but as to all such persons, firms and corporations and the damages, if any, to them or their property, the Contractor herein is an independent contractor in respect to the Work.

- 20.3 Suggestions to Contractor Adopted at his Own Risk: Any plan or method of work suggested by the City, the Engineer, or their representatives, to the Contractor, but not specified, or required, if adopted or followed by the Contractor in whole or in part, shall be used at the sole risk and responsibility of the Contractor, and the City assumes no resulting liability therefor, if any.
- 20.4 Hindrances and Delays: In executing the Agreement, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time therein fixed, he has taken into consideration and made allowances for all hindrances and delays incident to such Work, whether growing out of delays in securing materials or workmen or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, embraced in this Agreement, except as provided by the City's right to suspend the Work.
- 20.5 Provision for Emergencies: Whenever, in the opinion of the Engineer, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work to be constructed under this Agreement or of adjacent structures or property which may be injured by processes of construction on account of such neglect, and whenever, in the opinion of the Engineer, an emergency shall arise and immediate action shall be considered necessary in order to protect public or private personal property interests, then the Engineer, with or without notice to the Contractor, may provide (but does not have a corresponding duty to so provide) suitable protection to the said interests by causing such work to be done and material to be furnished and placed as the Engineer may consider necessary and adequate. The cost and expense of such work and material so furnished shall be borne by the Contractor, and, if the same shall not be paid on presentation of the bills therefore, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency work under the direction of the Engineer shall in no way relieve the Contractor of responsibility for damages which may occur during or after such precaution has been duly taken by the Engineer.
- 20.6 Assignment or Delegation: The Contractor shall not assign or delegate the Work, or any part thereof, without the previous written consent of the City, nor shall he assign, by power of attorney or otherwise, any of the money payable under this Agreement unless by and with the like consent of the City to be signified in like manner. No right under this Agreement, nor to any money due or to become due hereunder, shall be asserted in any manner against said City, or persons acting for the City, by reason of any so-called assignment or delegation of this Contract or any part thereof, unless such assignment shall have been authorized by the prior written consent of the City. In case the Contractor assigns all, or any part of, any moneys due or to become due under this Agreement, the instrument of assignment shall contain a right of the assignee in and to any moneys due or to become due

under this Agreement, and the Contractor and its assignee shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement.

- 20.7 Protests: If the Contractor considers any work demanded of him to be outside the requirements of the Agreement, or if he considers any order, instruction, or decision of the Engineer to be unreasonable, the Contractor shall, immediately upon receipt of such order, instruction, or decision, ask for a written confirmation of the same, whereupon he shall proceed without delay to perform the Work or to conform to the order, instruction, or decision; but if the Contractor finds such written order, instruction, or decision unsatisfactory, he shall, within ten (10) calendar days after receipt of same, file a written protest and Claim with the City, stating clearly and in detail Contractor's objections and the reasons therefore. Except for such protests or objections to the orders, instructions, or decisions of the Engineer, Contractor hereby agrees that as to all matters not included in such protest, the orders, instructions, and decisions of the Engineer shall be considered final and binding. All orders, instructions, and decisions of the Engineer will be limited to matters properly falling within the Engineer's authority.

21. BONDS AND INSURANCE

- 21.1 Bonds: The Contractor shall furnish surety as follows:

- 21.1.1 Performance Bond: A good and sufficient bond in an amount not less than one hundred percent (100%) of the total amount of the Agreement, as evidenced by the proposal tabulation, guaranteeing the full and faithful execution of the Work and performance of the Agreement in accordance with the Plans, Specifications and Contract Documents, including any extensions thereof, for the protection of the City. The bond shall provide for the repair and/or replacement of all defects due to faulty materials and workmanship within a period of one (1) year from the date of final acceptance of the Project by the City of Keller City Council and signature of the City Mayor.
- 21.1.2 Payment Bond: A good and sufficient bond in an amount not less than one hundred percent (100%) of the total amount of the Agreement, as evidenced by the proposal tabulation, guaranteeing the full and proper protection of all claimants supplying labor and materials in prosecution of the work provided for in said Agreement and for the use of each claimant.
- 21.1.3 Maintenance Bond: A good and sufficient bond in an amount not less than one hundred percent (20%) of the total amount of the Agreement, as

evidenced by the proposal tabulation, guaranteeing that the materials and workmanship used in the Work are of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by City the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during which two (2) year period following the date of final acceptance of the Work by City, the Contractor binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Engineer shall determine to be necessary for the preservation of the public health, safety or welfare.

21.1.4 No sureties shall be accepted by the City who are now in default or delinquent on any bonds or who are interested in any litigation against the City. All bonds shall be made on forms furnished in these Contract Documents and shall be issued by a corporate surety authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code, and acceptable to and approved by the City. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon City request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars (\$100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars (\$100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570. Each surety shall designate an agent resident in the City's jurisdictional area acceptable to the City to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship. The City reserves the right to reject any and all sureties. Attorneys-in-fact who sign the bonds must file with each bond a certified and effective dated copy of their power of attorney.

21.2 Insurance: Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be included in the contractor's bid. A certificate of insurance

meeting all requirements and provisions outlined herein shall be provided to the City prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

21.2.1 Minimum Scope of Insurance. Coverage shall be at least as broad as:

21.2.1.1 ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. “Occurrence” form only, “claims made” forms are unacceptable.

21.2.1.2 Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers’ Liability Insurance.

21.2.1.3 Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

21.2.2 Minimum Limits of Insurance. Contractor shall maintain throughout contract limits not less than:

21.2.2.1 Commercial General Liability: \$500,000 per occurrence / \$1,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:

21.2.2.1.1 Premises / Operations

21.2.2.1.2 Broad Form Contractual Liability

21.2.2.1.3 Products and Completed Operations

21.2.2.1.4 Personal Injury

21.2.2.1.5 Broad Form Property Damage

21.2.2.1.6 Explosion Collapse and Underground (XCU) Coverage.

21.2.2.2 Workers Compensation and Employer’s Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer’s Liability minimum limits of

\$100,000 per injury, \$300,000 per occurrence, and \$100,000 per occupational disease.

21.2.2.3 Automobile Liability: \$1,000,000 Combined Single Limit. Limits can only be reduced if approved by the City. Automobile liability shall apply to all owned, hired, and non-owned autos.

21.2.2.4 Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the road, drainage, or all structures used in the project. City shall be listed as Loss Payee.

21.2.2.5 \$1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.

21.2.3 Deductibles and Self-Insured Retentions: Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the City.

21.2.4 Other Insurance Provisions. The policies are to contain, or be endorsed to contain the following provisions:

21.2.4.1 General Liability and Automobile Liability Coverages:

21.2.4.1.1 The City, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied, or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

21.2.4.1.2 The contractor's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess

of the contractor's insurance and shall not contribute with it.

21.2.4.1.3 Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, employees, boards and commissions or volunteers.

21.2.4.1.4 The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

21.2.4.2 Workers Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the contractor for the City.

21.2.2.3 All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City.

21.2.5 Acceptability of Insurers: The City prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than A- VI, or better.

21.2.6 Verification of Coverage: Contractor shall provide the City with certificates of insurance indicating coverage's required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

22. TESTS AND INSPECTIONS; DEFECTIVE WORK:

22.1 Warranty and Guarantee: The Contractor warrants, guarantees, and represents to the City that all Work will be in strict compliance with the Contract Documents

and will not be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

22.2 Access to Work: The Engineer or other representatives of the City, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. The Contractor shall provide proper and safe conditions for such access.

22.3 Tests and Inspections: Unless otherwise stipulated in the Supplementary Conditions, initial testing of all materials, construction items or products incorporated in the Work shall be performed at the direction of the City. The Contractor is responsible for the cost of all tests, to satisfy the minimum requirements of the Contract Documents.

In the event materials, construction items or products incorporated in the Work fail to satisfy the minimum requirements of the initial test, appropriate prove-out tests shall be made as directed by the Engineer to determine the extent of the failure and to verify that the corrective measures have brought the item up to specification requirements. The cost of all testing necessary to determine the extent of the failure and the adequacy of the corrective measures shall be the responsibility of the Contractor.

Tests, unless otherwise specified, shall be made in accordance with the latest methods of the American Society for Testing and Materials. The Contractor shall provide such facilities as the Engineer may require for collecting and forwarding samples and shall not use the materials represented by the samples until tests have been made. The Contractor shall furnish adequate samples without charge.

22.3.1 All inspections, tests, or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to the City.

22.3.2 If any Work (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of the Engineer, it must, if requested by the Engineer, be uncovered for observation. Such uncovering shall be at the Contractor's expense unless the Contractor has given the Engineer timely notice of the Contractor's intention to cover the same, and the Engineer has not acted with reasonable promptness in response to such notice.

22.3.3 Neither observations by the Engineer nor inspections, tests or approvals by others shall relieve the Contractor from the Contractor's obligations to perform the Work in accordance with the Contract Documents.

- 22.4 Uncovering Work: If any portion of the Work is covered contrary to the written request of the Engineer, it must, if requested by the Engineer, be uncovered for the Engineer's observation and replaced at the Contractor's expense. If the Engineer considers it necessary or advisable that covered Work not contrary to Engineer's request or previously approved must be observed by the Engineer or inspected or tested by others, the Contractor, at the Engineer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and the City shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, they may make a Claim therefore. If, however, such Work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, the Contractor may make a Claim therefore.
- 22.5 Two Year Correction Period: If within two years after the date of acceptance of the Work and authorization to make final payment by the City Council or such longer time as may be prescribed by Law or Regulations or by the term of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, the Contractor shall promptly, without cost to the City and in accordance with the City's written instructions, either correct such defective Work, or, if it has been rejected by the City, remove it from the Site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, or in any emergency where delay could cause serious risk of loss or damage, the City may have the defective Work corrected by others and the Contractor shall reimburse the City its actual costs for such corrections (such costs to include but not limited to fees and charges of engineers, architects, attorneys and other professionals).
- 22.6 City May Correct Defective Work: If the Contractor fails within a reasonable time, after written notice of the Engineer, to correct defective Work or to remove and replace rejected Work as required by the Engineer, or if the Contractor fails to perform the Work in accordance with the Contract Documents, or if the Contractor fails to comply with any other provisions of the Contract Documents, the City may, after seven (7) days written notice to the Contractor, correct and remedy any such deficiency. In exercising the rights and remedies under this

paragraph, the City shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the City may exclude the Contractor from all or part of the Site, take possession of all or part of the Work, and suspend the Contractor's services related thereto, take possession of the Contractor's tools, appliances, construction equipment and machinery at the Site and incorporate in the Work all materials and equipment stored at the Site or for which the City has paid the Contractor but which are stored elsewhere. The Contractor shall allow the City, the City 's representatives, agents, and employees such access to the Site as may be necessary to enable the City to exercise the rights and remedies under this paragraph. All direct, indirect and consequential cost to the City in exercising such rights and remedies will be charged against the Contractor in an amount determined by the Engineer, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the City shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, the City may make a Claim therefore. Such direct, indirect, and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of Work destroyed or damaged by correction, removal, or replacement of the Contractor's defective Work. The Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the City of the City 's rights and remedies hereunder.

23. CHANGES IN THE WORK:

23.1 Modifications and Alterations: The Contractor agrees that the City shall have the right to make modifications, changes and alterations in the arrangement or extent of the Work, without affecting the validity of the Agreement and the Bonds thereunder.

23.1.1 If the modification or alteration increases the amount of Work to be done, and the added Work or any part thereof is of a type and character which can be properly and fairly classified under one or more unit price items of the Proposal, then such added Work or part thereof shall be paid for according to the amount actually done and at the applicable unit price or prices therefore. Otherwise, such Work shall be paid for as herein provided under "Extra Work".

23.1.2 If the modification or alteration decreases the amount of Work to be done, such decrease shall not constitute the basis for a Claim for damages or anticipated profits on Work affected by such decrease. Where the value of

omitted Work is not covered by applicable unit prices, the Engineer shall determine, on an equitable basis, the amount of:

- (a) credit due the City for Contract Work not done as a result of an authorized change,
- (b) allowance to the Contractor for any actual loss incurred in connection with the purchase, delivery and subsequent disposal of materials or equipment required for use on the Work as planned and which could not be used in any part of the Work as actually built; and
- (c) any other adjustment of the Contract Price where the method to be used in making such adjustment is not clearly defined in the Contract Documents.

23.1.3 Except for minor changes or adjustments which involve no adjustment in the Contract Price or other monetary consideration, and with the exception of adjustments of estimated quantities for unit price work or materials to conform to actual pay quantities therefore as hereinafter provided under "Estimated Quantities," all changes and alterations in the terms or scope of the Agreement shall be made under the authority of duly executed Change Orders issued and signed by the City and accepted and signed by the Contractor.

23.1.4 It is specifically understood and agreed that the Contractor by submission of a Bid Proposal and the execution of the Agreement is deemed to consent to the City's right to reduce the total original Agreement amount by up to 25 percent. However, when the quantity of work to be done or of materials to be furnished under any major item of the Agreement is less than 75 percent of the quantity stated in the Agreement and the reduction in the major item of the Agreement results in the total original Agreement amount being reduced by more than 25 percent, then either party to the Agreement, upon demand, may negotiate for revised consideration on the work performed for such major item of the Agreement. Any increase in compensation related to a greater than 25 percent decrease in the performance of any major item of the Agreement shall be limited to the lesser of (a) the original bid for the major item of the Agreement or (b) that amount necessary to restore the value of the Agreement to an amount equal to 75 percent of the total original Agreement amount. In no event shall the Contractor be entitled to such compensation for decreased work or materials if the Contractor is then in default or the Agreement has been terminated.

When a major item of the Agreement is reduced to less than 75% of the original quantity and an adjusted unit price cannot be agreed upon the revised unit price for such major item of work shall be determined by multiplying the Agreement unit price by one of the following factors depending on the percentage of reduction in that item:

Multiplier	Percentage of Original Quantity
1.05	$\geq 50\%$ and $< 75\%$;
1.15	$\geq 25\%$ and $< 50\%$;
1.25	$< 25\%$.

23.2 Extra Work: The term "Extra Work", as used in this Agreement, shall be understood to mean and include all Work that may be required by the City to be done by the Contractor to accomplish any change or alteration in or addition to the Work shown by the Plans or reasonably implied by the Specifications and not covered by items, and which is not otherwise provided under "Modifications and Alterations". This is Work done under Change Order as approved by the City Council.

23.2.1 It is agreed that the Contractor shall perform all extra Work under the direction of the Engineer when and as so ordered in writing by the City. It is further agreed that the compensation to be paid the Contractor for performing extra Work shall be determined by one or more of the following methods:

Method A: By agreed unit prices, or

Method B: By agreed lump sum, or

Method C: If neither Method A nor Method B can be agreed upon before the extra Work is started, the Contractor shall be paid his actual field cost of the Work plus fifteen percent (15%) for the Work which he performs with his own forces and/or the Contractor shall be paid the subcontractor's actual field cost of the Work plus twenty percent (20%) for Work which is performed by his subcontractor or subcontractors.

23.2.2 Where extra Work is performed under Method C, the actual field cost of such extra Work is hereby defined to be and shall include:

(a) the payroll cost for all workmen, such as foremen, mechanics, craftsmen, laborers;

- (b) the cost of all materials and supplies not furnished by the City;
- (c) rental for all power-driven equipment at agreed-upon rates for the time actually employed or used in the performance of extra Work;
- (d) transportation charges necessarily incurred in connection with any equipment authorized by the Engineer for use on said extra Work and which is not already on the job;
- (e) all power, fuel, lubricants, water, and similar operating expenses;
- (f) all incidental expenses incurred as a direct result of such extra Work, including sales or use taxes on materials, payroll taxes, and the additional premiums for construction bonds, workmen's compensation, public liability and property damages, and other insurance required by the Agreement where the premiums therefore are based on payroll and materials costs.

23.2.3 The Engineer may direct the form in which the actual field cost shall be kept, and may also specify in writing before the extra Work commences, the method of doing the Work and the type and kind of machinery and equipment, if required, which shall be used in the performance of extra Work under Method C. If machinery or heavy construction equipment is required for extra Work, the authorization and basis for the use thereof shall be stipulated in the written extra Work Change Order. The applicable "plus" percentage (15% or 20%) of the actual field cost to be allowed and paid to the Contractor shall constitute full compensation for profit, overhead, superintendence, field office expense, and all other elements of cost not embraced within the actual field cost as herein defined.

23.2.4 No claim for extra Work of any kind will be allowed unless ordered in writing by the City through a properly authorized and executed Change Order prior to commencement of said extra Work. In case any orders or instructions, either oral or written, appear to the Contractor to involve extra Work for which he should receive compensation, he shall make a written request to the City for a Change Order authorizing such extra Work. Should a difference of opinion arise as to what does or does not constitute extra Work, or concerning the payment thereof, and the Engineer insists on its performance, the Contractor shall proceed with the Work after making a written request for a written extra Work Change Order and shall keep an accurate account of the actual field cost thereof as provided for Method C in the foregoing paragraph.

- 23.3 Extra Work a Part of Agreement: If extra Work is performed in accordance with the provisions of this Agreement, such extra Work shall be considered a part hereof and subject to each and all terms and conditions of said Agreement.

24. PAYMENTS TO CONTRACTOR AND COMPLETION:

- 24.1 Estimated Quantities: Any and all estimated quantities stipulated in the Proposal under unit price items are approximate and are to be used only:

- (a) as a basis for estimating the probable cost of the Work, and
- (b) for the purpose of comparing the Proposals submitted for the Work, it is understood and agreed that the actual amounts of Work done and materials furnished under unit price items may differ from such estimated quantities and that the basis of payment for such Work and materials shall be the actual amount of Work done and materials furnished in each case. The Contractor agrees that he will make no Claim for damages, anticipated profits, or otherwise on account of any difference between the amounts of Work actually performed and materials actually furnished and the amounts estimated therefore in the Proposal or other Contract Documents.

- 24.2 Monthly Estimates and Payments: The Contract Documents will specify the manner in which payment is to be made. If the Contract Documents state payment shall be by unit bid price, the measurement for payment shall be made based on the units outlined in the Proposal. If an item is not listed, but is required to complete the Work, the cost of furnishing, installing, or constructing the Work shall be subsidiary to the various bid items and will not be eligible for payment as a separate or new item. If the Contract Documents state payment shall be lump sum, the Contractor shall submit a Schedule of Values for the cost of the major items of Work for approval by the Engineer. For purposes of this Section 24.2 Schedule of Values shall refer to the itemizations of costs or payment. The Engineer will review the itemized breakdown and if he agrees with the breakdown, partial payments will be made accordingly. If the Engineer does not agree with the breakdown for any reason whatsoever and the Contractor refuses to make changes to the breakdown, no partial payment shall be made for such lump sum items. Payments shall be made based on the approved schedule of values. The total of all Work shown on the schedule of values must exactly equal the total Lump Sum bid in the Proposal.

- 24.3 Monthly, on or about the day specified in the Special Provisions, a representative of the Contractor and the City's Resident Project Representative (hereinafter referred to collectively as "Resident Project Representative") will meet on the job site and list the items of work completed during the estimate period. This

information shall be posted on two identical City prepared Quantity Verification worksheets. The Quantity Verification worksheets will show all the individual unit bid items or schedule of values items as applicable and the quantity measured and paid on all previous estimates. Partial payment shall in general include only completed units. The representative of the Contractor and the Resident Project Representative will sign both Quantity Verification worksheet forms. The representative of the Contractor will retain one copy of the form. The Resident Project Representative shall submit the other copy of the form to the Engineer for review. If the Engineer has any comments or corrections, the form will be returned to the representative of the Contractor and the Resident Project Representative for correction. In a case where the representative of the Contractor and the Resident Project Representative do not agree on the quantities to be reported, a note to this effect shall be shown on the form. The Engineer shall determine the quantity or quantities to be used for preparation of the estimate. A copy of his determination shall be furnished to the representative of the Contractor and the Resident Project Representative. If the Contractor does not agree with the determination of the Engineer, he may submit a written appeal to the City. The City will respond to the appeal within fifteen working days. If the City agrees with all or part of the appeal, an adjustment shall be made on the following estimate. If the Contractor does not agree with the City's response to his appeal, he may file a Claim. Final payment will not be made to the Contractor until the Claim is resolved; however, the City may make payment to the Contractor for all items completed and accepted by the Engineer, except the retainage. The City may reduce the retainage if the City determines it is in its best interest.

During the same time period when the Quantity Verification worksheets are prepared, a representative of the Contractor and the Resident Project Representative will inventory non-perishable material on the site or in a bonded warehouse approved by the Engineer, which will be incorporated in the Work that is eligible for payment. The Contractor shall bear all costs of storage, handling, security, transportation, and other expenses related to materials stored on or off Site. It shall be understood that payments made by the City for materials stored on the Site shall be based only upon the actual cost of materials to the Contractor, and shall not include any overhead or profit to the Contractor. The Contractor must furnish the Resident Project Representative invoices reflecting the cost of the materials. If an invoice was previously submitted reflecting the unit price for a particular item, another invoice is not required unless the unit price has changed. All material on hand must be counted regardless of whether it was listed on a previous estimate or not. The inventory of materials shall be posted on two identical City prepared Material on Hand worksheets. The representative of the Contractor will retain one copy of the form. The Resident Project Representative shall submit the other copy of the form to the Engineer for review. If the Engineer has any comments or corrections, the form will be returned to the

representative of the Contractor and the Resident Project Representative for correction. In a case where the representative of the Contractor and the Resident Project Representative do not agree on the quantities to be reported, a note to this effect shall be shown on the form. The Engineer shall determine the quantity or quantities to be used for preparation of the estimate. A copy of his determination shall be furnished to the representative of the Contractor and the Resident Project Representative. Also, the Contractor must furnish proof of payment for Material on Hand listed on the previous estimate payment. If this proof is not furnished, that specific item cannot be listed again on the estimate for payment. The Contractor is totally responsible for protection and safeguarding of material stored on the Site. Payment for Material on Hand in no way whatsoever is acceptance of the materials by the City. The materials will only be accepted for payment when they are incorporated in the Work. The City accepts no responsibility whatsoever for any stored material damaged, stolen, missing, or in any way altered or moved so as to make it not useable for incorporation into the Work.

The monthly and final estimates will be prepared by the City based on information shown on the Quantity Verification worksheet and the Material on Hand form approved by the Engineer. Payment will be made by the City to the Contractor within thirty days of the Engineer's approval of the Quantity Verification worksheet and the Material on Hand forms. The City will forward a copy of the prepared estimate to the Contractor for signature prior to processing the estimate for payment.

24.4 Placing Work in Service: If desired by the City, portions of the Work may be placed in service when completed and the Contractor shall give proper access to the Work for this purpose; but such use and operation shall not constitute an acceptance of the Work, and the Contractor shall be liable for defects due to faulty construction until the entire Work under this Agreement is finally accepted and for two years thereafter as stipulated under the Paragraphs hereinbefore which address defective work.

24.5 Completion and Acceptance of Work: On completion of the Work, the Engineer shall:

(a) satisfy himself, by examination and tests, that the Work has been fully and finally completed in accordance with the Plans, Specifications and Contract Documents, and

(b) report such completion to the City Council.

Before Final Acceptance by the City of the Work, the Contractor shall submit to the City a notarized affidavit, in duplicate, stating under oath that all subcontractors, vendors and other persons or firms who have furnished or performed labor or furnished materials for the Work have been fully paid or

satisfactorily secured. Such affidavit shall bear or be accompanied by a statement, signed by the surety company who provided the Performance and Payment bonds for the Work, to the effect that said surety company consents to final payment to the Contractor being made by the City.

- 24.6 No Waiver of Rights: Neither the inspection by any of the City 's officials, employees, or agents, nor any order by the City for payment of money, or any payment for, or acceptance of, the whole or any part of the Work by the City, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any provisions of this Agreement, or of any power herein reserved to the City or any right to damages herein provided, nor shall any waiver of any breach in this Agreement be held to be a waiver of any other or subsequent breach.
- 24.7 Final Estimate and Payment: After official approval and acceptance of the Work by the City the City shall prepare a final estimate of the Work done under this Agreement and the value thereof. The City shall prepare a Final Change Order adjusting all quantities from the original bid quantity to the quantities actually incorporated in the Project. The Contractor shall sign the Change Order indicating agreement with the final payment. In the event the Contractor does not agree with the final quantities, the Contractor shall state, in writing to the Engineer, the reason and provide documentation for the change to the final quantity. If the Engineer does not agree to adjust the quantities, the Contractor may file a Claim. Such final estimate and Final Change Order shall be submitted to the City Council for approval. After approval as aforesaid; the City shall pay the entire sum so found to be due hereunder, after deducting all amounts to be kept and retained under any provision of this Agreement. All prior estimates and payments shall be subject to correction in the final estimate and payment; but in the absence of error or manifest mistake, it is agreed that all estimates, when approved by the City, shall be conclusive evidence of the work done and materials furnished.
- 24.8 Release of Liability: The acceptance by the Contractor of the last or final payment shall operate as, and shall be, a release to the City and every officer and agent thereof, from any and all Claims and liability hereunder for anything done or furnished for, or relating to the Work, or for any act or neglect of the City or of any person relating to or affecting the Work.

SPECIAL CONDITIONS

1. Owner:

The Owner as referred to in these documents (also known as the City) is:

City of Keller
1100 Bear Creek Parkway
Keller, Texas 76248

THE OWNER may elect to use any combination of bid items in this proposal.

The Standard Specifications for Public Works Construction as published by the North Central Texas Council of Governments will be a part of these specifications as if they were bound within. The Contractor will be required to be familiar with these specifications that may be purchased through: North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 76005-3300 Phone (817) 640-3300.

THE CONTRACTOR will then have full responsibility for proper construction as required to obtain final Certificate of Acceptance from the City Engineer.

The successful bidder shall enter into a contract with the Owner to perform the specified work.

2. The Engineer:

Peloton Land Solutions, Inc. a Westwood Company, 9800 Hillwood Pkwy, Suite 250, Fort Worth, TX 76177, has been retained by the City to prepare the Specifications, and Contract Documents for the Keller Sanitary Sewer Relocation. They are responsible also for final measurements, approving final and partial pay estimates, and for the general administration of the project during the construction.

They are the “Engineer” referred to in the “General Conditions of Agreement” contained in these Contract Documents. However, they are not responsible for on-site inspections and laboratory testing, which are provided for elsewhere by the Owner.

3. Inspections:

All work shall be subject to approval by the City Inspector. The City Inspector has the authority to inspect and perform any tests he deems necessary.

The Contractor shall notify the City Inspector 24 hours prior to beginning construction. The Contractor shall notify the City Inspector 72 hours prior to any construction on weekends or holidays.

4. Insurance:

The Contractor will carry Workmen's Compensation Insurance, Public Liability and Property Damage Insurance, and Automobile Insurance sufficient to provide adequate protection against damage claims which may arise from operations under this Contract in compliance with the following:

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5. Traffic Control Plan

The Contractor shall be responsible for developing and maintaining a traffic control plan for this project. This plan shall accommodate one thru lane of traffic during normal construction hours (7:00 a.m. to 6:00 p.m.) and two lanes during non-construction hours (6:00 p.m. to 7:00 a.m.) and all day on weekends. There shall also be two lanes maintained during school days (7:00 a.m. to 8:30 a.m. and 2:30 p.m. to 6:00 p.m.). All cost associated with the implementation of this plan including all required materials and labor (i.e., crushed stone base material for temporary roadway, flagmen, etc.) shall be included under the bid item for traffic control plan in the proposal. All traffic control shall be in accordance with the 1980 Texas Manual of Uniform Traffic Control Devices.

6. Storm Water Pollution Prevention Plan

The Contractor shall be responsible for the preparation of a "Storm Water Pollution Prevention Plan" and Notice of Intent in accordance with the Environmental Protection Agency (EPA), National Pollutant Discharge Elimination System (NPDES) General Permit Requirements. The Contractor shall provide copies of the Storm Water Pollution Prevention Plan, N.O.I., and Inspection Reports, and N.O.T. to the Engineer. All costs associated with the preparation and implementation of this plan, including all required materials, labor, supervision, etc. shall be included under the bid item for "Erosion Control Plan" in the proposal.

7. Water

The contractor shall be responsible for providing all construction water.

8. Summary of Work

The work to be performed under this contract consists of furnishing all labor materials, equipment, and incidentals necessary for the installation of electrical outlets along Main Street in the City of Keller as shown on the location map and detailed in the Proposal section provided herein.

9. Job Conditions

The Contractor shall confine his operations to the limits of existing rights-of-way and easements. The Contractor shall use extreme caution when working adjacent to the yards of property owners to minimize the inconvenience to the public caused by the work herein.

When there is doubt on the part of the Contractor as to the right-of-way or alignment, the Contractor will request and follow direction of the Engineer.

Any property corner or right-of-way marker removed or destroyed shall be replaced at the Contractor's expense.

The Contractor shall be responsible for determining the location of existing utilities prior to construction. The Contractor shall be responsible for any damage to existing utilities.

The Contractor shall be responsible for visiting the site and determining site conditions that may affect the project.

Contractor shall perform video and photographic documentation of the pre-construction, mid-construction, and post-construction conditions of the project site. See Technical Specification 013233 for more details.

10. Explosives

The use of explosives will not be permitted on this project.

11. Property Preservation

The Contractor shall be responsible for the preservation and protection of all trees, shrubs, sprinkler systems, fences, mailboxes, and other property owner or business improvements located within the limits of construction. The destruction or damage of said property owner or business improvements, by the Contractor, designated for preservation shall be replaced or repaired at the Contractor's expense.

12. Traffic Control

Roadways in this project cannot be closed during construction. Upon award of contract, the contractor shall submit a schedule for lane closures for the project roadways, subject to the approval of the City of Keller. The Contractor shall furnish and install and remove upon completion the barricades, signage, and warning devices necessary for the rehabilitation work in accordance with "Texas Manual on Uniform Traffic Control Devices, for Streets and Highways" as published by the Texas Department of Transportation.

13. Flagmen

The Contractor shall provide and maintain flagmen at such points and for such periods of time as may be required to provide for the safety and convenience of public traffic and the Contractor's personnel, and as directed by the Engineer.

Flagmen shall be English speaking, courteous, well informed, physically and mentally able to effectively perform their duties in safeguarding and directing traffic and protecting the work and shall be neatly attired and groomed at all times when on duty.

Flagmen, when directing traffic, shall use the standard signs and signals in accordance with the "TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS", a publication of the Texas Department of Transportation, Austin, Texas.

No separate payment will be made for traffic control.

14. Reference Specifications

The applicable provisions of the following shall apply to this project.

- A. Engineering Standards for the City of Keller
- B. Standard Specifications for Public Works Construction, latest revision, as Published by the North Central Texas Council of Governments.
- C. Texas Department of Transportation 2014 Standard Specifications for Construction of Highways, Streets and Bridges as adopted by the Texas Department of Transportation, November 1, 2014.
- D. The Texas Manual on Uniform Traffic Control Devices, October 2014 edition as amended.

15. Time Of Completion

The road cannot be closed. One lane of traffic must be left open at all times. The project shall be completed within the time frame listed in Section 2 (Contract Documents) of the proposal. Liquidated damages shall be per NCTCOG. If inclement weather impairs the progress of the project, the schedule may be adjusted by the City.

SPECIAL PROVISIONS

Any and all work specially called for in the Contract Document or which is required for proper construction of items called for in the Contract Documents is to be performed by the CONTRACTOR unless specifically noted otherwise. The cost of all work for which there is no separate pay item in the Bid Form shall be included in the price for a related pay item that Work called for or required by the Contract Documents will be constructed for the Contract Price.

Unless indicated otherwise, there is no separate pay for any item not included that may be required to perform the work. Those items include, but are not limited to: mobilization, general site preparation, removals, barricades, signs, traffic handling, temporary pavement, mobile message boards, project signs, SWPPP, paving items, storm system items, utility system items, etc.

The following descriptions are intended to clarify the nature of the Work required for this project. The provisions of the standard technical specifications shall apply, except as otherwise noted herein:

SECTION I – GENERAL

Pay Item No. I-1 – Mobilization

The provisions of Technical Specification 017113 (Mobilization), shall apply except as modified or clarified below:

- A. The maximum bid amount for this Item shall be 5% of the total amount bid for the project.
- B. No separate pay item for remobilization(s).

Pay Item No. I-2 – Site Preparation

The provisions of Technical Specification 024100 (General Site Preparation), shall apply except as modified or clarified below:

- A. Unless indicated otherwise with a specific pay item, all removals of any item within the limits of the project that are not specifically called out to remain will be considered subsidiary to this item. Subsidiary items include, but are not limited to: trees, fences, gates, pavement markers and markings (existing, and temporary), signage, asphalt, gravel, rip rap, base, headwalls, wingwalls, walls, junction boxes, flumes, manholes, inlets, storm drain culverts and pipes, bollards, pavers, any concrete under pavers in the median, any concrete within the medians, handrails, metal beam guard fence, traffic barriers, mow strips, landscaping, entry features, gutter drains, poles, foundations, fire hydrants and associated piping, blocking and valves, lighting poles/fixtures/foundations, conduit (lighting and signal), irrigation facilities, franchise utility markers and/or abandoned franchise utilities, etc.

Pay Items No. I-4 – Barricades, Signs, and Traffic Handling

The provisions of Technical Specification 347113 (Barricades, Signs, and Traffic Handling), shall apply except as modified or clarified below:

- A. This Item shall be measured on a Monthly (MO) basis as indicated in the Contract Documents.
- B. Unused months shall not be paid to the contractor.

Pay Item No. I-5 – SWPPP

The provisions of Technical Specification NCTCOG 202 (Temporary Erosion, Sedimentation, And Water Pollution Prevention and Control), shall apply except as modified or clarified below:

- A. Contractor shall provide a separate Storm Water Pollution Prevention Plan (SWPPP).
- B. The estimated disturbed area for the project is approximately **0.9 Acres**. The contractor is responsible for determining the total disturbed area and following the requirements outlined by the TCEQ.

SECTION II – PAVING IMPROVEMENTS

Pay Item No. II-6 – Remove & Reinstall Chain Link Fence with Privacy Screen

The provisions of Technical Specification NCTCOG 203.1 (Remove & Reinstall Chain Link Fence with Privacy Screen), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

Pay Item No. II-9 – Remove Ex Asphalt Pvmnt

The provisions of Technical Specification NCTCOG 203.1 (Remove Ex Asphalt Pvmnt), shall apply except as modified or clarified below:

- A. This Item shall be measured per square yard (SY) as indicated in the Contract Documents.

Pay Item No. II-10 – Remove Ex Concrete Pvmnt

The provisions of Technical Specification NCTCOG 203.1 (Remove Ex Concrete Pvmnt), shall apply except as modified or clarified below:

- A. This Item shall be measured per square yard (SY) as indicated in the Contract Documents.

Pay Item No. II-11 – Remove 6" Curb and Gutter

The provisions of Technical Specification NCTCOG 203.1 (Remove 6" Curb and Gutter), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

Pay Item No. II-12 – Asphalt Pavement Replacement (4" Type D HMAC, 6" Class D Conc & Type B Backfill)

The provisions of Technical Specification NCTCOG 302 & 303 (Asphalt Pavement Replacement (4" Type D HMAC, 6" Class D Conc & Type B Backfill), shall apply except as modified or clarified below:

- A. This Item shall be measured per square yard (SY) as indicated in the Contract Documents.

SECTION III – SANITARY SEWER IMPROVEMENTS

Pay Item No. III-19 – Abandon Ex 6" Sewer Pipe (By Grout Fill)

The provisions of Technical Specification NCTCOG 701.2 (Abandon Ex 6" Sewer Pipe (By Grout Fill)), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

Pay Item No. III-20 – Abandon Ex 8" Sewer Pipe (By Grout Fill)

The provisions of Technical Specification NCTCOG 701.2 (Abandon Ex 8" Sewer Pipe (By Grout Fill)), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

Pay Item No. III-22 – Remove Ex 6" Sewer Pipe

The provisions of Technical Specification NCTCOG 701.2 (Remove Ex 6" Sewer Pipe), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

Pay Item No. III-23 – Remove Ex 8" Sewer Pipe

The provisions of Technical Specification NCTCOG 701.2 (Remove Ex 8" Sewer Pipe), shall apply except as modified or clarified below:

- A. This Item shall be measured per linear foot (LF) as indicated in the Contract Documents.

SECTION 3 – TECHNICAL SPECIFICATIONS

SECTION 013233

VIDEO AND PHOTOGRAPHIC DOCUMENTATION

PART 1 - GENERAL

1.01 DESCRIPTION

- A. All material, labor, equipment, tools, and superintendence necessary to take and provide video and photographic documentation of pre-construction, mid-construction, and post-construction conditions to the City.

1.02 SUBMITTALS

- A. Submit pre-construction, mid-construction, and post-construction digital videos and photographs as record data in accordance with General Condition 4.3
- B. Submit all pre-construction videos and photographs of the entire construction area as one submittal at the beginning of the project. Sections submitted separately will not be accepted.
- C. Submit all mid-construction videos and photographs as separate submittals at six-month intervals upon completion of the pre-construction videos and photographs.
- D. Submit all post-construction videos and photographs as one submittal at the end of the project.
- E. All videos and photographs are to become the property of the City. Videos and photographs may not be used for publication, or public or private display without the written consent of the City.

PART 2 - PRODUCTS

2.01 VIDEOS

- A. Videos shall be in a digital format with a minimum resolution of 1080p that can be viewed with Windows Media Player.
- B. The quality of the video must be sufficient to determine the existing conditions of the construction area.
- C. Camera panning must be performed while at rest. Do not pan the camera while walking or driving. Camera pans should be performed at intervals sufficient to clearly view the entire construction area.

2.02 PHOTOGRAPHS

- A. Photographs shall be in a digital format with a minimum resolution of 1280 x 960.

PART 3 - EXECUTION

3.01 WORK INCLUDED

A. Pre-Construction & Mid-Construction

1. Provide digital videos and photographs of the project site:
 - a. Prior to the beginning of construction when construction staking is complete, but prior to any clearing, and at six-month intervals thereafter.
 - b. Label videos and photographs by project name, date, stationing, offset, and left or right.
 - c. Pipeline projects should be recorded linearly from beginning to end.
 - d. Provide additional imaging as directed by the City if the videos or photographs provided are not considered suitable for documenting pre-existing conditions.
 - e. Record the condition of all existing facilities in or abutting the construction area, right-of-way, and easements. This should include, but not be limited to streets, curb and gutter, utilities, driveways, fencing, walls, landscaping, etc.

B. Post-Construction

1. Provide digital videos and photographs of the project site to clearly depict the completed Project.
 - a. Capture all significant areas of completed construction.
 - b. Completion videos and photographs are not to be taken until all construction trailers, excess materials, trash and debris have been removed.
 - c. Label videos and photographs by project name, date, stationing, offset, and left or right.
 - d. Provide additional imaging as directed by the City if the videos or photographs provided are not considered suitable for documenting post-construction conditions.
 - e. Record the final condition of all facilities in or abutting the construction area, right-of-way, and easements. This should include, but not be limited to streets, curb and gutter, utilities, driveways, fencing, walls, landscaping, etc.

PART 4 - MEASUREMENT AND PAYMENT

4.01 MEASUREMENT

- A. This Item shall not be measured as a separate contract item.

4.02 PAYMENT

- A. The work performed and materials furnished in accordance this Item will not be paid for directly but will be subsidiary to the pertinent Items.

END OF SECTION

SECTION 017113

MOBILIZATION

PART 1 - GENERAL

1.01 DESCRIPTION

The work under this section of the specification shall include the establishment of offices and other facilities on the project site and the movement of personnel, construction equipment, and supplies to the project site or to the vicinity of the project site to enable the Contractor to begin work on the other contract items that will be performed by the Contractor. This Item also includes all costs associated with bonding and insurance.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

PART 4 - MEASUREMENT AND PAYMENT

4.01 MEASUREMENT

- A. This Item will be measured on a Lump Sum (LS) basis as the work progresses.
- B. The maximum bid amount for this Item shall be 5% of the total amount bid \$500,000 and over and 10% of the total amount bid less than \$500,000.

4.02 PAYMENT

Partial payments of the bid for Mobilization will be as follows. The adjusted contract amount for construction items as used below is defined as the total contract amount less the bid for Mobilization.

- A. When 5% of the adjusted contract amount for construction items is earned, 50% of the mobilization lump sum bid will be paid. Previous payments under this Item will be deducted from this amount.
- B. When 10% of the adjusted contract amount for construction items is earned, 75% of the mobilization lump sum bid will be paid. Previous payments under this Item will be deducted from this amount.
- C. When 50% of the adjusted contract amount for construction items is earned, 100% of the mobilization lump sum bid will be paid. Previous payments under this Item will be deducted from this amount.

END OF SECTION

SECTION 024100

GENERAL SITE PREPARATION

PART 1 - GENERAL

1.01 DESCRIPTION

- A. All materials, labor, equipment, tools and superintendence necessary for the preparation of the project site not covered elsewhere in accordance with *Public Works Construction Standards*, NCTCOG, 5th Edition, Item 203.
- B. This Section also includes:
 - 1. Protecting existing vegetation to remain.
 - 2. Removing existing vegetation.
 - 3. Clearing and grubbing.
 - 4. Demolition.
 - 5. Removal of all items within the limits of construction not specifically noted to remain.

1.02 REFERENCES

- A. *Public Works Construction Standards*, NCTCOG, 5th Edition, Items 203.1, 203.2, and 203.3.

1.03 PROJECT CONDITIONS

- A. Traffic: Minimize interference with adjoining roads, streets, walks, and other adjacent occupied or used facilities during site-clearing operations.
 - 1. Do not close or obstruct streets, walks, or other adjacent occupied or used facilities without permission from Town and authorities having jurisdiction.
 - 2. Provide alternate routes around closed or obstructed traffic ways if required by Owner or authorities having jurisdiction.
- B. Salvaged materials: Carefully remove items indicated to be salvaged and store as directed by the Town.
- C. Utility Locator Service: Notify utility locator service for area where Project is located before site clearing.
 - 1. Call Texas811 at 1-800-344-8377
 - 2. Contact the Town's Public Works Department for water and wastewater locates.
- D. Do not commence site clearing operations until temporary erosion and sedimentation control measures are in place.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

3.01 PREPARATION

- A. Refer to *Public Works Construction Standards*, NCTCOG, 5th Edition, Item 203.1, 203.2 and 203.3.

PART 4 - MEASUREMENT AND PAYMENT

4.01 MEASUREMENT

- A. This Item shall be measured on a Lump Sum (LS) basis, unless indicated otherwise and shall include the removal of all items within the limits of construction not specifically called out to remain.
- B. The maximum bid amount for this Item shall be 5% of the total amount bid \$500,000 and over and 10% of the total amount bid less than \$500,000.
- C. Removal of existing pavement will be measured separately and paid for by the square yard (SY), regardless of thickness and type. Concrete curb and gutter removal will not be measured separately and is considered subsidiary to this item.
- D. Removal of existing pipe, inlets, headwalls, manholes, etc. will not be measured separately and is considered subsidiary to this item.

4.02 PAYMENT

- A. All work performed and materials furnished in accordance with this Item will be paid for at the unit bid price. This price is full compensation for all material, labor, equipment, tools and superintendence necessary to complete the work.

END OF SECTION

Item 402

Trench Excavation Protection



1. DESCRIPTION

Furnish and place excavation protection for trenches 5 ft. or greater in depth.

2. CONSTRUCTION

Provide vertical or sloped cuts, benches, shields, support systems, or other systems providing the necessary protection in accordance with OSHA Standards and Interpretations, 29 CFR Part 1926, Subpart P, "Excavations."

3. MEASUREMENT

This Item will be measured by the foot along the long axis of the trench where the depth of trench exceeds 5 ft. This measurement includes all required trench protection, including trench ends.

4. PAYMENT

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Trench Excavation Protection." This price is full compensation for excavation and backfill required for excavation protection; furnishing, placing, and removing shoring, sheeting, or bracing; de-watering or diversion of water; jacking and jack removal; and equipment, labor, materials, tools, and incidentals.

Item 502

Barricades, Signs, and Traffic Handling



1. DESCRIPTION

Provide, install, move, replace, maintain, clean, and remove all traffic control devices shown on the plans and as directed.

2. CONSTRUCTION

Comply with the requirements of Article 7.2., "Safety."

Implement the traffic control plan (TCP) shown on the plans.

Install traffic control devices straight and plumb. Make changes to the TCP only as approved. Minor adjustments to meet field conditions are allowed.

Submit Contractor-proposed TCP changes, signed and sealed by a licensed professional engineer, for approval. The Engineer may develop, sign, and seal Contractor-proposed changes. Changes must conform to guidelines established in the TMUTCD using approved products from the Department's Compliant Work Zone Traffic Control Device List.

Maintain traffic control devices by taking corrective action when notified. Corrective actions include, but are not limited to, cleaning, replacing, straightening, covering, and removing devices. Maintain the devices such that they are properly positioned and spaced, legible, and have retroreflective characteristics that meet requirements day or night and in all weather conditions.

The Engineer may authorize or direct in writing the removal or relocation of project limit advance warning signs. When project limit advance warning signs are removed before final acceptance, provide traffic control in accordance with the TMUTCD for minor operations as approved.

Remove all traffic control devices upon completion of the work as shown on the plans or as directed.

3. MEASUREMENT

Barricades, Signs, and Traffic Handling will be measured by the month. Law enforcement personnel with patrol vehicles will be measured by the hour for each person.

4. PAYMENT

- 4.1. **Barricades, Signs, and Traffic Handling.** Except for Contracts with callout work and work orders, the work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Barricades, Signs, and Traffic Handling." This price is full compensation for installation, maintenance, adjustments, replacements, removal, materials, equipment, labor, tools, and incidentals.

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Barricades, Signs, and Traffic Handling." This price is full compensation for installation, maintenance, adjustments, replacements, removal, materials, equipment, labor, tools, and incidentals.

When the plans establish pay items for particular work in the TCP, that work will be measured and paid under pertinent Items.

- 4.1.1. **Initiation of Payment.** Payment for this Item will begin on the first estimate after barricades, signs, and traffic handling devices have been installed in accordance with the TCP and construction has begun.

- 4.1.2. **Paid Months.** Monthly payment will be made each succeeding month for this Item provided the barricades, signs, and traffic handling devices have been installed and maintained in accordance with the TCP until the Contract amount has been paid.

If, within the time frame established by the Engineer, the Contractor fails to provide or properly maintain signs and barricades in compliance with the Contract requirements, as determined by the Engineer, the Contractor will be considered in noncompliance with this Item. No payment will be made for the months in question, and the total final payment quantity will be reduced by the number of months the Contractor was in noncompliance.

- 4.1.3. **Maximum Total Payment Before Acceptance.** The total payment for this Item will not exceed 10% of the total Contract amount before final acceptance in accordance with Article 5.12., "Final Acceptance." The remaining balance will be paid in accordance with Section 502.4.1.5., "Balance Due."

- 4.1.4. **Total Payment Quantity.** The quantity paid under this Item will not exceed the total quantity shown on the plans except as modified by change order and as adjusted by Section 502.4.1.2., "Paid Months." An overrun of the plans quantity for this Item will not be allowed for approving designs; testing; material shortages; closed construction seasons; curing periods; establishment, performance, test, and maintenance periods; failure to complete the work in the number of months allotted; nor delays caused directly or indirectly by requirements of the Contract.

- 4.1.5. **Balance Due.** The remaining unpaid months of barricades less non-compliance months will be paid on final acceptance of the project, if all work is complete and accepted in accordance with Article 5.12., "Final Acceptance."

- 4.1.6. **Contracts with Callout Work and Work Orders.** The work performed and the materials furnished with this Item and measured as provided under "Measurement," will be considered subsidiary to pertinent Items, except for federally funded Contracts.

- 4.2. **Law Enforcement Personnel.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement," will be paid by Contractor force account for "Law Enforcement Personnel." This price is full compensation for furnishing all labor, materials, supplies, equipment, patrol vehicle, fees, and incidentals necessary to complete the work as directed.

SECTION 4 - APPENDICIES