



1500 County Road 269  
Leander, TX 78641

P.O. Box 2029  
Leander, TX 78646-2029

January 25, 2023

Honorable Dr. Christopher Harvey, Mayor  
City of Manor  
105 E Eggleston St  
Manor, TX 78653

Re: Bell Farms and Presidential Glen Lift Station Improvements – CIP Projects #2 and #3  
Letter of Award Recommendation

Dear Mayor Harvey:

Bids were publicly opened and read on January 10, 2023, for the above-referenced project. As reflected on the attached Bid Tabulation, five (5) bids were received. The lowest, responsive, responsible bidder is JM Pipeline, LLC. We have contacted this bidder and confirmed he wants the contract at the amount bid.

As a result of our evaluation, and verification of contractor references, we hereby recommend the City award a construction contract to JM Pipeline, LLC. in the amount of \$1,731,127.00 for all Base Bid and Alternate Bid work, with final amounts dependent on actual installed quantities.

We have prepared a Notice of Award for reference and an Agreement for execution by you in the event the City Council votes to follow this recommendation. Once the Contractor signs the Agreement and all bond and insurance requirements have been satisfied, a Notice to Proceed will be issued. Under the General Conditions of the Agreement, the Contractor shall begin construction within ten (10) days of the Notice to Proceed and substantially complete the project within four hundred and six (406) calendar days excluding any justified delays. Please call if you should have any questions in this regard.

Sincerely,

A handwritten signature in blue ink that reads 'Rebecca Howley'.

Rebecca Howley, P.E., CFM  
RJH/s  
Enclosure

PN: 15110.02

**Bid Tabulation**

Bid Date: January 10, 2023

Project: Bell Farms and Presidential Glen Lift Station Improvements  
Checked By: Rebecca Howley, PE

				JM Pipeline, LLC		Forsythe Brothers Infrastructure, LLC		Prota, Inc		Patin Construction		Austin Engineering Co., INC						
Item No.	Description	Units	Quantity	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost					
\$ 1.0	Mobilization	LS	1.00	\$ 70,000.00	\$ 70,000.0	\$ 75,000.0	\$ 75,000.0	\$ 92,000.00	\$ 92,000.00	\$ 25,000.00	\$ 25,000.00	\$ 30,000.00	\$ 30,000.00					
\$ 2.0	Demolition, Removal, and Salvage	LS	1.00	\$ 35,100.00	\$ 35,100.0	\$ 100,000.0	\$ 100,000.0	\$ 74,446.00	\$ 74,446.00	\$ 5,000.00	\$ 5,000.00	\$ 50,000.00	\$ 50,000.00					
\$ 3.0	Asphalt Surface	SF	1,910.00	\$ 15.00	\$ 28,650.0	\$ 10.0	\$ 19,100.0	\$ 10.00	\$ 19,100.00	\$ 15.00	\$ 28,650.00	\$ 25.00	\$ 47,750.00					
\$ 4.0	Ribbon Curb	LF	136.00	\$ 8.00	\$ 1,088.0	\$ 15.0	\$ 2,040.0	\$ 75.00	\$ 10,200.00	\$ 20.00	\$ 2,720.00	\$ 40.00	\$ 5,440.00					
\$ 5.0	Silt Fence	LF	409.00	\$ 5.00	\$ 2,045.0	\$ 4.0	\$ 1,636.0	\$ 7.00	\$ 2,863.00	\$ 4.00	\$ 1,636.00	\$ 5.00	\$ 2,045.00					
\$ 6.0	Stabilized Construction Entrance	EA	2.00	\$ 4,500.00	\$ 9,000.0	\$ 1,500.0	\$ 3,000.0	\$ 2,500.00	\$ 5,000.00	\$ 1,800.00	\$ 3,600.00	\$ 3,000.00	\$ 6,000.00					
\$ 7.0	Ground Cover	SF	502.00	\$ 10.00	\$ 5,020.0	\$ 5.0	\$ 2,510.0	\$ 25.00	\$ 12,550.00	\$ 10.00	\$ 5,020.00	\$ 25.00	\$ 12,550.00					
\$ 8.0	15" Pipe	LF	34.00	\$ 245.00	\$ 8,330.0	\$ 500.0	\$ 17,000.0	\$ 700.00	\$ 23,800.00	\$ 200.00	\$ 6,800.00	\$ 750.00	\$ 25,500.00					
\$ 9.0	Wetwell coating	SF	1,383.50	\$ 50.00	\$ 69,175.0	\$ 125.0	\$ 172,937.5	\$ 50.00	\$ 69,175.00	\$ 35.00	\$ 48,422.50	\$ 50.00	\$ 69,175.00					
\$ 10.0	Replace Hoist and Festoon System on JIB crane	EA	2.00	\$ 18,000.00	\$ 36,000.0	\$ 4,000.0	\$ 8,000.0	\$ 20,000.00	\$ 40,000.00	\$ 18,000.00	\$ 36,000.00	\$ 25,000.00	\$ 50,000.00					
\$ 11.0	Sandblast and coat piping	LS	1.00	\$ 22,000.00	\$ 22,000.0	\$ 15,000.0	\$ 15,000.0	\$ 30,000.00	\$ 30,000.00	\$ 7,500.00	\$ 7,500.00	\$ 55,000.00	\$ 55,000.00					
\$ 12.0	Pump and Haul	LS	1.00	\$ 2,250.00	\$ 2,250.0	\$ 75,000.0	\$ 75,000.0	\$ 100,000.00	\$ 100,000.00	\$ 25,000.00	\$ 25,000.00	\$ 65,000.00	\$ 65,000.00					
\$ 13.0	Concrete	SF	112.00	\$ 30.00	\$ 3,360.0	\$ 15.0	\$ 1,680.0	\$ 25.00	\$ 2,800.00	\$ 10.00	\$ 1,120.00	\$ 75.00	\$ 8,400.00					
\$ 14.0	Shelter Light	EA	2.00	\$ 900.00	\$ 1,800.0	\$ 1,500.0	\$ 3,000.0	\$ 1,500.00	\$ 3,000.00	\$ 1,000.00	\$ 2,000.00	\$ 1,705.00	\$ 3,410.00					
\$ 15.0	LED Area Light	EA	2.00	\$ 8,608.00	\$ 17,216.0	\$ 5,000.0	\$ 10,000.0	\$ 10,000.00	\$ 20,000.00	\$ 11,000.00	\$ 22,000.00	\$ 8,250.00	\$ 16,500.00					
Bell Farm Specific																		
\$ 16.0	Fencecrete	LF	260.00	\$ 85.00	\$ 22,100.0	\$ 165.0	\$ 42,900.0	\$ 160.00	\$ 41,600.00	\$ 151.00	\$ 39,260.00	\$ 195.00	\$ 50,700.00					
\$ 17.0	Fencecrete Gate	LF	20.00	\$ 650.00	\$ 13,000.0	\$ 500.0	\$ 10,000.0	\$ 420.00	\$ 8,400.00	\$ 455.00	\$ 9,100.00	\$ 400.00	\$ 8,000.00					
\$ 18.0	10' Dia. Wet Well Expansion	LS	1.00	\$ 110,000.00	\$ 110,000.0	\$ 275,000.00	\$ 275,000.0	\$ 150,000.00	\$ 150,000.00	\$ 415,000.00	\$ 415,000.00	\$ 250,000.00	\$ 250,000.00					
\$ 19.0	Surge Relief Valve	EA	1.00	\$ 26,900.00	\$ 26,900.0	\$ 25,000.0	\$ 25,000.0	\$ 21,000.00	\$ 21,000.00	\$ 35,000.00	\$ 35,000.00	\$ 18,000.00	\$ 18,000.00					
\$ 20.0	6" Plug Valve	EA	1.00	\$ 4,342.00	\$ 4,342.0	\$ 4,000.0	\$ 4,000.0	\$ 2,100.00	\$ 2,100.00	\$ 7,500.00	\$ 7,500.00	\$ 2,500.00	\$ 2,500.00					
\$ 21.0	Replace Pump Piping and Railing System	LS	1.00	\$ 195,780.00	\$ 195,780.0	\$ 195,000.0	\$ 195,000.0	\$ 275,000.00	\$ 275,000.00	\$ 374,000.00	\$ 374,000.00	\$ 475,000.00	\$ 475,000.00					
\$ 22.0	Haliday access hatch with Safety Grating	EA	1.00	\$ 14,060.00	\$ 14,060.0	\$ 3,000.0	\$ 3,000.0	\$ 3,500.00	\$ 3,500.00	\$ 25,000.00	\$ 25,000.00	\$ 18,000.00	\$ 18,000.00					
\$ 23.0	Replace Check Valve	EA	2.00	\$ 5,760.00	\$ 11,520.0	\$ 7,500.0	\$ 15,000.0	\$ 6,500.00	\$ 13,000.00	\$ 15,000.00	\$ 30,000.00	\$ 2,800.00	\$ 5,600.00					
\$ 24.0	OdaKilla Odor Control System	EA	1.00	\$ 41,540.00	\$ 41,540.0	\$ 35,000.0	\$ 35,000.0	\$ 75,000.00	\$ 75,000.00	\$ 37,000.00	\$ 37,000.00	\$ 35,000.00	\$ 35,000.00					
\$ 25.0	Wet Well Junction Box	EA	1.00	\$ 57,745.00	\$ 57,745.0	\$ 3,000.0	\$ 3,000.0	\$ 21,000.00	\$ 21,000.00	\$ 9,500.00	\$ 9,500.00	\$ 1,800.00	\$ 1,800.00					
\$ 26.0	Replace Electrical Shelter	LS	1.00	\$ 25,220.00	\$ 25,220.0	\$ 25,000.0	\$ 25,000.0	\$ 26,000.00	\$ 26,000.00	\$ 9,500.00	\$ 9,500.00	\$ 30,000.00	\$ 30,000.00					
\$ 27.0	Replace Control Panel	LS	1.00	\$ 92,315.00	\$ 92,315.0	\$ 25,000.0	\$ 25,000.0	\$ 13,000.00	\$ 13,000.00	\$ 15,000.00	\$ 15,000.00	\$ 125,000.00	\$ 125,000.00					
\$ 28.0	Replace Generator	LS	1.00	\$ 100,400.00	\$ 100,400.0	\$ 95,000.0	\$ 95,000.0	\$ 120,000.00	\$ 120,000.00	\$ 115,000.00	\$ 115,000.00	\$ 110,000.00	\$ 110,000.00					
\$ 29.0	Remove SCADA Tower and Remount Antenna	LS	1.00	\$ 3,370.00	\$ 3,370.0	\$ 3,000.0	\$ 3,000.0	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00					
\$ 30.0	SCADA Allowance	LS	1.00	\$ 18,072.00	\$ 18,072.0	\$ 18,072.0	\$ 18,072.0	\$ 18,072.00	\$ 18,072.00	\$ 18,072.00	\$ 18,072.00	\$ 18,072.00	\$ 18,072.00					
Presidential Glen Specific																		
\$ 31.0	Wheel Stops	EA	2.00	\$ 950.00	\$ 1,900.0	\$ 75.0	\$ 150.0	\$ 250.00	\$ 500.00	\$ 500.00	\$ 1,000.00	\$ 200.00	\$ 400.00					
\$ 32.0	6' Dia. Wet Well Expansion	LS	1.00	\$ 80,375.00	\$ 80,375.0	\$ 203,000.00	\$ 203,000.0	\$ 100,000.00	\$ 100,000.00	\$ 200,000.00	\$ 200,000.00	\$ 75,000.00	\$ 75,000.00					
\$ 33.0	8" DI vent pipe with bollard	LS	1.00	\$ 14,710.00	\$ 14,710.0	\$ 10,000.0	\$ 10,000.0	\$ 25,000.00	\$ 25,000.00	\$ 7,500.00	\$ 7,500.00	\$ 12,000.00	\$ 12,000.00					
\$ 34.0	Surge Relief Valve	EA	1.00	\$ 24,445.00	\$ 24,445.0	\$ 25,000.0	\$ 25,000.0	\$ 21,000.00	\$ 21,000.00	\$ 35,000.00	\$ 35,000.00	\$ 18,500.00	\$ 18,500.00					
\$ 35.0	6" Plug Valve	EA	1.00	\$ 6,032.00	\$ 6,032.0	\$ 4,000.0	\$ 4,000.0	\$ 2,100.00	\$ 2,100.00	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00					
\$ 36.0	Replace Check Valves	EA	2.00	\$ 5,175.00	\$ 10,350.0	\$ 7,500.0	\$ 15,000.0	\$ 6,500.00	\$ 13,000.00	\$ 10,000.00	\$ 20,000.00	\$ 2,800.00	\$ 5,600.00					
\$ 37.0	Replace Pump Piping and Railing System	LS	1.00	\$ 174,000.00	\$ 174,000.0	\$ 140,000.0	\$ 140,000.0	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 431,000.00	\$ 431,000.00					
\$ 38.0	OdaKilla Odor Control System	EA	1.00	\$ 41,540.00	\$ 41,540.0	\$ 35,000.0	\$ 35,000.0	\$ 75,000.00	\$ 75,000.00	\$ 37,000.00	\$ 37,000.00	\$ 35,000.00	\$ 35,000.00					
\$ 39.0	ARV quick connect cap	EA	1.00	\$ 150.00	\$ 150.0	\$ 2,500.0	\$ 2,500.0	\$ 10,000.00	\$ 10,000.00	\$ 40,000.00	\$ 40,000.00	\$ 250.00	\$ 250.00					
\$ 40.0	Wet Well Junction Box	EA	1.00	\$ 83,215.00	\$ 83,215.0	\$ 3,000.0	\$ 3,000.0	\$ 21,000.00	\$ 21,000.00	\$ 9,500.00	\$ 9,500.00	\$ 2,000.00	\$ 2,000.00					
\$ 41.0	RADAR level Sensor	LS	1.00	\$ 7,618.00	\$ 7,618.0	\$ 2,000.0	\$ 2,000.0	\$ 13,000.00	\$ 13,000.00	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00					
\$ 42.0	Control Panel	LS	1.00	\$ 96,000.00	\$ 96,000.0	\$ 25,000.0	\$ 25,000.0	\$ 13,000.00	\$ 13,000.00	\$ 95,000.00	\$ 95,000.00	\$ 125,000.00	\$ 125,000.00					
\$ 43.0	SCADA Allowance	LS	1.00	\$ 18,199.00	\$ 18,199.0	\$ 18,199.0	\$ 18,199.0	\$ 18,199.00	\$ 18,199.00	\$ 18,199.00	\$ 18,199.00	\$ 18,199.00	\$ 18,199.00					
Base Bid Total =						\$ 1,605,932			\$ 1,762,725			\$ 1,859,405			\$ 2,097,599.50			\$ 2,326,391
Presidential Glen Lift Station Asphalt Drive Alternate Bid																		
Item No.	Description	Units	Estimated Quantity	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost					
1	Asphalt Access Drive	SF	3,600.00	\$ 25.00	\$ 90,000	\$ 7.00	\$ 25,200	\$ 10.00	\$ 36,000.00	\$ 15.00	\$ 54,000.00	\$ 25.00	\$ 90,000.00					
2	Ribbon Curb	LF	490.00	\$ 8.00	\$ 3,920	\$ 10.00	\$ 4,900	\$ 75.00	\$ 36,750.00	\$ 20.00	\$ 9,800.00	\$ 40.00	\$ 19,600.00					
3	Fencecrete	LF	215.00	\$ 85.00	\$ 18,275	\$ 142.00	\$ 30,530	\$ 160.00	\$ 34,400.00	\$ 151.00	\$ 32,465.00	\$ 195.00	\$ 41,925.00					
4	Fencecrete Gate	LF	20.00	\$ 650.00	\$ 13,000	\$ 400.00	\$ 8,000	\$ 420.00	\$ 8,400.00	\$ 455.00	\$ 9,100.00	\$ 400.00	\$ 8,000.00					
Alternate Bid Total =					\$ 125,195			\$ 68,630			\$ 115,550			\$ 105,365			\$ 159,525	
Grand total =					\$ 1,731,127			\$ 1,831,355			\$ 1,974,955			\$ 2,202,964.50			\$ 2,485,916	

 = Error in bid tab calculation



1500 County Road 269  
Leander, TX 78641

P.O. Box 2029  
Leander, TX 78646-2029

## NOTICE OF AWARD

TO: JM Pipeline, LLC

PROJECT DESCRIPTION: Bell Farms and Presidential Glen Lift Station Improvements

OWNER: City of Manor

The OWNER has considered the BID submitted by you for the above-described PROJECT in response to its INVITATION TO BID and INSTRUCTIONS TO BIDDERS. You are hereby notified that your BID has been accepted for Base Bid work items in the amount of \$1,731,127.00

You are required by the INSTRUCTIONS TO BIDDERS to execute the AGREEMENT and furnish the required Contractor's Performance BOND, Payment BOND, and Certificate(s) of INSURANCE within ten (10) days from the date of this NOTICE to you.

If you fail to execute said AGREEMENT and to furnish said BONDS and INSURANCE Certificate(s) within ten (10) days from the date of this NOTICE, the OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID SECURITY. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this 2<sup>nd</sup> day of February 2023.

OWNER: City of Manor

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

Rebecca Howley, P.E., CFM  
GBA, Inc.  
Engineer for OWNER

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

CONTRACTOR: JM Pipeline, LLC

this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

Title: \_\_\_\_\_



## AGREEMENT

THE STATE OF TEXAS

§

§

KNOW ALL BY THESE PRESENTS:

COUNTY OF TRAVIS

§

**THIS AGREEMENT** is made and entered into on this \_\_\_\_ day of the month of \_\_\_\_\_, 20\_\_, by and between the **City of Manor, Texas**, a home-rule city and municipal corporation with principal offices located at 105 E. Eggleston St., Manor, Texas, Travis County, Texas, (hereinafter referred to as "**Owner**" or the "**City**"), and **JM Pipeline, LLC**, with principal offices located at 825 Magnolia Ln., Cottonwood Shores, TX 78657 (hereinafter referred to as "**Contractor**").

That, for and in consideration of the mutual terms, conditions and covenants of this Agreement and the accompanying documents between Owner and Contractor and for and in consideration of payments as set forth therein, Contractor hereby agrees to commence and complete the following Project: **BELL FARMS AND PRESIDENTIAL GLEN LIFT STATION IMPROVEMENTS for the CITY OF MANOR, TEXAS** (hereinafter, the "Project"), consisting of furnishing all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to construct and complete the **Project** together with any and all extra work as described in the drawings, maps, plans, and specifications, in accordance with Instructions to Bidders, the Notices to Bidders, the General Conditions, the Special Conditions, the Bid Proposal, technical specifications, maps and plans, Performance bond, Payment bond, and other drawings and printed or written explanatory matter thereof, and the addenda thereof, all as approved by the Owner, all of which are made a part hereof, incorporated into this Agreement, and collectively evidence and constitute the entire contract (the "**Contract Documents**").

Contractor hereby agrees to commence Work within ten (10) calendar days following the date contained in the Notice to Proceed issued by Owner, and Contractor hereby agrees to substantially complete same within **FOUR HUNDRED SIX (406)** calendar days for completion of lift stations as detailed in the Contract Documents, and **FOUR HUNDRED THIRTY SIX (436)** calendar days for completion of all work detailed in the Contract Documents, after the date contained in the Notice to Proceed.

Waiver of any breach of this Agreement shall not constitute waiver of any subsequent breach.

Owner agrees to pay Contractor from available funds for satisfactory performance of this Agreement the price or prices as shown in the Bid Proposal submitted by the Contractor for the Project, which forms a part of this contract and has been approved by the Owner, in the total amount of in the total amount of **One Million Seven Hundred Thirty One Thousand One Hundred Twenty Seven Dollars (\$1,731,127.00)**, subject to proper additions and deductions (the "**Contract Amount**"), all as provided in the General Conditions and Special Conditions of the Contract Documents, and Owner agrees to make payments on account thereof as provided therein. Lack of funds shall render this Agreement null and void to the extent funds are not available.

Contractor agrees that time is of the essence in this Agreement and for each calendar day of delay beyond the time established for completion of the work specified in the Contract Documents the Owner may withhold from Contractor's compensation the sum of One Thousand Dollars (\$1000.00) as stipulated damages for the delay.

Although drawn by Owner, both parties hereto expressly agree and assert that in the event of any dispute over its meaning or application, this Agreement shall be interpreted reasonably and fairly, and neither more strongly for nor against either party.

This Agreement is to be governed by and shall be construed in accordance with the laws of the State of Texas without regard to conflicts of law principles, thereof. Proper venue for any dispute or litigation shall be only in Travis County, Texas.

This Agreement and all rights and obligations contained herein may not be assigned by Contractor without the prior written approval of the City. However, Contractor shall have the right to employ such assistance as may be required for the performance of the project, including the use of subcontractors, which employment shall not be deemed an assignment of the Contractors' rights and duties hereunder.

To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Contractor represents that neither Contractor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Contractor represents that Contractor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such Section is not inconsistent with a governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds. As used in the foregoing verification, "boycott energy company" means, without an ordinary business purpose, 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 with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).

Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Texas law requires that business entities, as defined in Texas Government Code, Section 2252.908, who contract with the City complete the on-line of Form 1295 "Certificate of Interested Parties"

as promulgated by the Texas Ethics Commission (<https://www.ethics.state.tx.us/filinginfo/1295/>). Form 1295 is also required for any and all contract amendments, extensions or renewals. Prior to any payment to Contractor hereunder, Contractor shall provide proof of submission to the City Secretary that the appropriate Form 1295 documentation has been submitted.

**IN WITNESS WHEREOF**, both parties have caused this Agreement to be signed in their respective corporate names by duly authorized representatives, and the parties hereby bind themselves, their successors and assigns for the faithful and full performance of the terms and provisions hereof.

EXECUTED on the latest date of the signatories indicated below.

OWNER

CONTRACTOR

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

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

Mayor, City of \_\_\_\_\_, Texas

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**ATTEST:**

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

City Secretary, City of \_\_\_\_\_

## PERFORMANCE BOND

(Sample Form)

STATE OF TEXAS        )(

COUNTY OF               )(

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 \_\_\_\_\_ (Owner) as Obligee 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, firmly by these presents:

WHEREAS, the Principal has entered into a written Agreement with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, for construction of \_\_\_\_\_ (Project) in accordance with Plans and Specifications prepared by \_\_\_\_\_, which contract is hereby referred to and made in 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 promptly and faithfully perform said Contract and said 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 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 anywise effect 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.

Whenever Principal shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety, jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and made available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.



**PERFORMANCE BOND (cont'd)**  
(Sample Form)

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

\_\_\_\_\_  
Principal

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The name and address of the Resident Agent of Surety is \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bond Number: \_\_\_\_\_

## PAYMENT BOND

(Sample Form)

STATE OF TEXAS        )(

COUNTY OF               )(

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 \_\_\_\_\_ (Owner), hereinafter called the Obligee, in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment of which sum, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a written Contract with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, for construction of \_\_\_\_\_ (Project) which contract is hereby referred to and made in 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 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 to all claimants 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 anywise effect 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 \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Principal

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

The name and address of the Resident Agent of Surety is \_\_\_\_\_

\_\_\_\_\_

Bond Number: \_\_\_\_\_

# **CERTIFICATE OF INSURANCE** (Sample Form)

THIS IS TO CERTIFY THAT INSURANCE POLICY(IES) LISTED BELOW ARE ISSUED TO THE NAMED INSURED

NAME OF INSURED:

ADDRESS

TYPE OF INSURANCE	POLICY NUMBER	POLICY PERIOD	LIMITS OF LIABILITY		
				EACH OCCURANCE	AGGREGATE
<u>GENERAL LIABILITY</u>  COMPREHENSIVE NONCOMPREHENSIVE PROTECTIVE LIABILITY PRODUCT/COMPLETED OPERATION CONTRACTURAL LIABILITY PERSONAL INJURY BROAD FORM P.D.			Bodily Injury	\$	\$
			Property Damage	\$	\$
			Bodily Injury and Property Damage (Combined Single Limit)	\$	\$
			Applies to Products/Completed Operations Hazard		
<u>AUTOMOTIVE LIABILITY</u>  COMPREHENSIVE NONCOMPREHENSIVE			Bodily Injury (Each Person)	\$	
			Bodily Injury (Each Occurrence)	\$	
			Property Damage	\$	
			Bodily Injury and Property Damage – (Combined Single Limit)	\$	
<u>EXCESS LIABILITY</u>  UMBRELLA FORM			Bodily Injury and Property Damage – (Combined Single Limit)	\$	
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY			Statutory	\$	
AUTOMOBILE PHYSICAL DAMAGE (SPECIFY)					
OTHER					

ADDITIONAL INSURED:

NAME AND ADDRESS OF AGENCY:

Countersigned by \_\_\_\_\_  
 Authorized Representative

## SEPARATION OF COSTS

Pursuant to the Instructions to Bidders, the proposal of the undersigned that has been submitted for performing this contract in full is hereby segregated as follows:

The amount of this bid that is charged for  
Skill and labor is:

\$ \_\_\_\_\_

The amount of this bid that is charged for  
materials and tangible personal property  
(not less than the actual cost of such  
materials) is

\$ \_\_\_\_\_

**TOTAL**

\$ \_\_\_\_\_

\_\_\_\_\_  
Contractor Signature

(Note: This form to be completed only by lowest responsible bidder after he has been selected)

BELL FARMS AND PRESIDENTIAL GLEN LIFT STATION IMPROVEMENTS  
CITY OF MANOR, TEXAS

**GENERAL CONDITIONS OF THE AGREEMENT**

1. **OWNER**: Whenever the word OWNER, City, or the expression Party of the First Part, or First Party, are used in this contract, it shall be understood as referring to the City of Manor, Texas.
2. **CONTRACTOR**: Whenever the word Contractor, or the expression Party of the Second Part, or Second Party is used, it shall be understood to mean the person, persons, co-partnership or corporation, to wit: \_\_\_\_\_ who has agreed to perform the work embraced in this contract, or to his or their legal representatives.
3. **CITY'S REPRESENTATIVE**. Whenever the words "City's Representative" or "Representative" are used, it shall mean and be understood as referring to the City Manager or his delegate, who shall act as City's agent. The City's Representative may inspect and issue instructions but shall not directly supervise the Contractor.
4. **ENGINEER**: Whenever the word Engineer is used in this contract with reference to the preparation of plans, specifications and contract documents, it shall be understood as referring to the firm of George Butler Associates, Inc., Leander, Texas, Engineer for the Owner. Whenever the word ENGINEER is used in this contract with reference to the construction of this project, it shall be understood as referring to Resident Engineer or such other ENGINEER or Inspector as may be authorized by said OWNER to act in any particular capacity.
5. **INTERPRETATION OF PHRASES**: Whenever the words "Directed", "Required", "Permitted", "Designated", "Considered Necessary", "Prescribed", or words of like importance are used, it shall be understood that the direction, requirements, permission, order, designation or prescription, of the ENGINEER is intended and, similarly, the words "Approval", "Acceptable", "Satisfactory", or words of like importance shall mean approved by or acceptable or satisfactory to the ENGINEER.

Whenever in the specifications or drawings accompanying this agreement, the terms or description of various qualities relative to finish, workmanship, or other qualities of similar kind which cannot, from their nature, be specifically and clearly described and specified, but are necessarily described in general terms, then, in all such cases, any question of the fulfillment of said specifications shall be decided by the ENGINEER, and said work shall be done in accordance with his interpretations of the meaning of the words, terms or clauses defining the character of the work.

6. **PROJECT**: The term "Project" shall mean and include all that is required to obtain a final product that is acceptable to the City. The term "work" shall have like meaning.
7. **SUBSTANTIALLY COMPLETED**: The term "Substantially Completed" or "Substantially Complete" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.
8. **WORK**: The term "work" as used in this Agreement shall mean and include all that is required herein to obtain a final product that is acceptable to the City. The Work is defined in the Plans & Specifications and Contract Documents, and must be constructed in conformance with the Plans & Specifications and the Contract Documents.
9. **CONTRACT DOCUMENTS**: The Contract Documents and their priority shall be as follows:

Special Conditions  
Supplementary Conditions

General Conditions  
Plans and Technical Specifications  
Agreement  
Any instructions to Bidders and any other notices to Bidders or Contractor  
Performance bond, Payment bond, Bid bond, Special bond, and Insurance  
Contractor's Proposal

All work shall be done and all materials furnished in strict conformity with Contract Documents.

10. KEEPING OF PLANS AND SPECIFICATIONS ACCESSIBLE: The CONTRACTOR shall be furnished with five (5) copies of all plans, profiles and specifications without expense to him, and shall keep one copy of the same constantly accessible on the work site.
11. RIGHT OF ENTRY: The OWNER reserves the right to enter the property or location on which the works herein contracted for are to be constructed or installed, by such agent or agents as it may elect, for the purpose of supervising and inspecting the work, or for the purpose of constructing or installing such collateral work as said OWNER may desire.
12. QUANTITIES AND MEASUREMENTS: No extra or customary measurements of any kind will be allowed, but the actual length, area, solid contents, number and weight only shall be considered, unless otherwise specifically provided.
13. LINE AND GRADE, STAKING: All layout and construction staking shall be done by the CONTRACTOR from control points shown on the drawings. All grades, forms and lines shall be approved by the OWNER'S representative before the respective work is begun.
14. ENGINEER AND INSPECTION: It is agreed by the CONTRACTOR that the OWNER shall be and is hereby authorized to appoint from time to time such ENGINEERS and Inspectors as the said OWNER may deem proper, to inspect the material furnished and the work done under this Agreement, and to see that the said material is furnished, and said work is done in accordance with the specifications therefor. The CONTRACTOR shall furnish all reasonable aid and assistance required by the ENGINEERS or Inspectors for the proper inspection and examination of the work and all parts of the same. The CONTRACTOR shall furnish all reasonable aid and assistance required by the ENGINEER or Inspectors as appointed, when the same are consistent with the obligations of this Agreement and the accompanying specifications provided, however, should the CONTRACTOR object to any order by any subordinate ENGINEER or inspector, the CONTRACTOR may within six (6) days make written appeal to the ENGINEER for his decision.
15. DISCREPANCIES AND OMISSIONS: It is further agreed that it is the intent of this contract that all work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the plans and specifications, or otherwise, or in the event of any doubt as to the meaning and intent of any portion of the contract, specifications or plans, the ENGINEER shall define which is intended to apply to the work.
16. ADEQUACY OF DESIGN: It is understood that the OWNER has selected the ENGINEER named in this Agreement to prepare the plans and specifications, and all Supplements thereto; and agreed that the OWNER will be responsible for the adequacy of the design, sufficiency of the plans and specifications, and the safety of the structure, provided the CONTRACTOR has complied with said plans and specifications, all modifications thereof, and additions and alterations thereto, approved by the ENGINEER. The burden of proof shall be upon the CONTRACTOR to show that he has complied with this contract, said plans, specifications, and all modifications thereof, and all additions and alterations thereto.
17. LOSSES FROM NATURAL CAUSES: All loss or damage arising out of the nature of work to be done, or from the action of the elements or from any unforeseen circumstances in the prosecution of the same, or

from unusual obstructions or difficulties which may be encountered in the prosecution of the work shall be sustained and borne by the CONTRACTOR at his own cost and expense.

18. ESTIMATED QUANTITIES: This agreement, including the specifications, plans and estimates, is intended to show clearly all work to be done and material to be furnished hereunder. The estimated quantities of the various classes of work to be done and material to be furnished under this contract at unit prices are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the proposals offered for the work. It is understood and agreed that the actual amount of work to be done and material to be furnished under this contract may differ somewhat from these estimates, and that where the basis for payment under this contract is the unit price method, payment shall be for the actual amount of such work done and material furnished.

Where payment is based on the unit price method, the CONTRACTOR agrees that he will make no claim for damages, anticipated profits or otherwise on account of any differences which may be found between the quantities of work actually done, the material actually furnished under this contract and the estimated quantities contemplated and contained in the proposal; provided, however, that in case the actual quantity of any "Major Item" should become as much as 25% more than, or 25% less than the estimated or contemplated quantity for such items, then either party to this Agreement, upon demand, shall be entitled to a revised consideration of the unit price for the work.

A "Major Item" shall be construed to be any individual bid item incurred in the proposal that has a total cost equal to or greater than five (5%) percent of the total contract cost, computed on the basis of the final Contract Price.

19. CHANGES AND ALTERATIONS: The CONTRACTOR further agrees that the OWNER may make such changes and alterations as the OWNER may see fit, in the line, grade, form dimensions, plans or materials for the work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this contract and the accompanying bond.

If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for a claim for damages, or anticipated profits on the work that may be dispensed with. If they increase the amount of work, and the increased work can fairly be classified under the specifications, such increase shall be paid for according to the quantity actually done and at the unit price established for such work under this contract; otherwise such additional work shall be paid for as provided in Paragraph 20 below.

20. EXTRA WORK: The term "Extra Work" as used in this contract shall be understood to mean and include all work that may be required by the OWNER to be done by the CONTRACTOR to accomplish any change, alteration or addition to the work shown upon the plans, or reasonably implied by the specifications, and not covered by the CONTRACTOR'S PROPOSAL, except as provided under Changes and Alterations in Paragraph 19 herein above.

It is agreed that the CONTRACTOR shall perform all extra work when presented with a Written Work Order signed by the ENGINEER; subject, however, to the right of the CONTRACTOR to require a written confirmation to pay the CONTRACTOR for performing said Extra Work. The cost for Extra Work shall be determined by Method (A) - By agreed unit prices; or Method (B) - By agreed lump sum; or Method (C) the "actual field cost" of the work, plus fifteen (15) percent, if neither Method (A) nor Method (B) be commenced.

In the event said Extra Work be performed and paid for under Method (C), then the provisions of this paragraph shall apply and the "actual field cost" is hereby defined to include the cost of all workmen, such as foreman, timekeepers, mechanics and laborers, and materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used on such Extra Work, plus actual transportation charges necessarily incurred, if the kind of equipment or machinery be not already on the job, together with all power, fuel, lubricants, water and similar operating expenses, also all necessary incidental expenses incurred directly on account of such Extra Work, including Social Security, and other

payroll taxes, and a ratable proportion of premiums on Construction and Maintenance Bonds, Public Liability and Property Damage and Workman's Compensation, and all other insurance as may be required by any law or ordinance, or directed by the OWNER. The ENGINEER may direct the form in which accounts of the "actual field cost" shall be kept and may also specify in writing, before the work commences, the method of doing the work and the type and kind of machinery and equipment to be used, otherwise these matters shall be determined by the CONTRACTOR.

Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using 90 percentage of the latest schedule of Equipment Ownership Expense adopted by the Associated General Contractors of America. Where practicable the terms and prices for the use of machinery and equipment shall be incorporated in the Written Extra Work Order. The fifteen (15%) percent of the "actual field cost" to be paid the CONTRACTOR shall compensate him for his profit, overhead, general superintendence and field office expense, and all other elements of cost and expense not embraced within the "actual field cost" as herein defined, save that where the CONTRACTOR'S Camp or Field Office must be maintained primarily on account of such Extra Work, then the cost to maintain and operate the same shall be included in the "actual field cost".

No claim for Extra Work of any kind will be allowed unless ordered in writing by the OWNER. Notice is hereby given that all change orders must be executed in writing before the work is started; any extra work performed otherwise will be at the CONTRACTOR'S risk. In case any orders or instructions, whether oral or written, appear to the CONTRACTOR to involve Extra Work for which he should receive compensation, he shall make written request to the ENGINEER for written order authorizing such Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefore, and the OWNER insists upon its performance, the CONTRACTOR shall proceed with the work after making written request for written order and shall keep an accurate account of the "actual field cost" thereof, as provided under Method (C).

21. PRELIMINARY APPROVAL: No ENGINEER, supervisor or inspector shall have any power to waive the obligations of this contract for the furnishing by the CONTRACTOR of good material, and of his performing good work as herein described, and in full accordance with the plans and specifications. No failure or omission of any ENGINEER, supervisor or inspector to condemn any defective work or material shall release the CONTRACTOR from his obligations to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of said defective work, or material; provided, however that the OWNER, his assistant or inspector, shall upon request of the CONTRACTOR, inspect and accept or reject any material furnished, and in event the material has been once accepted by the OWNER, his assistant or inspector, such acceptance shall be binding on the OWNER, unless it can be clearly shown that such material furnished does not meet the specifications for this work.

Any questioned work may be ordered taken up or removed for re-examination, by the ENGINEER, prior to final acceptance, and if found not in accordance with the specifications for said work, all expense of removing, re-examination and replacement shall be borne by the CONTRACTOR; otherwise the expense thus incurred shall be allowed as Extra Work, and shall be paid for by the OWNER.

22. DEFECTS AND THEIR REMEDIES: It is further agreed that if the work or any part thereof, or any material brought on the ground for use in the work or selected for the same, shall be deemed by the ENGINEER as unsuitable or not in conformity with the specifications, the CONTRACTOR shall, after receipt of written notice thereof from the ENGINEER, forthwith remove such material and re-build or otherwise remedy such work so that it shall be in full accordance with this contract.
23. TIME AND ORDER OF COMPLETION: It is the meaning and intent of this contract, except as otherwise provided for in the Supplementary and Special Conditions and Technical Specifications, that the CONTRACTOR shall be allowed to prosecute his work at such times and seasons, in such order of precedence, and in such manner as shall be most conducive to economy of construction, provided however, that the order and time of prosecution shall be such that the work shall be substantially completed as a whole and in part, in accordance with this contract, plans and specifications and within the time of completion hereafter designated; provided, also, that when the OWNER is having other work



done, either by contract or by his own force, the ENGINEER may direct the time and manner of constructing the work done under this contract, so that conflict will be avoided and the construction of the various works being done for the OWNER shall be harmonized.

The CONTRACTOR further agrees that he will commence work within **ten (10)** days after the date of the written Notice to Proceed, and will progress therewith so that the work shall be substantially completed in accordance with the terms of the Contract Documents.

24. **EXTENSION OF TIME:** Should the CONTRACTOR be unduly delayed in the completion of the work by any cause which the ENGINEER shall decide justifies the delay, then an extension of time will be allowed for completing the work, sufficient to compensate for the delay, the amount of the extension to be determined by the ENGINEER; provided, however, that the CONTRACTOR shall give the ENGINEER notice in writing within ten (10) days of the cause of such delay.
25. **HINDRANCES AND DELAYS:** No charge shall be made by the CONTRACTOR for hindrances or delays from any cause (except where the work is stopped by order of the OWNER) during the progress of any portion or the work embraced in this contract. In case said work shall be stopped by the act of the OWNER, then such expense as in the judgment of the ENGINEER is caused by such stopping of said work shall be paid by the OWNER to the CONTRACTOR.
26. **PRICE FOR WORK:** In consideration of the furnishing of all the necessary labor, equipment and material, and the completion of all work by the CONTRACTOR, and on the completion of all work and the delivery of all material embraced in this contract in full conformity with the specifications and stipulations herein contained, the OWNER agrees to pay the CONTRACTOR the prices set forth in the Proposal hereto attached, which has been made a part of this contract; and the CONTRACTOR hereby agrees to receive such prices in full for furnishing all material and all labor required for the aforesaid work, also for all expense incurred by him, and for well and truly performing the same and the whole thereof in the manner and according to this Agreement, the attached specifications and requirements of the ENGINEER.
27. **PARTIAL PAYMENT:** The CONTRACTOR shall submit a written statement showing as completely as practicable the total value of the work he has accomplished up to and including the last day of the preceding month (said statement shall include the value of all sound materials delivered to the job site and for which invoices are furnished to the ENGINEER on or before the third day of each month). The ENGINEER shall then prepare a statement for partial payment to the CONTRACTOR and submit the statement to the OWNER on or before the tenth day of each month. The OWNER shall then pay the CONTRACTOR on or before the 25th day of the current month the total amount of the ENGINEER'S statement (provided the CONTRACTOR has timely submitted his statement to the ENGINEER) less **five (5) percent** of the amount thereof, which **five** percent shall be retained until final payment, and further less all previous payments, and further less all further sums that may be retained by the OWNER under the terms of this Agreement and the other Contract Documents. It is understood, however, that in case the whole work be near to completion and some unexpected and unusual delay occur due to no fault or neglect on the part of the CONTRACTOR, the OWNER may - upon written recommendation of the ENGINEER - pay a reasonable and equitable portion of the retained percentage to the CONTRACTOR; or, the CONTRACTOR at the OWNER'S option, may be relieved of the obligation to fully complete the work, and thereupon, the CONTRACTOR shall receive payment of the balance due him under the contract subject only to the conditions stated in paragraph 26 hereof.
28. **FINAL COMPLETION AND ACCEPTANCE:** Within fifteen (15) days after the CONTRACTOR has given the ENGINEER written notice that the work has been completed, or substantially completed, the ENGINEER and the OWNER shall inspect the work and within said time, if the work is found to be completed in accordance with the Plans and Specifications, the OWNER will issue to the CONTRACTOR a Certificate of Completion.
29. **FINAL PAYMENT:** Upon the issuance of the Certificate of Completion, the ENGINEER shall proceed to make final measurements and prepare final statement of the value of all work performed and materials furnished under the terms of the Agreement and shall certify same to the OWNER, who shall pay to the

CONTRACTOR on or before the 30th day after the date of the Certificate of Completion the balance due the CONTRACTOR under the terms of this Agreement, provided he has fully performed his contractual obligations under the terms of this contract; and said payment shall become due in any event upon said performance by the CONTRACTOR.

30. DELAYED PAYMENTS: Should the OWNER fail to make payment to the CONTRACTOR of the sum named in any partial or final statement, when payment is due, or should the ENGINEER fail to issue any statement on or before the date above provided, then the OWNER shall pay to the CONTRACTOR in addition to the sum shown as due by such statement, interest thereon at the rate of ten (10) percent per annum from date due as provided in Paragraphs 27 and 29, until fully paid, which shall fully liquidate any injury to the CONTRACTOR growing out of such delay in payment.
31. ENGINEER'S AUTHORITY AND DUTY: The ENGINEER shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to said work and the construction thereof. The ENGINEER'S estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the ENGINEER shall be a condition precedent to the right of the CONTRACTOR to receive any money or payment for work under this contract affected in any manner or to any extent by such question.

The ENGINEER shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the CONTRACTOR UNDER THIS CONTRACT AND OTHER Contractors performing work for the OWNER shall be adjusted and determined by the ENGINEER.

32. CONTRACTOR'S DUTY: The CONTRACTOR shall give personal attention to the faithful prosecution and completion of this work and shall be present either in person or by duly authorized representative on the site of the work continually during its progress. He shall maintain an office on or adjacent to the site of the work.
33. CONTRACTOR'S AGENT: The CONTRACTOR during his absence from the work shall keep a competent superintendent or manager upon the work, fully authorized to act for him in his absence, and to receive such orders as may be given for the proper continuance of the work. Notice to do any work, to alter work, to cease work which the CONTRACTOR is obligated to do, or concerning any imperfections in work or any material furnished when given to the superintendent or manager of the CONTRACTOR in charge of any operation of the work in the absence of the CONTRACTOR, provided any notice given under this paragraph shall be in writing.
34. CHARACTER OF WORKERS: The CONTRACTOR agrees to employ only orderly, competent and skillful workers to do the work; and that whenever the ENGINEER shall inform him in writing that any workers on the site are, in his opinion, incompetent, unfaithful or disorderly, such workers shall be discharged from the work and shall not again be employed on the same without the OWNER'S written consent.
35. CONSTRUCTION PLANT: The CONTRACTOR shall provide all labor, tools, equipment, machinery and material necessary in the prosecution and completion of this contract where it is not otherwise specifically provided that the OWNER shall furnish the same, and it is also understood that the OWNER shall not be held responsible for the care, preservation, conservation, or protection of any material, tools, or machinery or any part of the work until it is finally completed and accepted. It should also be understood that the OWNER will not loan plant tools or equipment to the CONTRACTOR.
36. RIGHT OF ENGINEER TO MODIFY METHODS AND EQUIPMENT: If at any time the methods or equipment used by the CONTRACTOR are found to be inadequate to secure the quality of work or the rate of progress required under this contract, the ENGINEER may order the CONTRACTOR in writing to increase their safety or improve their character and efficiency, and the CONTRACTOR shall comply with

such order. If at any time the working force of the CONTRACTOR is inadequate for securing the progress herein specified, the CONTRACTOR shall, if so ordered in writing increase his force or equipment, or both to such an extent as to give reasonable assurance of compliance with the schedule of progress.

37. SANITATION: Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be installed and maintained by the CONTRACTOR in such a manner and at such points as shall be approved by the ENGINEER, and their use shall be strictly enforced.
38. CONTRACTOR'S BUILDINGS: The building of structure or other forms of protection will be permitted only at such places as the OWNER shall approve and the sanitary conditions of the grounds on or about such structures shall at all times be maintained in a manner satisfactory to the OWNER.
39. PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC: CONTRACTOR assumes the sole responsibility for the safety and protection of the premises, adjoining property, employees, pedestrians, vehicles, vehicle operators, and other persons and shall provide and maintain suitable signs, barricades and at night shall also maintain warning lights, as will effectively warn pedestrians and vehicular traffic of any obstruction and safeguard the public and the work from injury or damage.

The CONTRACTOR shall be liable for and shall indemnify and save harmless the ENGINEER, The OWNER, its agents and employees from any and all claims for damages on account of his failure to fully protect the premises, vehicular traffic, all adjoining property, employees and other persons.

40. PROTECTION OF ADJOINING PROPERTY: The CONTRACTOR shall take proper means to protect the adjacent or adjoining property or properties in any way encountered and which might be injured or seriously affected by any process of construction, to be undertaken by this agreement, from any damages or injury by reason of said process or construction.

The CONTRACTOR shall be liable for and shall indemnify and save harmless the OWNER, its agents and employees from any and all claims for damages on account of his failure to fully protect the premises, all adjoining property, employees and other persons.

41. PROTECTION AGAINST CLAIMS OF SUB-CONTRACTORS, LABORERS, MATERIALMEN AND FURNISHERS OF MACHINERY, EQUIPMENT AND SUPPLIES: The CONTRACTOR agrees that he will indemnify and save the OWNER harmless from all claims growing out of the lawful demands of sub-contractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, power tools and all supplies, including commissary, incurred in the furtherance of the performance of this contract. When so desired by the OWNER, the CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the CONTRACTOR fails to do so, then the OWNER may at the option of the CONTRACTOR either pay unpaid bills, of which the OWNER has written notice, direct, or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payments to the CONTRACTOR shall be resumed in full, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligation upon the OWNER by either the CONTRACTOR or his SURETY.
42. PROTECTION AGAINST ROYALTIES OR PATENTED INVENTION: The CONTRACTOR shall protect and save harmless the OWNER from all and every demand for damages, royalties or fees on any patented invention used by him in connection with the work done or material furnished under this contract; provided, however, that if any patented material, machinery, appliance or invention is clearly specified in this contract, then, and in that event, the cost of procuring the rights of use and the legal release or indemnity shall be borne and paid by the OWNER, direct, unless such cost is determined and directed to be included in the bid price at the time the proposal is submitted.

43. LAWS AND ORDINANCES: The CONTRACTOR shall at all times observe and comply with all Federal, State and Local laws, ordinances and regulations, which in any manner affect the contract of the work, shall be responsible for obtaining all necessary permits such as building, plumbing, fire, tree, creek and etc. as required for the work, and shall indemnify and save harmless the OWNER against any claim arising from the violation of any such laws and ordinances, whether by the CONTRACTOR or his employees. In case the OWNER is a body politic and corporate, the law from which it derives its powers, insofar as the same regulates the objects for which, or the manner in which, or the conditions under which, the OWNER may enter into contract, shall be controlling, and shall be considered as part of this Contract, to the same effect as though embodied herein.
44. LIQUIDATED DAMAGES FOR DELAY: And the CONTRACTOR agrees that time is of the essence of this contract, and that for each day of delay beyond the date stated in the Proposal for the completion of the work herein specified and contracted for, the OWNER may withhold permanently from the CONTRACTOR'S total compensation the sum or amount stated in the Proposal and Supplementary Conditions as stipulated liquidated damages for such delay.
45. ASSIGNMENT AND SUBLETTING: The CONTRACTOR further agrees that he will retain personal control and will give his personal attention to the fulfillment of this contract and that he will not assign by Power of Attorney, or otherwise, nor sublet said contract without the written consent of the OWNER, and that no part or feature of the work will be sublet to anyone objectionable to the OWNER. The CONTRACTOR further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this contract, shall not relieve the CONTRACTOR from his full obligations to the OWNER, as provided by this Agreement.
46. ABANDONMENT BY CONTRACTOR: In case the CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the OWNER, or the ENGINEER, or if the CONTRACTOR fails to comply with the orders of the ENGINEER, when such orders are consistent with this Contract, or with this Agreement, or with the Specifications hereto attached, then, and in that case, the Surety on the bond shall be notified in writing and directed to complete the work, and a copy of said notice shall be delivered to the CONTRACTOR.

After receiving said notice of abandonment the CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the OWNER or the SURETY on the construction bond, or another contractor, in completion of the work; and the CONTRACTOR shall not receive any rental or credit therefor, (except when used in connection with Extra Work, where credit shall be allowed as provided for under paragraph 20, Extra Work); it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement.

In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, within ten (10) days after service of such notice, then the OWNER may provide for completion of the work in either of the following elective manners:

- a) The OWNER may thereupon employ such force of workers and use of machinery, equipment, tools, materials and supplies as said OWNER may deem necessary to complete the work and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and the expense so charged shall be deducted and paid by the OWNER out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under any provision of the Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same has been completed by the CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or his SURETY shall pay the amount of such expenses to the OWNER: or

- b) The OWNER under sealed bids, after five (5) days notice published one or more times in a newspaper having a general circulation in the area of the location of the work, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this contract. In case of any increase in cost to the OWNER under the new contract as compared to what would have been the cost under this contract, such increase shall be charged to the CONTRACTOR and the SURETY shall be and remain bound therefore. However, should the cost to complete any such new contract prove to be less than what would have been the SURETY shall be credited therewith.

When the work shall have been substantially completed, the CONTRACTOR and his Surety shall be so notified and Certificates of Completion and Acceptance, as provided in Paragraph 28 herein above, shall be issued. A complete itemized statement of the contract accounts, certified to and by the ENGINEER as being correct, shall then be prepared and delivered to the CONTRACTOR and his Surety, whereupon the CONTRACTOR and/or his Surety, or the OWNER as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

In the event the statement of accounts shows that the cost to complete the work is less than that which would have been the cost to the OWNER had the work been completed by the CONTRACTOR under the terms of this contract; or when the CONTRACTOR and/or his Surety shall pay the balance shown to be due by them to the OWNER, then all machinery, equipment, tools, materials or supplies left on the site of the work shall be turned over to the CONTRACTOR and/or his Surety. Should the cost to complete the work exceed the contract price, and the CONTRACTOR and/or his Surety fail to pay the amount due the OWNER within the time designated hereinabove, and there remains any machinery, equipment, tools, materials or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the CONTRACTOR and his Surety at the respective addresses designated in this contract; provided, however, that actual written notice given in any manner will satisfy this condition. After mailing, or other giving of such notice, such property shall be held at the risk of the CONTRACTOR and his Surety subject only to the duty of the OWNER to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice, the OWNER may sell such machinery, equipment, tools, materials or supplies and apply the net sum derived from which sale to the credit of the CONTRACTOR and his Surety. Such sale may be made at either public or private sale, with or without notice, as the OWNER may elect. The OWNER shall release any machinery, equipment, tools, materials, or supplies, which remain on the work, and belong to persons other than the CONTRACTOR or his Surety, to their proper Owners.

47. ABANDONMENT BY OWNER: In case the OWNER shall fail to comply with the terms of this contract, and should fail or refuse to comply with said terms within ten (10) days after written notification by the CONTRACTOR, then the CONTRACTOR may suspend or wholly abandon the work, and may remove therefrom all machinery, tools and equipment, and all materials on the ground that have not been included in payments to the CONTRACTOR and have not been wrought into the work. And thereupon the ENGINEER shall make an estimate of the total amount earned by the CONTRACTOR, which estimate shall include the value of all work actually completed by said CONTRACTOR at the prices stated in the attached proposal, the value of all partially completed work at a fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the terms of this contract. The ENGINEER shall then make a final statement of the balance due the CONTRACTOR by deducting from the above estimate all previous payments by the OWNER and all other sums that may be retained by the OWNER under the terms of this Agreement and shall certify same to the OWNER who shall pay to the CONTRACTOR on or before thirty (30) days after the date of the notification by the CONTRACTOR, under the terms of this Agreement.
48. BOND: It is further agreed by the parties to this contract that the CONTRACTOR will execute bonds as provided for in the provisions of the Supplementary General Conditions for the satisfactory performance of the work in accordance with this contract in the form provided for this purpose, and it is agreed that this contract shall not be in effect until such bonds are furnished to and approved by the OWNER.

49. TIME OF FILING CLAIMS: It is further agreed by both parties hereto that all questions of dispute or adjustment presented by the CONTRACTOR shall be in writing and filed with the ENGINEER within a reasonable time after the ENGINEER has given any directions, order or instruction to which the CONTRACTOR desires to take exceptions. The ENGINEER shall reply to such written exceptions by the CONTRACTOR and render his final decision in writing. In case the CONTRACTOR should appeal from the ENGINEER'S decision, such appeal shall be filed with the ENGINEER and the OWNER in writing within ten (10) days after the date of the ENGINEER'S final decision. It is further agreed that final acceptance of the work by the OWNER and the acceptance by the CONTRACTOR of the final payment shall be a bar to any claims by either party, except where noted otherwise in the Contract Documents.

### **SUPPLEMENTARY CONDITIONS TO THE AGREEMENT**

The Supplementary Conditions are in addition to and do not void any portions of the General Conditions of the Agreement or other parts of the Contract Documents; however, wherever there is a direct conflict in meaning, these Supplementary Conditions take precedence.

1. WORK SCOPE: The facilities and services to be provided under this contract include the following:

1. Lift station construction/upgrades;
2. Other appurtenant work.

It is understood that except as otherwise specifically stated in the Contract Documents, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

2. WORK TO BE PERFORMED BY OTHERS: The OWNER reserves the right to accomplish separate or similar work on the project, in a manner that does not impede the progress or quality of work to be performed by the CONTRACTOR. CONTRACTOR shall cooperate with OWNER's staff or other contractors on the site to produce a completed facility.

3. LAND FOR CONSTRUCTION PURPOSES: The CONTRACTOR is responsible for securing land for construction purposes. The CONTRACTOR will be permitted to use available space belonging to the OWNER, on or near the site of the work, for construction purposes and for the storage of materials and equipment. The location and extent of the areas so used shall be approved by the OWNER. The CONTRACTOR will be responsible for the restoration of any space used for construction purposes.

It shall be clearly understood that the responsibility for the protection and safekeeping of equipment and materials on the site will be entirely that of the CONTRACTOR and that no claim shall be made against the OWNER by reason of any act of another contractor, an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials and equipment, the CONTRACTOR owning or responsible for the stored materials or equipment shall immediately move same. No materials or equipment shall be placed upon the property of the OWNER until the OWNER has approved the location contemplated by the CONTRACTOR to be used for storage.

4. USE OF PREMISES AND REMOVAL OF DEBRIS: The CONTRACTOR expressly undertakes at his own expense:

- a) To take every precaution against injuries to persons or damage to property;
- b) To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or other contractors;
- c) To clean up frequently and remove all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat orderly and workmanlike appearance;
- d) Before final payment to remove all surplus materials, falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and put the site in neat, orderly condition. Spoil disposal must be at an approved site.

5. SAFETY CONDITIONS: Every reasonable and proper precaution shall be taken by the CONTRACTOR to

insure the safety of the work and employed personnel, the public and adjacent property whether publicly or privately owned. To protect persons from injury and to avoid property damage, barricades, signs, lanterns or lights and guards, as required, shall be placed and maintained by the CONTRACTOR at the site and site access during the progress of the construction. Rules and Regulations governing "Occupational Safety and Health Standards" as published by the Occupational Safety and Health Administration (OSHA), shall be observed for all operations and all work performed under this contract. If Trench and Excavation Safety requirements apply to this project, those requirements are the responsibility of the CONTRACTOR, with payments scheduled therefore. All costs involved in satisfying these requirements shall be borne by the CONTRACTOR.

6. TRAFFIC CONTROL: The CONTRACTOR shall regulate and route all traffic to, from, through and around the site in accordance with rules of the appropriate jurisdiction when using City streets, County roads, and State or Federal roads and highways. CONTRACTOR shall be responsible for keeping a minimum of one (1) lane of traffic open at all times during construction, and all lanes of traffic at the conclusion of work each day. All costs involved in complying with these requirements shall be borne by the CONTRACTOR. All traffic controls must be in accordance with the Texas Manual for Uniform Traffic Control Devices, latest edition.
7. SCOPE, NATURE, AND INTENT OF SPECIFICATIONS AND PLANS: The specifications and plans are intended to supplement but not necessarily duplicate each other. Any work shown in the one and not in the other shall be executed as if it has been shown in both. Should anything necessary for a clear understanding of the work be omitted from the specifications and plans or should the requirements appear to be in conflict, the CONTRACTOR shall secure written instructions from the Engineer before proceeding with the construction affected thereby. It is understood and agreed that the work shall be performed to the true intent of the contract documents.

All products specified by manufacturer's name shall be installed in accordance with manufacturer's printed instructions. When equipment or material furnished by the CONTRACTOR cannot be installed as specified or as shown on the plans, the CONTRACTOR shall, without extra cost to the OWNER, make all modifications required to properly install the equipment or material. Such modifications shall be subject to the approval of the Engineer.

Dimensions and elevations shown on the plans shall be accurately followed even though they differ from scaled measurements. No work shown on the plans, the dimensions of which are not indicated, shall be executed until necessary dimensions have been obtained from the Engineer. The general arrangement of all accessories and appurtenances shall be as indicated on the plans or as later furnished on approved shop drawings. Reference to standard specifications of any technical society, organization or association or to codes of local or state authorities shall mean the latest standard, code, specification or tentative specification adopted and published at the date of taking bids, unless specifically stated otherwise. No attempt has been made in the specification to segregate work to be performed by any trade or subcontract. Any segregation between the trades or crafts will be solely a matter for agreement between the CONTRACTOR and his employees and his subcontractors.

8. QUALITY OF MATERIALS AND EQUIPMENT: Unless specifically provided otherwise in each case, all material and equipment furnished for permanent installation in the work shall conform to applicable standard specifications and shall be new, unused, and undamaged when installed or otherwise incorporated in the work. Whenever a material or article is specified or described on the plans by using the name or a proprietary product or by using the name of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function and quality desired. Other manufacturer's products, which in the opinion of the Engineer are equivalent to those specified, will be considered. Such items shall be submitted for approval by the procedure set forth herein. Other manufacturers will be considered provided that the design and details are in conformity with the drawings and specifications, and:
  - a) The manufacturer is engaged in the manufacture of similar equipment, the manufacture thereof has been a standard product of his for the past five (5) years, and the manufacturer shows at least three (3) operating installations of similar equipment of his manufacture.
  - b) The submittal for approval together with all details, drawings and other information needed for review



and evaluation shall be submitted before bids are submitted. The Engineer's decision shall be final.

9. ENGINEERING DATA AND SHOP DRAWINGS: Engineering data and shop drawings covering equipment and fabricated materials to be furnished shall be submitted to the Engineer for review and comments. This data shall include drawings, and descriptive, detail information to show the kind, size, arrangement, and operation of component materials and devices; the external connections, anchorages, and supports required; performance characteristics; and materials and equipment. Data submitted shall include drawings showing essential details of any changes. Shop drawings and data submittals shall, after final processing by the Engineer, be used for construction purposes.
10. PERMITS AND FEES: The CONTRACTOR shall make application for, secure and pay all costs for permits, inspection fees, licenses and deposits required for the work to be performed. Each sub-CONTRACTOR shall bear the cost of permits and fees relative to his work.
11. SUNDAY, HOLIDAY, AND NIGHT WORK: No work shall be done between the hours of 6:00 P.M. and 6:00 A.M. nor on Sundays or legal holidays without the written permission of the OWNER in each case, except such work as may be necessary for the proper care, maintenance, and protection of work already done or of equipment or in the case of an emergency. Any work necessary to be performed after or outside regular working hours, on Sundays or legal holidays shall be performed without additional expense to the OWNER.
12. TIME OF COMPLETION: Article 23 of the General Conditions of the Agreement shall be supplemented to read that the CONTRACTOR shall have substantially completed all construction work undertaken by him not later than the following times from the date specified in a written Notice to Proceed from the OWNER.

**Base Bid Work– FOUR HUNDRED SIX (406) calendar days for substantial completion of lift stations.**

**Base Bid Work– FOUR HUNDRED THIRTY-SIX (436) calendar days for final completion of all work.**

13. LIQUIDATED DAMAGES: Article 44 of the General Conditions of the Agreement shall be supplemented as follows. The stipulated liquidated damages for the CONTRACTOR's failure to complete the Project within the specified number of calendar days shall be **One Thousand Dollars (\$1,000.00)** per calendar day. Weather conditions precluding the proper and safe prosecution of the work shall be documented and extension(s) of time granted for justifiable weather delays.
14. COST BREAKDOWN: Within thirty (30) days after the execution of the Contract and not less than fifteen (15) days prior to the first monthly estimate, the CONTRACTOR shall submit to the Engineer a cost breakdown of the work for his contract. This breakdown is for use by the Engineer in checking the monthly estimates and for Owner's use in cost accounting for the project. If the contract is based on a lump sum bid or contains one or more lump sum items for which partial payments are desired, the CONTRACTOR shall prepare and submit to the Engineer a schedule of values covering each lump sum item. The schedule of values, showing the value of each kind of work, shall be acceptable to the Engineer before any partial payment estimate is prepared. Such items as bond premium, temporary construction facilities, and plant may be listed separately in the schedule of values, provided the costs can be substantiated. The sum of the items listed in the schedule of values shall equal the contract lump sum prices. Overhead and profit shall not be listed as separate items.

An unbalanced schedule of values providing for overpayment of the CONTRACTOR on items or work that would be performed first will not be accepted. The schedule of values shall be revised and resubmitted until acceptable to the Engineer.

15. PROGRESS SCHEDULES: Prior to beginning work the CONTRACTOR shall furnish the Engineer with an anticipated progress schedule covering all the work to be performed under this contract. During construction the CONTRACTOR shall revise the schedule periodically or monthly as requested to reflect as nearly as possible the actual construction operations. The CONTRACTOR shall also furnish the Engineer as soon as

possible with a schedule showing ordering and delivery dates of all equipment materials to be incorporated in the work, which shall be key to the proposed schedule of work.

16. SUBCONTRACTING:

- a) The CONTRACTOR may utilize the services of specialty Subcontractors on those parts of the work, which, under normal contracting practices, are performed, by specialty Subcontractors.
- b) The CONTRACTOR shall not award any work to any Subcontractors without prior written approval of the OWNER, which approval will not be given until the CONTRACTOR submits to the Engineer a written statement concerning the proposed award to the Subcontractors, which statement shall contain such information as the Engineer may require.
- c) The CONTRACTOR shall be as fully responsible to the OWNER for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.
- d) The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the CONTRACTOR by the terms of the Instructions to Bidders, General and Supplementary Conditions and other Contract Documents insofar as applicable to the work of Subcontractors and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under provisions of the Contract Documents.
- e) The General CONTRACTOR will be responsible for and make good at his own expense any damage or injury to work done by Subcontractors until final completion and final acceptance of all the work to be done.
- f) Nothing contained in this contract shall create any contractual relation between Subcontractors and the OWNER.

17. INSPECTION AND TESTING: If contract specifications, codes, or OWNER instructions require any work to be specially tested or approved, the CONTRACTOR shall give the Engineer timely notice of its readiness for inspections and make all necessary arrangements therefor. The CONTRACTOR shall furnish at his expense all labor and assistance that may be needed by the Engineer in performing any testing or supervision thereof. The contractor is responsible for the costs of any testing required to establish a level of effort required for work and any costs for retests of failed tests.

18. MEASUREMENT AND PAYMENT: The total bid price of the contract shall cover all work shown on the drawings and required by the specifications and other contract documents. All costs in connection with the work, including furnishing of all materials, equipment, supplies, and appurtenances; providing all construction plant, equipment, and tools; and performing of all necessary labor to fully complete the work, shall be included in the prices named in the Proposal. No item that is required by the Contract Documents for the proper and successful completion of the work will be paid for outside of, or in addition to, the prices submitted in the Proposal. All work not specifically set forth as a pay item in the Proposal shall be considered a subsidiary obligation of the CONTRACTOR, and all costs in connection therewith shall be included in the prices named in the Proposal.

19. PAYMENTS WITHHELD: The OWNER may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect the OWNER from loss on account of:

- a) Defective work not remedied.
- b) Claims filed or reasonable evidence indicating probable filing of claims.
- c) Failure of the CONTRACTOR to make payments due to Subcontractors or for materials or for labor.

d) A reasonable doubt that the contract can be completed for the balance then unpaid.

20. DEFENSE OF SUITS: In case any action in court is brought against the OWNER or Engineer, or any officer or agent of either of them, for the failure, omission, or neglect of the CONTRACTOR to perform any of the covenants, acts, matters, or things by this contract undertaken; or for injury or damage caused by the alleged negligence of the CONTRACTOR or his Subcontractors or his or their agents, or in connection with any claim based on lawful demands of Subcontractors, workmen, material men or suppliers; the CONTRACTOR shall indemnify and save harmless the OWNER and Engineer and their officers and agents from all losses, damages, costs, expenses, judgments, or decrees arising out of such action.
21. GUARANTEE: The CONTRACTOR guarantees that the equipment, materials, and workmanship furnished under this contract will be as specified and will be free from defects for a period of one year from the date of acceptance.

Within the guarantee period and upon notification of the CONTRACTOR by the OWNER, the CONTRACTOR shall promptly make all needed adjustments, repairs, or replacements arising out of defects, which, in the judgment of the Engineer or the OWNER, become necessary during such period.

The cost of all materials, parts, labor, transportation, supervision, special tools, and supplies required for replacement of parts, repair of parts, or correction of abnormalities shall be paid by the CONTRACTOR or by his Surety under the terms of the Performance Bond. The CONTRACTOR also extends the terms of this guarantee to cover repaired parts and all replacement parts furnished under the guarantee provisions for a period of one year from the date of their installation.

If within ten (10) days after the OWNER gives the CONTRACTOR notice of a defect, failure, or abnormality of the work, the CONTRACTOR neglects to make, or undertake with due diligence to make, the necessary repairs or adjustments, the OWNER is hereby authorized to make the repairs or adjustments himself or order the work to be done by a third party, the cost of the work to be paid by the CONTRACTOR.

In the event of an emergency where, in the judgment of the OWNER delay would cause serious loss or damage, repairs or adjustments may be made by the OWNER or a third party chosen by the OWNER without giving notice to the CONTRACTOR, and the cost of the work shall be paid by the CONTRACTOR or by his Surety under the terms of the Performance Bond.