

REQUEST FOR SEALED PROPOSAL for CONSTRUCTION/DEMOLITION SERVICES

The City of Rockport, Texas is accepting sealed proposals from qualified vendors for demolition of the old City Hall facility located at 622 E. Market Street. Sealed proposals will be received no later than **Wednesday, July 17, 2019- 2:00 pm CST** at the City of Rockport Service Center 2751 Hwy. 35 By-Pass, Rockport, Texas 78382. The Service Center is located on the South Access Road between Pearl & Market Streets near the Water Tower. Proposals received after the above date and time, or in any other location other than the Public Works Department will not be considered.

No Pre-Bid will be held by the City. All questions related to this RFP should be submitted via e-mail to rfp2019-1@cityofrockport.com. The deadline for accepting written questions shall be **Thursday, July 11, 2019 at 12:00 noon**, five (5) business days before the bid deadline. No questions will be responded to following that date/time.

The following schedule will be implemented regarding this bid opportunity:

- On or about June 5, 2019 Issue & initiate advertise RFP
- Thursday, July 11, 2019 at 12:00 noon deadline to submit written questions
- Wednesday, July 17, 2019 at 2:00pm RFP submission deadline

Any/all addenda will be issued via the City web site at www.cityofrockport.com. Please note it is always the vendor's responsibility to check the City website for any/all addenda. The City of Rockport reserves the right to reject any and/or all proposals and to make awards for individual items as they may appear to be in the best interest of the City and to waive all formalities on bidding. All Minority, Woman and Small Businesses are strongly encouraged to apply. Only responsive bids that are determined to meet the requirements and criteria set forth by the City of Rockport will be considered.

THE UNDERSIGNED ON THE BID PROPOSAL CERTIFIES THAT HE/SHE HAS CAREFULLY EXAMINED THE INSTRUCTIONS TO BIDDERS, TERMS AND SPECIFICATIONS APPLICABLE TO AND MADE A PART OF THIS PROPOSAL.

HE/SHE FURTHER CERTIFIES THE PRICES SHOWN IN THE SCHEDULE OF ITEMS ON WHICH HE/SHE IS BIDDING, ARE IN ACCORDANCE WITH THE CONDITIONS, TERMS AND SPECIFICATIONS OF THE PROPOSAL AND THAT ANY EXCEPTION TAKEN THERETO MAY DISQUALIFY THE BID.

“GENERAL INSTRUCTION TO PROPOSER”

1. The following instructions are to be considered an integral part of this proposal. Unless otherwise requested, one (1) marked “Original” and seven (7) marked “Copy” of the proposal form need be submitted and **MUST BE TYPEWRITTEN OR PRINTED IN INK**. The person signing the bid form must initial any changes or corrections made to this proposal, using blue ink. Finally, one (1) copy shall be submitted on a flash drive in a PDF format.
2. The person, firm or corporation making the proposal shall submit their bid in a plain ENVELOPE marked and addressed to **“ROCKPORT CITY HALL DEMOLITION PROJECT- ATTN: PROJECT MANAGER”**. The envelope must be complete with the bidding company’s name, bid title, and bid date. No proposal may be withdrawn or modified in any way after the bid-opening deadline.
3. If descriptive literature is attached to the bid, bidding company’s name, bid title, and bid date must clearly appear on the introductory pages and all pages of the bid should be clearly numbered.
4. If there is any question whatsoever regarding any portion of the instructions or specifications, it shall be the bidding company’s responsibility to seek clarification immediately from the City of Rockport during the question period stated herein. It shall be the bidder’s responsibility to check the City’s website www.cityofrockport.com for any/all addenda(s). Answer(s) to all questions will be answered after the deadline for questions has expired, and posted on the City’s web site, if applicable, within the specified timeline listed on page one (1)- rfp2019-1@cityofrockport.com.
5. The apparent silence of the specifications and any supplement specifications as to any details or the omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that only materials of first quality and correct type, size and design are to be used. All workmanship is to be of first quality. All interpretations of this specification shall be made upon the basis of this statement.
6. The following bid shall be awarded to one “responsible” bidder, who provides best value for the City of Rockport, on a total lump sum price basis. An award shall be made to one vendor for the total bid. Unit prices and extensions will be verified and total checked. Unit price extension and net total must be shown. Unit price SHALL prevail.
7. The proposals shall be evaluated on the following items, but not necessarily in this order:
 - a. Lowest Price;
 - b. Adherence to specifications;
 - c. the reputation of the bidder and of the bidders services;
 - d. the quality of the bidder’s services;
 - e. the extent to which the services meets the City of Rockport’s needs;
 - f. the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;

- g. the total long-term costs to the City of Rockport to acquire the bidders' services; and
- h. Past record of vendor's delivery/performance to the City of Rockport.

Note: If Applicable to Scope of Work-Through the projected delivery schedule will be a large consideration, please be as truthful and precise with your date(s) as possible.

8. The City of Rockport desires delivery of the material or services specified at the earliest possible time after the date of contract award. An unreasonable delivery proposal may be cause for disqualification and/or loss of a bid. Each bidder shall state a definite time and avoid using the terms such as ASAP or approximately so many days.

9. INSURANCE

a. CONTRACTOR'S LIABILITY INSURANCE - Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City of Rockport. Contractor must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.

b. Contractor must furnish to the City of Rockport, one copy of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City of Rockport. The City of Rockport must be listed as an additional insured on the General Liability and Auto Liability policies by endorsement, and a waiver of subrogation is required on all applicable policies including Workers' Compensation. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-written day notice of cancellation, required on all certificates or by applicable policy endorsements.	Bodily Injury and Property Damage Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS' COMPENSATION Statutory EMPLOYER'S LIABILITY	\$500,000 /\$500,000 /\$500,000

c. In the event of accidents of any kind related to this agreement, Contractor must furnish the City of Rockport with copies of all reports of any accidents within 10 days of the accident.

d. Asbestos Abatement Liability Insurance with limits of at least \$1,000,000 per occurrence covering all risks arising from the Contractor and its employees removing and properly disposing of asbestos. The certificate must clearly state that there is \$1,000,000 of Asbestos Abatement coverage.

e. Subcontractors. In the case of any work sublet, the Contractor shall require subcontractors and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor. Asbestos removal must be done by a licensed asbestos removal contractor with a current certificate of insurance on file with the CITY OF ROCKPORT.

10. ADDITIONAL REQUIREMENTS

a. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Contractor will be promptly met.

b. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.

c. Contractor shall be required to submit a copy of the replacement certificate of insurance to CITY OF ROCKPORT at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes. All notices required shall be given to CITY OF ROCKPORT at the following address:

City of Rockport
Attn: Public Works Department
2751 State Highway 35 Bypass
Rockport, Texas 78382

d. Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- List the CITY OF ROCKPORT and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations, completed operation and activities of, or on behalf of, the named insured performed under contract with the CITY OF ROCKPORT, with the exception of the workers' compensation policy;
- Provide for an endorsement that the "other insurance" clause shall not apply to the CITY OF ROCKPORT where the CITY OF ROCKPORT is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the CITY OF ROCKPORT. An All States Endorsement will be required for companies not domiciled in Texas; and

- Provide thirty (30) calendar days advance written notice directly to CITY OF ROCKPORT of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

e. Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to CITY OF ROCKPORT. CITY OF ROCKPORT shall have the option to suspend Contractor's work should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

f. In addition to any other remedies the CITY OF ROCKPORT may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY OF ROCKPORT shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) if any, which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

g. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.

h. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the CITY OF ROCKPORT for liability arising out of operations under this contract.

i. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract

11. Federal or State Sales Tax is inapplicable

a. The City of Rockport Federal tax identification number (FIN) is 74-6002000

b. The City of Rockport is tax-exempt under the code of Texas, Ref #746002000

12. Cash discounts or end of month terms should be shown separately, even if terms are net.

13. The City of Rockport reserves the right to accept or reject any and all bids, due to past performance, etc. and waive any informality. The City of Rockport will accept or reject all bids within 90 days from the date of the bid opening.

SCOPE of WORK

Due to the impacts of Hurricane Harvey in August, 2017 the City Hall facility was severely damaged. The facility located at 622 E. Market Street in Rockport, Texas is no longer functional and must be torn down.

The main purpose of this RFP is to solicit proposals to perform demolition services for this facility as well as any other structure's the City may from time to time have to remove due to the storm impacts over the next one (1) year term.

Site #1....The former City Hall facility (located at 622 E. Market Street- Rockport, Texas). This facility was constructed in 1985 and the construction method is considered concrete block. All utilities to the site will

be disconnected by the City. No asbestos is present. Hours of operation for the contractor are governed by City Code of Ordinances Chapter 42 Article III and are to be undertaken Monday- Saturday 7:00 am – 10:00 pm. A demolition permit is required to be obtained by the contractor in advance of work being initiated. Digital photographs of the site and facility are to be taken by the Contractor before and after the work and turned into the City upon completion of the work task.

General Details: Contractor may salvage materials left at and/or in the facility in an as is condition. The City Hall demolition work is to be completed in a 30-45-day timeframe. NOTE: The dedication plaque located on the facility is to be returned in good condition to the City for historical purposes. The site is to be secured at all times while the demolition work is in progress. Failure to secure the work site or impact traffic at the site may result in the suspension of City Permits.

Clean-up: The Site is to be raked clean and free of all glass, nails, wire, metal, sharp objects, plastic, or any other materials that could reasonably cause harm to passing citizens following work completion.

The site should be GRASSED/SEEDED with a drought tolerant variety of GRASS SEED/PLACE ERROSIN CONTROL/SOIL REMOVAL-REPLACEMENT (2 inches) & hauled off & replaced with CLEAN FILL DIRT

REFERENCE: PLEASE SHOW ALL EXCEPTIONS AND BID COMMENTS BELOW

Contractor SIGNATURE:

DATE:

SUBCONTRACTOR

I will / will not propose to subcontract some of the work on this project?

(Insert response)

Sub-Contractor Information

I propose to subcontract work to the following:

	Subcontractor Print Name Percent of Work	Brief Description of Work to be Performed by Subcontractor
1		
2		
3		
4		
5		
6		
7		

Vendor Contact Name (print) Title

Vendor Contact Signature Date

Note: The City of Rockport requires the (primary) contracted vendor to complete no less than fifty-one (51) percent of the proposed project.

REFERENCE REQUEST

The following references are from current and past government, educational and/or commercial accounts of similar size and scope. Your list should consist of a minimum of three (3) references, and will not include the City of Rockport. Nor should your references be current or former City employees.

REFERENCE # 1:

Name of Company/Entity:

Mailing Address (City/State/Zip Code):

Contact Person Name:

Contact Person Telephone Number:

Date When Work Performed:

Brief Description of Work Performed:

REFERENCE # 2:

Name of Company/Entity:

Mailing Address (City/State/Zip Code):

Contact Person Name:

Contact Person Telephone Number:

Date When Work Performed:

Brief Description of Work Performed:

REFERENCE # 3:

Name of Company/Entity:

Mailing Address (City/State/Zip Code):

Contact Person Name:

Contact Person Telephone Number:

Date When Work Performed:

Brief Description of Work Performed:

By signing below, I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this bid, and certify that I am authorized to sign this bid for the bidder.

Vendor Name:

Vendor Category:

Physical Address:

City, State, Zip:

Telephone:

Fax:

Alternate Phone:

Remit To:

City, State, Zip:

PROPOSAL EVALUATION CRITERIA

1. Experience

- a. List of comparable Construction/Demolition projects completed in the last 5 years. Include: size, cost, total fee, time to complete, scope of services, description and cost of contractor change orders, any special features, awards received, and type of project (be sure to specify which projects were similar to facilities of this size and type).
- b. Provide no more than 3-5 examples of your experience as prime contractor in safely demolishing facilities and providing clean-up services similar to this project (OR other public and private projects that indicate similar experience). For each of these projects:
- c. Provide photographs.
- d. Provide a reference familiar with your performance on the project. It is the proposer's responsibility to ensure that the listed contact and phone number are current.
- e. List the individual who served as the Project/Director, Project Manager, Superintendent, and Cost Estimator. Please note whether this individual is still employed with your firm.

2. Staffing Management

- a. Provide a proposed list, which identifies individual names and areas of responsibility as proposed.
- b. Submit brief resumes of each key team member, as listed below, in this section of the RFP.
 - i. Project Manager (If Applicable)
 - ii. Superintendent (If Applicable)
 - iii. Safety Supervisor
 - iv. Civil Engineer (If Applicable)
 - v. Other specialty consultants as applicable
 - vi. Major Subcontractors
- c. Resumes shall show at least the following:
 - i. Name, specialty, job title, and project job title. The project job title must correspond with the positions listed.
 - ii. Years of relevant experience with firm, and experience with previous employers. Project experience descriptions must include dates.
 - iii. Academic degree(s), discipline and year degree(s) received.
 - iv. Professional registrations.

- v. Name of the firm(s) responsible for the individual and office location where employed.
- vi. A synopsis of specific experience, skills, training, or other qualities, which demonstrate the individual's ability to fulfill the duties of their position.
- vii. Provide a current list of other commitments by the staff listed, and/or other key team members.
- viii. Identify the individual who, from project start to finish, will be the leader of your construction team and the principal point of contact between your firm and the City.

COST PROPOSAL FORMAT

The Contractor must provide a detailed price structure for the requested services, which will include unit prices as listed in scope of work. The Cost Proposal is to be submitted in a sealed envelope and marked "Cost Proposal." A detailed line-item price structure that equals the lump sum total for Task #1 is to be enclosed with the bid proposal. In addition, a list of unit prices for subsequent demolition tasks good for a period of one (1) year shall also be provided.

EVALUATION AND SELECTION CRITERIA

Rockport's selection of a firm shall be based upon the demonstrated competence and qualifications of the firms to provide the type of service required. Each proposal will be evaluated and scored through an independent process by the City's staff.

The Proposer's submittal must fully address the requirements listed in this solicitation and the Firm's degree of experience, knowledge, and ability to provide experienced and qualified support staff. The proposal is not to have any exclusions, conditions or provisions applied to the aforementioned request unless so listed by the contractor. It is the City's intention to select a firm which is the most qualified to meet the City's needs. The award shall be based on but not limited to the following factors:

RFP EVALUATION CRITERIA Scoring Value= Maximum Points

Relevant Experience and References

- Description of comparable projects.
- References for related work over the past three (3) years, including client name, mailing address, contact name and phone number, email address, and a description of the services provided, including project dates and special features. 30 points

Experience and Availability of Key/Assigned Staff

- List of proposed personnel to be specifically assigned to this project, including their qualifications, overall experience on projects of similar scope, and résumé
- List of commitments of key team members and availability to perform. 30 points

Methodology and Technical Approach to the Project, Quality and Completeness of the Response of the Proposal.

- Clear indication that all minimum requirements are met.
- Overall quality of proposal that indicates clear understanding of scope of work.
- Draft schedule for Task #1 that includes milestones and estimated time of completion.

Cost Proposal 40 points

MAXIMUM SCORING POINTS TOTAL 100

Oral Presentation/Interview (if warranted)

- At its sole discretion, the Evaluation Committee made up of City/County employees may require an interview/presentation before the final selection and award to a Firm. Submittal of material and information during an interview/presentation could add up to 15 additional points to the total score of the Firm. 15 points

(possible additional points if an oral presentation is requested)

Best and final offer process represents an optional step in the selection process and may be used when:

- A. No single response addresses all the specifications.
- B. The cost submitted by all proposers is too high.
- C. The scores of two (2) or more proposers are very close after the evaluation process.
- D. All proposers submitted responses that are deficient in one or more area.

City of Rockport reserves the right to remove the high score and the low score for each offer if deemed necessary at the sole discretion of the City to reach the best result for securing City services in a timely and cost-effective manner.

The City reserves the right to negotiate the fee and/or Scope of Services with the highest ranked Proposer. If negotiations cannot be completed successfully, then the City reserves the right to negotiate with the second highest ranked Contractor. Recommendations for an award will be the Proposer with whom potential contract negotiations were successful.

Vendor General Questionnaire

The City of Rockport, Texas is seeking vendor information to create a database of current and new businesses doing business with the City. We ask that all vendors take this time to provide the following information so that we can update our records and develop a process to benefit the needs of the community. The information collected from this questionnaire will not be used in the award of bids. The City will continue to utilize a fair, equitable and impartial process and award bids based upon the lowest responsible bidder.

Vendor Name:

Vendor Category:

Physical Address:

City, State, Zip:

Telephone:

Fax:

Alternate Phone:

Remit To:

City, State, Zip:

- Please note: A "Minority Business Enterprise" (MBE) is a business which is an independent and continuing operation for profit, performing a commercially useful function, which is owned and/or controlled by one or more minority group member(s).

African American Business Enterprise (AABE), Hispanic Business Enterprise (HBE), Female Business Enterprise (FBE), Asian Business Enterprise (ABE), Native American Business Enterprise (NABE)

- An "Owned" is a minority or female owner which possesses an ownership interest 51% of the business
- A "Controlled" is a minority or female which possess and exercise the legal authority and power to manage business assets, good will and daily operations of the business and actively and continuously exercise such managerial authority and power in determining the policies and directing the operations of the business.

Classification of your MBE Company (required):

Vendor Contact Name (print) Title

Vendor Contact Signature Date

EXHIBIT "A"

CONTRACT FOR CONSTRUCTION/DEMOLITION SERVICES

Competitive Sealed Proposal No. _____ This Contract is entered into this ___ day of _____, 2019, by and between the City of Rockport, Texas, a home rule municipal corporation, ("CITY") and _____, a _____, ("Contractor").

RECITALS

A. CITY has issued requests for proposals No. _____("RFPs") for the demolition, removal and disposal of City Hall Chambers at _____, Rockport, Texas ("Work"); and

B. Contractor's proposal, in response thereto, has been selected as the most qualified proposal for the provision of Work; and

C. On _____, 2019, the CITY, approved the selection of Contractor and authorized the Mayor to execute a contract, under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, Contractor and CITY agree as follows:

TERMS

1. RECITALS AND INCORPORATIONS:

The recitals are true and correct and are hereby incorporated into and made a part of this Contract. The RFP and Contractor's Proposal are sometimes referred to herein collectively as the Contract Documents ("Contract Documents"), which are by this reference incorporated herein and made a part of this Contract and attached hereto as Exhibit "A".

2. STATEMENT OF WORK:

A. Contractor agrees to perform all Work and furnish all of the material, supplies, tools, equipment, labor, site preparation, mobilization, preparatory clean up work, _____, and other services necessary for the completion of Work described in the RFP. All work and services shall be performed by competent person; trained, knowledgeable and qualified to perform the work. Contractor agrees to complete all Work as specifically described in the Contract Documents, which by this reference is incorporated herein by reference. Contractor shall comply with all applicable Federal, State, and Local regulations.

B. Contractor represents and warrants to CITY that: (i) it possesses all qualifications, licenses and expertise required under the specifications and price quote for the performance

of Work; (ii) it is not delinquent in the payment of any sums due CITY, including payment of permit fees, occupational licenses, etc., nor in Work of any obligations to CITY; (iii) all personnel assigned to perform Work are and shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; and (iv) Work will be performed in the manner described in the Contract Documents.

3. TIME OF PERFORMANCE:

Contractor agrees to substantially complete Work within _____ (____) consecutive calendar days (“Contract Time”) after the date Work commences as established by the Notice to Proceed. Upon Contractor’s receipt of the Notice to Proceed from CITY, Contractor will commence and complete Work in accordance with specifications as set out in Contract Documents. Contractor further agrees that approval for beginning Work on the project will not be given and that Work will not start until all required bonds and insurance certificates specified in the bid documents have been received and approved by CITY.

4. LIQUIDATED DAMAGES:

CITY and Contractor recognize that the time of performance is of the essence in this Contract and that CITY will suffer financial loss if Work is not substantially complete within the time specified in Section 3. above, plus any extensions thereof allowed. Both parties hereto also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by CITY if Work is not substantially complete on time. Accordingly, instead of requiring such proof, CITY and Contractor agree that a reasonable estimate of liquidated damages for any delay (but not as a penalty) would be for Contractor to pay CITY _____ HUNDRED AND 00/100 DOLLARS (\$__00.00) for each calendar day that expires after the time specified in Section 3 until Work is substantially complete. Therefore, Contractor shall pay as liquidated damages _____ HUNDRED AND 00/100 DOLLARS (\$__00.00) for each calendar day that expires after the time specified in Section 3. until Work is substantially complete.

5. CONTRACT PRICE:

CITY shall pay to Contractor for performance of Work embraced in this Contract, and Contractor shall accept as full compensation therefore, the price of _____ AND 00/100 DOLLARS (\$_.00) subject to adjustment only as provided by approved change order, for all Work covered by and included in the Contract award; payment thereof to be made in current funds in the manner provided in Section 6. Payment Procedures.

6. PAYMENT PROCEDURES:

Contractor shall submit Applications for Payment on the fifteenth (15th) day after the Work has commenced and when the Work is completed and CITY shall process the Applications for Payment in accordance with its payment policies and Chapter 2251 of the Texas Government Code, except that progress payments and the final payment under this Contract shall be made as set forth below:

Progress Payments. CITY shall make progress payments of the Contract Price on the basis of Contractor's applications for payment on or about the thirtieth (30th) day after submittal of the application for payment each month in accordance with Chapter 2251, Texas Government Code, and as provided below. All progress payments shall be based upon the progress of Work, measured as provided above. Contractor shall subdivide Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Partial payment retainage shall not exceed five percent (5%) of the total bid price. Upon approval of the value by CITY, it shall be incorporated into the form of a Partial Payment Estimate furnished by Contractor. Payment will not be made for materials and equipment on hand or delivered to the site but not installed. B. Final Payment. Upon completion and acceptance of Work by CITY, CITY shall pay the remainder of the Contract Price.

7. CONTRACT DOCUMENTS:

The following documents from CITY are incorporated herein by reference for all purposes, as if fully set out verbatim:

- RFP No. _____
- Contractor's bid documents
- All of the documents, conditions, specifications, technical data, drawings, requirements and addenda comprising said RFP as of the time this Contract is entered into by Contractor and CITY.

8. REPRESENTATIONS OF CONTRACTOR:

In order to induce CITY to enter into this Contract, Contractor makes the following representations to CITY:

- A. Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, and with all local conditions and federal, state and local laws.
- B. Contractor has made, or caused to be made, examinations and investigations of information as it deems necessary for the performance of Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations or similar data are, or will be required by Contractor for such purposes.
- C. Contractor has given CITY advanced written notice of all conflicts, errors, or discrepancies that it has discovered in Contract Documents prior to bidding and the written resolution thereof by CITY is acceptable to Contractor. D. Contractor is skilled and experienced to responsibly perform the type of Work described in Contract Documents in a timely manner.

9. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:

Contractor understands that contracts between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, recordkeeping, etc. CITY and Contractor agree to comply with and observe all applicable laws, codes and ordinances as they may be amended from time to time.

10. OWNERSHIP OF DOCUMENTS:

Contractor understands and agrees that any information, document, report or any other material whatsoever which is given by CITY to Contractor or which is otherwise obtained or prepared by Contractor pursuant to or under the terms of this Contract is and shall at all times remain the property of CITY. Contractor agrees not to use any such information, document, report or material for any other purpose whatsoever without the written consent of CITY, which may be withheld or conditioned by CITY in its sole discretion.

11. AUDIT AND INSPECTION RIGHTS:

A. CITY may, at reasonable times, and for a period of up to three (3) years following the date of final payment by CITY to Contractor under this Contract, audit, or cause to be audited, those books and records of Contractor which are related to Contractor's performance under this Contract. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Contract.

B. CITY may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such tests, as CITY deems reasonably necessary, to determine whether the goods or services required to be provided by Contractor under this Contract conform to the terms hereof and/or the terms of the Contract Documents, if applicable. Contractor shall make available to CITY all reasonable facilities and assistance to facilitate the performance of tests or inspections by CITY representatives.

12. AWARD OF CONTRACT:

Contractor represents and warrants to CITY that it has not employed or retained any person or company employed by CITY to solicit or secure this Contract and that it has not offered to pay, paid, or agreed to pay any person any fee, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award of this Contract.

13. PUBLIC RECORDS:

Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, and agrees to allow access by CITY and the public to all documents subject to disclosure under applicable law. Contractor's failure or refusal to comply with the provisions of this section shall be considered a material breach of this Contract and may result in the immediate termination of this Contract by CITY.

14. DEFAULT:

If Contractor fails to comply with any term or condition of this Contract, or fails to perform any of its obligations hereunder, then Contractor shall be in default. Upon the occurrence of a default hereunder, CITY in addition to all remedies available to it by law, may immediately, upon written notice to Contractor, terminate this Contract whereupon all unpaid contract funds shall be available to CITY to complete the construction and/or remedy any defective performance by Contractor. Should Contractor default, any advances for work to be performed or materials to be ordered which have been paid by CITY to Contractor shall be immediately returned to CITY. Should the costs to complete the Work and/or remedy any defective performance by Contractor exceed the remaining Contract balance, Contractor shall be liable to CITY for all costs and expenses to complete the construction and/or remedy any defective performance, to include any cost associated with re-procurement, and for any consequential and incidental damages suffered by CITY. Contractor understands and agrees that termination of this Contract under this section shall not release Contractor from any obligation accruing prior to the effective date of termination.

15. TERMINATION RIGHTS OF CITY:

A. CITY shall have the right to terminate this Contract, in its sole discretion, at any time, for any reason, by giving written notice to Contractor at least five (5) business days prior to the effective date of such termination. In such event, CITY shall pay to Contractor compensation for Work rendered and expenses incurred prior to the effective date of termination. In no event shall CITY be liable to Contractor for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

B. CITY shall have the right to terminate this Contract, without notice or liability to Contractor, upon the occurrence of an event of default hereunder. In such event, CITY shall not be obligated to pay any amounts to Contractor and Contractor shall reimburse to CITY all amounts received while Contractor was in default under this Contract.

16. RESOLUTION OF CONTRACT DISPUTES:

A. Contractor shall make a written request for resolution of the dispute (the "Request") to CITY's designated official (the "Official") for determination of the matter in dispute. The Request shall clearly state the disputed issue and include or incorporate by specific reference all information or documents that Contractor wants the Official to consider in reaching a determination. The Official shall issue a written notice of decision upon Contractor's Request within the thirty (30) days of receipt of Contractor's Request. If the Official cannot issue a decision within thirty (30) days of the receipt of Contractor's Request, the Official shall notify Contractor the date upon which a decision shall be issued. Submission of a Contractor's Request for determination of the dispute is a condition precedent to Contractor's ability to engage in litigation against CITY. If a decision is not issued by the date indicated by the Official or within ninety (90) days after the submission of Contractor's written Request for determination, whichever occurs first, Contractor will

be deemed to have met the condition precedent required by this provision. Should the dispute be resolved through the submission of Contractor's Request, the resolution of the dispute will be documented, if necessary, through a change to the Contract. Should the dispute fail to reach resolution through the submission by Contractor's Request, the dispute may be submitted to mediation at the sole discretion of CITY. CITY agrees that it shall make an election within no later than sixty (60) days after the issuance of a determination by the Official in response to a Contractor's Request, final completion, abandonment or termination of the Project, whichever is later. Such mediation shall be conducted by and between the parties in accordance with the AAA Rules of Mediation for Construction Cases then in effect. Contractor understands and agrees that it shall continue to perform Work under the Contract unless further performance has been excused by termination of Contractor or stopping Work is specifically allowed under the laws of the State of Texas. Contractor understands that should a settlement be reached at mediation, it is subject to the approval of the city. If either mediation is unsuccessful or CITY elects not to proceed to mediation, then the dispute shall be submitted to litigation in keeping with the terms of this Contract and the laws of the State of Texas.

B. Contractor understands and agrees that any and all other disputes arising between Contractor and CITY not related to changes, change orders or extra work, may be submitted to mediation at the sole discretion of CITY. CITY agrees that it shall make such an election within no later than sixty (60) days from the date of final completion, abandonment or termination, whichever is later. Such mediation shall be conducted by and between the parties in accordance with the AAA Rules of Mediation for Construction Cases then in effect. Contractor understands and agrees that it shall continue to perform Work under the Contract unless further performance has been excused by termination of Contractor or is specifically allowed under the laws of the State of Texas. Contractor understands that should a settlement be reached at mediation, it is subject to the approval of the CITY. If either mediation is unsuccessful or CITY elects not to proceed to mediation, then the dispute shall be submitted to litigation in keeping with the terms of this Contract and the laws of the State of Texas.

17. INSURANCE:

A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the CITY. Contractor must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.

B. Contractor must furnish to the CITY, 1 copy of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the CITY. The CITY must be listed as an additional insured on the General Liability and Auto Liability policies by endorsement, and a waiver of subrogation is required on all applicable policies including Workers' Compensation. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI. contractor with a current certificate of insurance on file with the CITY.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
All policies shall be written on a per occurrence form with 30-written day notice of cancellation, required on all certificates or by applicable policy endorsements.	Bodily Injury and Property Damage Per occurrence - aggregate
Commercial General Liability including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS' COMPENSATION Statutory EMPLOYER'S LIABILITY	\$500,000 /\$500,000 /\$500,000

C. In the event of accidents of any kind related to this agreement, Contractor must furnish the City of Rockport with copies of all reports of any accidents within 10 days of the accident.

D. Asbestos Abatement Liability Insurance. Intentionally deleted.

E. Subcontractors. In the case of any work sublet, the Contractor shall require subcontractors and independent contractors working under the direction of either the Contractor or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Contractor. Asbestos removal must be done by a licensed asbestos removal contractor with a current certificate of insurance on file with the CITY OF ROCKPORT.

F. ADDITIONAL REQUIREMENTS

1. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Contractor will be promptly met.
2. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted

to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.

3. Contractor shall be required to submit a copy of the replacement certificate of insurance to CITY OF ROCKPORT at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes. All notices required shall be given to CITY OF ROCKPORT at the following address:

City of Rockport
Public Works Department
Address
Rockport, Texas

4. Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- List the CITY OF ROCKPORT and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations, completed operation and activities of, or on behalf of, the named insured performed under contract with the CITY OF ROCKPORT, with the exception of the workers' compensation policy;
- Provide for an endorsement that the "other insurance" clause shall not apply to the CITY OF ROCKPORT where the CITY OF ROCKPORT is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the CITY OF ROCKPORT. An All States Endorsement will be required for companies not domiciled in Texas; and
- Provide thirty (30) calendar days advance written notice directly to CITY OF ROCKPORT of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

5. Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to CITY OF ROCKPORT. CITY OF ROCKPORT shall have the option to suspend Contractor's work should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

6. In addition to any other remedies the CITY OF ROCKPORT may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY OF ROCKPORT shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) if any, which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

7. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.

8. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the CITY OF ROCKPORT for liability arising out of operations under this contract.

9. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract

18. INDEMNIFICATION:

A. GENERAL INDEMNIFICATION. Contractor shall indemnify, defend and hold harmless the City of ROCKPORT, Texas, and its city council members, officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Contract which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of Contractor or its employees, agents or sub-contractors (collectively referred to as "Contractor"), regardless of whether it is, or is alleged to be, caused in whole or part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) or strict liability of the Indemnities, or any of them or (ii) the failure of Contractor to comply with any of the paragraphs herein or the failure of Contractor to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Contract. Contractor expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Contractor, or any of its sub-contractors, as provided above, for which Contractor's liability to such employee or former employee would otherwise be limited to payments under State Workers' Compensation or similar laws. Nothing herein shall require Contractor to indemnify, defend, or hold harmless any Indemnatee for the Indemnatee's own gross negligence or willful misconduct.

B. ENVIRONMENTAL INDEMNIFICATION. Contractor agrees to indemnify, defend and hold CITY, the City of Rockport, Texas, and their council members, board and commission members, officials, agents, guests, invitees, consultants and employees free and harmless from and against any and all claims, demands, proceedings, suits, judgments, costs, penalties, fines, damages, losses, attorneys' fees and expenses asserted by local, state or federal environmental agencies or private individuals or entities in connection with or resulting from or arising out of Contractor's handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse by any person under Contractor's direction or

control of waste collected, transported or landfilled or any cleanup associated with environmental contamination, whether such cleanup is of air, soil, structure, ground water or surface water contamination. Contractor specifically agrees to indemnify, defend and hold harmless CITY against all claims, damages and liabilities of whatever nature asserted under CERCLA caused by acts or omissions of Contractor regardless of when such incident is discovered. Contractor shall be responsible and liable for any spill, underground pollution or any other environmental impairment incident caused by acts or omissions of Contractor regardless of when such incident is discovered. It is the intent of the parties that this section shall in no way limit other coverage herein as it may relate to any environmental claim, damage, loss or liability of any kind.

19. INDEPENDENT CONTRACTOR:

Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Contractor shall at all times remain an independent contractor with respect to Work to be performed under this Contract. CITY shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance on Contractor's employees.

20. NONDISCRIMINATION:

Contractor represents and warrants to CITY that Contractor does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Contractor's performance under this Contract on account of race, color, sex, religion, age, handicap, marital status or national origin. Contractor further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Contract.

21. VERIFICATION OF EMPLOYMENT ELIGIBILITY:

Contractor must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Contractor -- not CITY -- must verify eligibility for employment as required by IRCA.

22. AMENDMENTS:

CITY and Contractor may amend this Contract at any time provided that such amendments make specific reference to this Contract, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by CITY. Such amendments shall only address the items or issues dealt with in the amendment and shall not invalidate any other portion or provision of this Contract, nor relieve or release CITY or Contractor from their respective obligations under this Contract except as may be specifically set forth in the amendment.

23. ASSIGNMENT:

No assignment by a party hereto of any rights under, or interest 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 prior consent (except to the extent that 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.

24. SUCCESSORS AND ASSIGNS:

This Contract shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, or assigns.

25. NOTICES: Communications and details concerning this Contract shall be directed in writing to the following representatives:

CITY [Insert]

CONTRACTOR [Insert]

Before CITY shall be liable to Contractor or any of its successors or assigns for any alleged breach of this Contract, notice must first be given CITY no later than ninety-one (91) days of the date Contractor alleges the breach occurred. Such notice shall be given in accordance with this provision and shall state the date, time, and circumstances of the alleged breach.

26. MISCELLANEOUS PROVISIONS:

A. Remedies: In the event of default by Contractor under the Contract Documents, CITY shall have all rights and remedies afforded to it at law or in equity to enforce the terms of the Contract. The CITY's exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity that may be available to CITY against either Contractor or its Surety.

B. Attorneys' Fees: If any action at law or in equity is necessary by either CITY or Contractor to enforce or interpret the terms of the Contract Documents, the party prevailing on the majority of issues shall be entitled to reasonable attorneys' fees and costs and any necessary disbursements in addition to any other relief to which the prevailing party is entitled.

C. Conflicts: This Contract, the documents required to be provided, and the Contract Documents constitute the entire Contract between the parties hereto and supersede any prior written or oral agreements and understandings between the parties. If any provision of this Contract, the Specifications or any other provision contained within the Contract Documents conflicts, or is inconsistent with any other provision of the Contract

Documents, then the conflict or inconsistency will be resolved first by reference to the terms of this Contract and then finally to the Specifications therein, unless a federal law, regulation or restriction would require otherwise, in which case the federal provision would control.

D. Severability: If any provision of this Contract is held invalid or unenforceable, the remainder of this Contract shall not be affected thereby and all other parts of this Contract shall nevertheless be in full force and effect.

E. Venue: This Contract, including the Contract Documents, is fully performable in Aransas County, Texas; and venue for any suit or claim or cause of action arising out of or related to Work covered by this Contract shall be in said County.

F. Counterparts: This Contract may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Contract. By affixing their signature to this Contract, each individual is representing that he or she has the authority to sign this Contract and to bind the party that they represent to this Contract.

G. Enforcement: This Contract shall be construed and enforced according to the laws of the State of Texas.

H. Headings: Titles and paragraphs are for convenient reference and are not a part of this Contract.

I. No Waiver: No waiver or breach of any provision of this Contract shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

J. Governing Laws: Should any provision, paragraph, sentence, word or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the City of Rockport, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Contract shall remain unmodified and in full force and effect or limitation of its use.

K. Applicable Law: This Contract and the Contract Documents are subject to all applicable federal and state laws, statutes, codes, rules and regulations and local ordinances, rules and regulations.

27. CONTINGENCY CLAUSE:

Funding for this Contract is contingent on the availability of funds and continued authorization for program activities and the Contract is subject to amendment or termination for convenience due to lack of funds, reduction of funds and/or change in regulations, upon thirty (30) days' notice.

28. ENTIRE CONTRACT:

This Contract constitutes the sole and entire agreement between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

29. REAFFIRMATION OF REPRESENTATIONS:

Contractor hereby reaffirms all of the representations contained in Contract Documents.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the ___ day of _____, 2019