



INVITATION FOR BIDS (IFB)

No. PCCD-24-LPCW28Rehab-01

May 16, 2024

**REHABILITATION
of
Lower Plum Creek Watershed
Floodwater Retarding Structure Site 28
Caldwell County, Texas**

**Contracting Local Organization
Plum Creek Conservation District
Lockhart, Texas**

**Sponsors
Caldwell-Travis Soil and Water Conservation District
Hays County Soil and Water Conservation District
Plum Creek Conservation District**

In cooperation with:

**U. S. Dept of Agriculture, Natural Resources Conservation Service
Texas State Soil and Water Conservation Board**

PLAN HOLDER REGISTRATION FORM / TERMS & CONDITIONS

Invitation for Bids (IFB) No. PCCD-24-LPCW28Rehab-01

Lower Plum Creek Watershed, Floodwater Retarding Structure Site 28 – Rehabilitation

It is the responsibility of all persons who download bid documents to REGISTER as a Plan Holder with the Plum Creek Conservation District (PCCD). Registered Plan Holders will be advised via email or other means of all IFB Amendments that are issued, and all Amendments will be available for downloading at the Plum Creek Conservation District website: <https://pccd.org> (**Job Bids tab**). A bidder's failure to acknowledge receipt of an IFB Amendment (see IFB PART I, Subpart B, Instructions to Bidders) may result in rejection of the sealed bid.

TO REGISTER, please fill out information below (all fields are mandatory) and submit form via:

FAX to 512-398-7776 (Attention: Daniel Meyer, PCCD Executive Manager)

-- or --

Scan and EMAIL completed form to **both** of the following email addresses:

daniel.meyer@pccd.org

jamaynard1@msn.com

SIGNATURE (Contact Person listed below): _____

Company Name: _____

Contact Person/Title: _____

Mailing Address: _____

Physical Address: _____

Office Phone: _____ Mobile: _____ FAX: _____

Email Address: _____

Bid documents for this project may be downloaded from this site, for bidding purposes only, if the User agrees, without exception, to the following terms and conditions:

The User agrees that electronic media documents downloaded from this site are for their use in preparation of their bid and are offered as a convenience to the User. Use of these materials for any other purpose shall be without liability to Plum Creek Conservation District and their consultants. The User acknowledges and agrees that Plum Creek Conservation District's instruments of service are the printed hard copy (as amended) of the Invitation for Bids issued for the respective project as available for viewing at the Plum Creek Conservation District office. In the event of a conflict in their contents, the printed hard copy shall take precedence over the electronic media. Plum Creek Conservation District's electronic media are furnished without guarantee of compatibility with the bidder's software or hardware. It is the User's responsibility to determine/evaluate the capability of their equipment to provide documents that are accurate for size, scale, and content.

If the User elects to only download partial information (selected sheets of the drawings or pages of the specifications), they shall be responsible to obtain all pertinent bidding information to adequately and accurately prepare their bid proposal. The User is responsible to include in their proposal all of the Required Bid Information as specified in IFB PART I, Subpart B, Instruction to Bidders #3.

The User agrees to indemnify, defend and hold harmless the Plum Creek Conservation District, their consultants and the officers and employees and any of them from and against any and all claims, suits, losses, damages or costs, including attorney's fees, arising from or by reason of the User's use of these electronic media documents.

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PART I – GENERAL PROVISIONS
SUBPART A

NOTICE TO BIDDERS

Sealed bids for furnishing all labor, material and equipment and performing all work required for rehabilitation of Lower Plum Creek Watershed, Floodwater-Retarding Structure Site 28 will be received until **10:00 a.m. local time, Wednesday, June 12, 2024**, at Plum Creek Conservation District (PCCD) office, 1101 West San Antonio Street, Lockhart, TX 78644, or may be mailed to this address. Promptly after 10:00 a.m. all bids received will be publicly opened.

Bids must be addressed to the attention of Daniel Meyer, PCCD Executive Manager, and mailed (or hand carried) to the above address in a sealed envelope (placed inside the mailing envelope, if any) labeled as follows:

- (1) IFB No. PCCD-24-LPCW28Rehab-01
- (2) Bid Opening Date / Time: June 12, 2024 – 10:00 A.M.
- (3) Name and Address of Bidder

There will be a **pre-bid conference** beginning at 9:30 a.m. on Thursday, May 30, 2024, to be held at PCCD office, 1101 West San Antonio Street, Lockhart, Texas. The conference will be followed by a site showing of the project site. Attendance is not mandatory. However, prospective bidders are HIGHLY ENCOURAGED to attend the conference and site showing.

All bids require a bid guarantee in the amount of not less than five percent (5%) of the total bid. Requirements are outlined in PART I, Subpart B, Instructions to Bidders. The successful bidder will be required to submit payment and performance bonds within 5 (five) workdays after receipt of Notice of Award per PART III, Supplemental Conditions, Article 13.

ESTIMATED PRICE RANGE: Between \$9,000,000 and \$13,000,000

Plum Creek Conservation District reserves the right to reject any and all bids. Bids providing less than 45 calendar days for acceptance will not be considered and will be rejected. Telegraphic or facsimile (Fax) bids, modifications, or withdrawals are not authorized.

Plum Creek Conservation District is the Contracting Local Organization (CLO) responsible for soliciting and awarding a local contract for this project. The contract is receiving Federal funding from the U.S. Department of Agriculture, Natural Resources Conservation Service, under the Watershed Protection and Flood Prevention Act of 1954, Public Law 83-566 (as amended) and as further amended by the Small Watershed Rehabilitation Amendments of 2000 (Section 313, P.L. 106-472). The contract also is receiving State funding from the Texas State Soil and Water Conservation Board.

PLUM CREEK CONSERVATION DISTRICT

**PART I – GENERAL PROVISIONS
SUBPART B**

INSTRUCTIONS TO BIDDERS

1. **Submission of Bids / Bid Opening:** Bids in response to this Invitation for Bids (IFB) must be sealed, marked and addressed as directed in the Notice to Bidders. Failure to do so may result in a premature opening of, or a failure to open, such bid. Bids will be publicly opened at the time set for opening in the Notice to Bidders. Their content will be made public for the information of bidders and others interested, who may be present either in person or by representative.
2. **Conditions Affecting the Work:** Bidders should visit the site and take such other steps as may be reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Failure to do so will not relieve bidders from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Contracting Local Organization will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to execution of the contract, unless included in the invitation for bids, the specifications, or related documents.

NO digging or taking of core samples will be allowed. Persons visiting the site are asked to take due care to ensure the existing site conditions are not disturbed.

Appointment Required to Visit the Project Site: Please contact Daniel Meyer, PCCD Executive Manager (phone 512-398-2383) to make an appointment for an authorized person to accompany you to the project site. No unescorted visits to the site are allowed.

3. **Required Bid Information:** Forms which must be included in a bid are:
 - (a) Exhibit A: Offer with appropriate 5% BID GUARANTEE.
 - (b) Exhibit B: Bid Schedule.
 - (c) Exhibit C: References.
 - (d) Exhibit D: Bid Bond form.
If a bid bond is submitted as the required bid guarantee, it must be executed on this form and in conformance with other requirements in these Instructions to Bidders.
 - (e) Exhibit E: Bidder Certifications.
Bidder must complete all applicable certifications and include in his/her bid.
4. **Preparation of Bid:** The bidder must submit his/her offer IN DUPLICATE (original plus one copy) on the forms furnished in this IFB, and the bid must be manually signed by a person or persons with authority to legally bind the individual, firm or corporation. If erasures or other changes appear on the forms, each erasure or change must be initialed by the person signing the bid. Facsimile (Fax) and telegraphic bids, modifications, or withdrawals will not be considered.

No bid will be considered unless all items in the bid schedule are priced. In case of error in the extension of price, the unit price shall govern. For other than bid items with a lump-sum "unit," the quantities listed in the bid schedule on which unit prices are requested are estimates only. Unless called for, alternate bids will not be considered.

Estimated Price Range: Between \$9,000,000 and \$13,000,000

Exemption from State, County, and Municipal Sales and Use Taxes. See Part II – General Conditions, Article 29 (Federal, State, and Local Taxes), paragraph (b). ***Bidders are entitled to EXCLUDE exempt taxes in their bid prices.*** Bidder is solely responsible to determine what tangible personal property and taxable services are eligible for exemption from these taxes.

Electronic Invitation for Bid (IFB) Documents. The IFB documents and IFB Amendments are available to interested parties electronically only, and no printed copies will be distributed. The Plum Creek Conservation District's instruments of service are the printed hard copy of the IFB (as amended) available for viewing at the Plum Creek Conservation District office. In the event of a conflict in their contents, the printed hard copy (as amended) shall take precedence over the electronic media. Plum Creek Conservation District's electronic media are furnished without guarantee of compatibility with the bidder's software or hardware. It is the user's responsibility to determine/evaluate the capability of their equipment to provide documents that are accurate for size, scale, and content. If an alteration of any kind to the CLO's printed hard copy IFB (as amended) is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation. Website to obtain documents (Adobe PDF format) is:

www.pccd.org

Click on Job Bids tab; then on IFB No. PCCD-24-LPCW28Rehab-01,
Lower Plum Creek Watershed SITE 28 Rehabilitation

5. **Submission of Offer in English Language/U.S. Currency:** Offers shall be in the English language and in terms of U. S. dollars or will be rejected.

6. **Explanation to Bidders / Inquiries:** Any explanation desired by a bidder regarding the meaning or interpretation of the invitation for bids, drawings, specifications, etc., must be requested in writing and with sufficient time allowed (**by noon on June 5, 2024**) for a reply to reach bidders before the submission of their bids. Any interpretation made will be in the form of an amendment to the invitation for bids, drawings, specifications, etc., and each Amendment will be available electronically. The CLO will make a reasonable attempt to advise (via email or other method) all prospective bidders who have registered as a bid documents holder or that may otherwise be known to have received a copy of the bid documents when an IFB Amendment is available electronically. However, it is the bidder's responsibility to check the electronic bid documents website for any changes or additions to the documents originally posted. Receipt of all amendments must be acknowledged by the bidder in the space provided on the bid forms (PART I, Subpart C, Exhibit A, Offer) or by letter received before the time set for opening of bids (electronic, Fax, and telegraphic acknowledgements will not be accepted). All amendments will be bound with and made a part of the contract documents. Oral explanations or instructions given before the award of the contract will not be binding. Written requests shall be mailed, hand delivered, or sent via facsimile machine or email (telegraphic inquiries will not be accepted) to :

Daniel Meyer, Executive Manager, Plum Creek Conservation
District, 1101 West San Antonio Street, Lockhart, TX 78644
FAX #: 512-398-7776 EMAIL: **daniel.meyer@pccd.org**

- "Facsimile," as used in this section means a written inquiry or request for explanation that is transmitted to and received by the Contracting Local Organization (CLO) via electronic equipment that communicates and reproduces both printed and handwritten material. Facsimile receiving data and compatibility characteristics are as follows: (a) Telephone number of receiving facsimile equipment: **512-398-7776**. (b) If you choose to transmit a facsimile inquiry, the CLO will not be responsible for any failure attributable to the transmission or receipt of the facsimile inquiry including, but not limited to, the following: (1) Receipt of garbled or incomplete inquiry. (2) Availability or condition of the receiving facsimile equipment. (3) Incompatibility between the sending and receiving equipment. (4) Delay in transmission or receipt of the inquiry. (5) Failure of the sender to properly identify the inquiry. (6) Illegibility of the inquiry.

7. **Bid Guarantee:** As a good faith deposit to ensure execution of a contract, each offer must be accompanied by a bid guarantee in the form of a certified or cashier's check (on a responsible bank in Texas) or bid bond, in the amount of not less than five percent (5%) of the total bid. Bid guarantee is to be made payable to: PLUM CREEK CONSERVATION DISTRICT. Bid guarantees, other than bid bonds, will be returned (a) to all bidders (except the three most qualified) within 3 days of the bid opening, and (b) to the three most qualified bidders upon execution by the most qualified bidder of such further contractual documents and bonds as may be required by the bid as accepted. When a bid guarantee is

required, failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

Should the bidder to whom the contract is awarded fail or refuse to enter into a proper contract with the CLO, or fail or refuse to furnish the payment and performance bonds required by PART III, Article 13, or fail or refuse to provide additional Post-Award Information required by PART III, Article 4, within the time specified, the bidder forfeits the bid guarantee, and/or the CLO may pursue any other action allowed by law.

8. **Bid Bond Requirements:** Bond must be executed on the form provided (PART I, Subpart C. Exhibit D) by a corporate surety authorized and admitted to write surety bonds in the State of Texas. The surety must (i) hold a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or (ii) have obtained reinsurance for any liability in excess of \$1,000,000 from a reinsurer that is an authorized reinsurer in the State of Texas or is a holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. U.S. Treasury Department Circular 570 is published in the *Federal Register* and lists Treasury approved surety companies and their underwriting limitations. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. The original and one copy of bid bond shall be submitted with the bid.
9. **Late Submissions, Modifications, and Withdrawals of Bids:**
 - (a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered and will be returned to the bidder unopened.
 - (b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.
 - (c) The only acceptable evidence to establish the time of receipt at the Contracting Local Organization installation is the time/date stamp of that installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.
 - (d) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful bid that makes its terms more favorable to the Contracting Local Organization will be considered at any time it is received and may be accepted.
 - (e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.
 - (f) If an emergency or unanticipated event interrupts normal Contracting Local Organization processes so as to cause postponement of the scheduled bid opening, and urgent Contracting Local Organization requirements preclude amendment of the solicitation or other notice of an extension of the opening date, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Contracting Local Organization processes resume.
10. **Tie Bid:** In the event of receipt of two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the Contracting Local Organization shall enter into a contract with only one of those bidders and must reject all other bids. The bidder shall be selected by the casting of lots in a manner prescribed by the Contracting Local Organization. All qualified bidders or their legal representatives may be present at the casting of lots. This provision does not prohibit the Contracting Local Organization from rejecting all bids.
11. **Qualification of Low Bidder:**
 - (a) After the low bidder has been determined, the next step is to consider the bidder's qualifications to perform the proposed contract. The award of a contract to a bidder solely on the basis of the lowest price is not the policy of the Contracting Local Organization. The ability to obtain bonds does not necessarily qualify a bidder for award.

- (b) A contract may be awarded only after it has been determined that the bidder is qualified to perform the contract. Qualification reviews will be made of all pertinent factors including: financial resources or ability to obtain them; present or impending work commitments; record of past performance on comparable projects; business ethics and integrity; eligibility to receive an award under applicable laws and regulations; the necessary organization, experience, operational controls and technical skills or the ability to obtain them; and the necessary equipment or ability to obtain it, as may be needed to prosecute the work in an expeditious, safe and satisfactory manner.
 - (c) If the bidder does not have adequate equipment but plans to obtain it after contract award, a firm commitment in writing from the suppliers must be furnished to the Contracting Local Organization. Also, if the bidder proposes to subcontract part of the work, they must provide information needed for the Contracting Local Organization's evaluation of the subcontractor's capability.
 - (d) Before disqualifying the low bidder, the Contracting Local Organization will inform the bidder of the reason for the proposed disqualification.
12. **Disqualification of Bidders:** Listed are some of the causes which may be considered as sufficient for the disqualification of a bidder and the rejection of his/her offer:
- (a) Failure to conform to the essential requirements of the invitation for bids (e.g., incomplete offer) will result in rejection of the bid.
 - (b) Bids from parties who are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, or from party presently on the State of Texas debarred vendor list maintained by the Texas Comptroller of Public Accounts, will be rejected. [See certifications in PART I, Subpart C, Exhibit E, Section G-1 and G-2.]
 - (c) More than one offer for the same work from the same individual, firm, partnership or corporation.
 - (d) Qualifying statements or accompanying qualifying letters that modify requirements or limit the bidder's liability will be cause for rejection of bid.
 - (e) Evidence of collusion among bidders.
 - (f) Poor performance in the execution of work under previous contracts, as determined by the Contracting Local Organization.
 - (g) Being in arrears on existing contracts, in litigation with the Contracting Local Organization, or having defaulted on a previous contract.
 - (h) Lack of comparable project experience.
 - (i) The bid is materially unbalanced. I.e., a bid based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and there is reasonable doubt that the bid will result in the lowest overall cost to the Contracting Local Organization even though it may be the low evaluated bid.
13. **Submission of Post-award Information:** Within five (5) workdays after receipt of Notice of Award, Contractor will be required to submit post-award information as specified in PART III, Supplemental Conditions, Article 4.
14. **Award of Contract:** Award of contract will be made to that responsible bidder whose bid, conforming to the invitation for bids (IFB), is most advantageous to the Contracting Local Organization, price and other factors considered. The Contracting Local Organization may, when in its interest, reject any or all bids or waive informalities or minor irregularities in bids received. Only one contract will be awarded and the award will be based on the total bid, corrected if necessary, for errors in price extensions and/or addition.
- A response to an IFB is an offer to contract with the Contracting Local Organization based upon the terms, conditions and specifications contained in the IFB. Bids do not become contracts until a signed Notice of Award (NOA) is issued by the Contracting Local Organization.
15. **Officials Not to Benefit:** Any contract to be awarded as a result of this solicitation will not be awarded to any official of the USDA Natural Resources Conservation Service, Texas State Soil and Water Conservation Board, Plum Creek Conservation District, Hays County Soil and Water Conservation District (SWCD), or Caldwell-Travis SWCD, (all in the State of Texas), or to any firm in which any official

or any member of such official's immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of such firms.

16. **Execution of Contract and Submission of Post-award Information:** The contract will include items outlined in PART I, Subpart D, Contract Agreement, Article IV. Within five (5) workdays after receipt of Notice of Award of the contract, the successful bidder shall execute the contract agreement and furnish the Contracting Local Organization with required post-award information as outlined in PART III, Supplemental Conditions, Article 4.
17. **Approval of Contract:** The contract will be approved and signed by the Plum Creek Conservation District Board President. The contract will not be binding upon the Contracting Local Organization until it has been executed by Plum Creek Conservation District and delivered to the Contractor.
18. **Specifications:** Specifications referred to but not included shall include all revisions and amendments in effect on the date of issuance of the IFB.
19. **Beginning of Work:** The Contractor shall commence work within twenty (20) calendar days after receipt of a written Notice to Proceed as issued by the Contracting Officer and shall complete the work within 837 (eight hundred thirty-seven) calendar days after receipt of the notice. Contractor shall not commence any work prior to issuance of the Notice to Proceed.
20. **Records:** Records listed below may be reviewed by interested parties at Plum Creek Conservation District, 1101 West San Antonio Street, Lockhart, Texas, by contacting Daniel Meyer or Nora Lopez-Castillo (512-398-2383). Records may be viewed 8:00 a.m. to 5:00 p.m. (closed noon to 1:00 p.m.), Monday through Friday.

Complete official printed copy of IFB No. PCCD-24-LPCW28Rehab-01 bid package, including 22" x 34" set of Drawing No. TX-EN-0781.

Engineering documents for viewing (also available on PCCD website):

- As-Built drawings of original dam construction, Drawing No. 4-E-16,622, sheets 1-11, construction completed 4/12/1963.
- Soil Mechanics Reports
 - 2021, NRCS, 493 pages
 - 2022, NRCS, 71 pages
- Geologic Reports
 - 1962, NRCS, 14 pages
 - 2022, NRCS, 108 pages

PART I – GENERAL PROVISIONS

SUBPART C

BID FORMS

Exhibits A through E

EXHIBIT A

OFFER

Enclosed with this offer (Exhibits A through E) is a bid guarantee (bid bond or cashier's or certified check payable to PLUM CREEK CONSERVATION DISTRICT) in the amount of \$_____. It is agreed that in the event this offer is accepted by the Contracting Local Organization (CLO) and the undersigned bidder fails to execute a contract and submit required post-award information within five (5) workdays after receipt of Notice of Award of contract to him/her, the bidder forfeits the bid guarantee and the CLO may pursue any other action allowed by law. If this offer is accepted, the undersigned bidder agrees to execute a contract and submit required post-award information per contract terms, and also agrees to commence work within twenty (20) calendar days after the date of receipt of written Notice to Proceed and to complete the entire works awarded under IFB No. PCCD-24-LPCW28Rehab-01 within eight hundred thirty-seven (837) calendar days commencing the day after Contractor receives written Notice to Proceed.

The undersigned acknowledges receipt of the following amendments:

- Amendment No. 1 dated _____ Received _____
- Amendment No. 2 dated _____ Received _____
- Amendment No. 3 dated _____ Received _____
- Amendment No. 4 dated _____ Received _____

CONTRACTOR

By _____

Print name: _____

Title: _____

Address: _____

Date: _____

Secretary,
If Contractor is a Corporation

(SEAL)

EXHIBIT B

BID SCHEDULE (Cover Sheet)

The undersigned, in compliance with Invitation for Bids No. PCCD-24-LPCW28Rehab-01 for Lower Plum Creek Watershed, Floodwater Retarding Structure (FRS) Site 28 Rehabilitation, Caldwell County, Texas, having examined the plans, specifications and bidding documents, the site of the proposed work, and being familiar with all the conditions surrounding performance of the proposed project; agrees to furnish all labor, material and equipment and perform all work required in accordance with the plans, specifications and contract documents for the prices below, if this offer is accepted by the Contracting Local Organization within _____ calendar days after the date bids are due. *[Note: Failure to insert a number means the bidder accepts the minimum **forty-five (45)** calendar days as required in Notice to Bidders.]*

Award Restriction

One award for the aggregate for all bid items will be made under this solicitation.

For other than bid items with a lump-sum "unit," the quantities listed in the bid schedule on which unit prices are requested are estimates only.

-- Bidders are entitled to EXCLUDE exempt taxes in their bid prices --

[See PART I, Subpart B, Instructions to Bidders #4]

TOTAL BID PRICE Lower Plum Creek Watershed Site 28 Rehabilitation:	
In FIGURES:	\$ _____
In WORDS:	_____ Dollars
	and _____ Cents
NOTE: AMOUNTS SHALL BE SHOWN IN BOTH WORDS AND FIGURES. IN CASE OF DISCREPANCY, THE AMOUNT SHOWN IN WORDS WILL GOVERN.	

Bidder's Name/Title (type or print): _____

Bidder's Signature: _____

Company Name: _____

SAM.gov Unique Entity ID No.: _____

Date: _____

EXHIBIT B (continued)

BID SCHEDULE (Sheet 1 of 3)

**LOWER PLUM CREEK WATERSHED SITE 28 REHABILITATION
Caldwell County, Texas**

Item No.	Work or Material	Spec. No.	Quantity	Unit	Unit Price	Extended Amount
1	Clearing and Grubbing	2	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
2	Structure Removal, Existing Fences	3	9,615	Lin. Ft.	\$ _____	\$ _____
3	Structure Removal, Existing Principal Spillway	3	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
4	Pollution Control	5	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
5	Silt Fence	5	7,436	Lin. Ft.	\$ _____	\$ _____
6	Permanent Vegetation Establishment, Sprigging	6	91.0	Acre	\$ _____	\$ _____
7	Irrigation System	6	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
8	Irrigation Water	6	18,532	1,000 Gal.	\$ _____	\$ _____
9	Construction Surveys	7	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
10	Mobilization and Demobilization	8	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
11	Removal of Water	11	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
12	Excavation, Common, Embankment	21	69,705	Cu. Yd.	\$ _____	\$ _____
13	Excavation, Unclassified, Right Auxiliary Spillway	21	72,389	Cu. Yd.	\$ _____	\$ _____
14	Earthfill, Standard	23	106,739	Cu. Yd.	\$ _____	\$ _____
15	Drainfill	24	2,337	Cu. Yd.	\$ _____	\$ _____

(Bid Schedule continued on next page)

EXHIBIT B (continued)**BID SCHEDULE (Sheet 2 of 3)****LOWER PLUM CREEK WATERSHED SITE 28 REHABILITATION
Caldwell County, Texas**

Item No.	Work or Material	Spec. No.	Quantity	Unit	Unit Price	Extended Amount
16	Topsoiling	26	203,145	Sq. Yd.	\$ _____	\$ _____
17	Diversions	27	1,848	Lin. Ft.	\$ _____	\$ _____
18	Concrete, Structural	31	66.4	Cu. Yd.	\$ _____	\$ _____
19	Concrete, Pipe Cradle	31	38.1	Cu. Yd.	\$ _____	\$ _____
20	Surface Repair & Treatment of Existing Concrete Riser	31	1 Job	Lump Sum	\$ xxxxxxxxx	\$ _____
21	Reinforcing Steel	34	9,711	Lb.	\$ _____	\$ _____
22	Concrete Pressure Pipe, 30" C-301	41	180	Lin. Ft.	\$ _____	\$ _____
23	Concrete Pressure Pipe, 24" C301	41	24	Lin. Ft.	\$ _____	\$ _____
24	Plastic Pipe, PVC, 6" I.D.	45	2,855	Lin. Ft.	\$ _____	\$ _____
25	Plastic Pipe, PVC, 4" I.D.	45	84	Lin. Ft.	\$ _____	\$ _____
26	Ductile-Iron Pipe	53	20	Lin. Ft.	\$ _____	\$ _____
27	Rock Riprap	61	7,762	Ton	\$ _____	\$ _____
28	Slide Gate, 12" Diameter Opening	71	1 Job	Lump Sum	\$ xxxxxxxxx	\$ _____
29	Principal Spillway Metal Work	81	1 Job	Lump Sum	\$ xxxxxxxxx	\$ _____
30	Chain Link Fence	91	95.3	Lin. Ft.	\$ _____	\$ _____

(Bid Schedule continued on next page)

EXHIBIT B (continued)

BID SCHEDULE (Sheet 3 of 3)

**LOWER PLUM CREEK WATERSHED SITE 28 REHABILITATION
Caldwell County, Texas**

Item No.	Work or Material	Spec. No.	Quantity	Unit	Unit Price	Extended Amount
31	Fence, Barbed Wire	92	10,019	Lin. Ft.	\$ _____	\$ _____
32	Contractor Quality Control	94	1 Job	Lump Sum	\$ xxxxxxxx	\$ _____
33	Geotextile	95	9,117	Sq. Yd.	\$ _____	\$ _____
Total Bid (Site 28 Rehabilitation).....					\$ _____	

NOTE: Also enter amount of Total Bid in figures and words on Exhibit B, page GP-9 of 21.

---- END OF BID SCHEDULE ----

EXHIBIT C

REFERENCES

Bidder in accordance with PART I, Subpart B, Instructions to Bidders, Section 3(c) References, shall list below up to five (5) recent projects upon which he/she has performed work similar to that specified herein. All lines for each reference shall be filled in completely with up-to-date information. Any omissions to this form, discrepancies in reference, or unverifiable information may be grounds for disqualification of the bidder.

1. Project Name: _____
 Owner: _____ Total Contract Cost: \$ _____
 Location: _____ Completion Date: _____
 Description of Work: _____

 Contact: _____ Phone Number: (____) _____

2. Project Name: _____
 Owner: _____ Total Contract Cost: \$ _____
 Location: _____ Completion Date: _____
 Description of Work: _____

 Contact: _____ Phone Number: (____) _____

3. Project Name: _____
 Owner: _____ Total Contract Cost: \$ _____
 Location: _____ Completion Date: _____
 Description of Work: _____

 Contact: _____ Phone Number: (____) _____

EXHIBIT C (continued)

4. Project Name: _____
Owner: _____ Total Contract Cost: \$ _____
Location: _____ Completion Date: _____
Description of Work: _____

Contact: _____ Phone Number:(____) _____

5. Project Name: _____
Owner: _____ Total Contract Cost: \$ _____
Location: _____ Completion Date: _____
Description of Work: _____

Contact: _____ Phone Number:(____) _____

EXHIBIT D

BID BOND Form

**A BLANK BID BOND FORM (2
pages) IS INSERTED AFTER THIS
PAGE FOR USE OF BIDDERS IN
PREPARATION OF BID.**

BID BOND (See Instructions on Reverse)					Date Bond Executed (Must not be later than bid opening date)	
Principal (Legal name and business address)					Type of Organization ("X" one)	
					<input type="checkbox"/> Individual <input type="checkbox"/> Joint Venture <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Corporation	
					State of Incorporation	
Surety(ies) (Name and business address)						
Penal Sum of Bond					Bid Identification	
Percent Of Bid Price	Amount Not to Exceed				Bid Date	Invitation No. PCCD-24-LPCW28Rehab-01
	Million(s)	Thousand(s)	Hundred(s)	Cents	For: Construction	
<p>KNOW ALL MEN BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto, are firmly bound to Plum Creek Conservation District, Lockhart, Texas, hereinafter called the Contracting Local Organization, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, That where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.</p> <p>THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the bid identified above.</p> <p>NOW, THEREFORE, if the Principal, upon acceptance by the Contracting Local Organization of his/her bid identified above, within the period specified therein for acceptance (45 days), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the bid as accepted within the time specified (5 workdays after receipt of the forms by him/her), or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the Contracting Local Organization for any cost of procuring the work which exceeds the amount of his/her bid, then the above obligation shall be void and of no effect.</p> <p>Each Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Contracting Local Organization, notice of which extension(s) to the Surety(ies) being hereby waived; provided that such waiver of notice shall apply only with respect to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.</p> <p>IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this bid bond and have affixed their seals on the date set forth above.</p>						
Principal						
Signature(s)	1.			2.		
	(Seal)			(Seal)		
Name(s) & Title(s) [typed]	1.			2.		

CORPORATE SURETY(IES)				
SURETY A	Name & Address		State of Inc.	Liability Limit
	Signature(s)	1. (Seal)	2. (Seal)	
	Name(s) & Title(s) [typed]	1.	2.	
SURETY B	Name & Address		State of Inc.	Liability Limit
	Signature(s)	1. (Seal)	2. (Seal)	
	Name(s) & Title(s) [typed]	1.	2.	
SURETY C	Name & Address		State of Inc.	Liability Limit
	Signature(s)	1. (Seal)	2. (Seal)	
	Name(s) & Title(s) [typed]	1.	2.	
SURETY D	Name & Address		State of Inc.	Liability Limit
	Signature(s)	1. (Seal)	2. (Seal)	
	Name(s) & Title(s) [typed]	1.	2.	
SURETY E	Name & Address		State of Inc.	Liability Limit
	Signature(s)	1. (Seal)	2. (Seal)	
	Name(s) & Title(s) [typed]	1.	2.	

INSTRUCTIONS

- (1) The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, evidence of his/her authority must be furnished.
- (2) The penal sum of the bond may be expressed as a percentage of the bid price if desired. In such cases, a maximum dollar limitation may be stipulated (e.g., 5% of the bid price but the amount not to exceed _____ dollars).
- (3) The name of each person signing this bid bond should be typed in the space provided.
- (4) The person signing the bond for the surety must submit evidence of his/her authority to act for the surety.
- (5) The corporate surety must be approved by the state in which the services or supplies are to be delivered or in which construction is to be performed and must be among those appearing on the U.S. Treasury Department's list of approved sureties.

EXHIBIT E BIDDER CERTIFICATIONS

By submission of this bid, bidder certifies to all Sections in this Exhibit E.

Bidder should **circle appropriate answers** in Sections **A, B, C, and I** and fill in blank in Section **E**.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

SECTION A: Texas Franchise Tax Certification

Bidder [**IS / IS NOT**] currently delinquent in the payment of any franchise tax owed to the State of Texas, or is exempt from, or not subject to, such tax.

SECTION B: Texas Resident/Nonresident Bidder Certification

Bidder [**IS / IS NOT**] a Texas resident bidder as defined below.

DEFINITIONS: Per State of Texas House Bill 620.

“Nonresident bidder” means a bidder whose principal place of business is not in this state, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

“Texas resident bidder” means a bidder whose principal place of business is in this state, and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

SECTION C: Authority to Transact Business in Texas Certificate

Complete ONLY if you are a Texas nonresident bidder.

- (1) Texas nonresident bidder [**IS / IS NOT**] a corporation, limited partnership, or limited liability company. *If answer is “IS NOT”, do not complete C(2) and C(3) below.*
- (2) Bidder [**HAS / HAS NOT**] obtained a Certificate of Authority through the Texas Secretary of State to transact business in Texas. **Attach a copy of Certificate to bid if available.**
- (3) If response to C(2) is “HAS NOT”, bidder agrees to present a current Certificate of Authority to the Contracting Local Organization by date post-award information is due: [**YES / NO**]

SECTION D: Officials Not to Benefit: Bidder certifies that its firm is not an official of the USDA Natural Resources Conservation Service, Texas State Soil and Water Conservation Board, Plum Creek Conservation District, Hays County Soil and Water Conservation District (SWCD), or Caldwell-Travis SWCD, (all in the State of Texas), or a firm in which any official or any member of such official’s immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of its firm.

SECTION E: Bonding: Per Texas Administrative Code Rule 293.63(5), bidder must submit, along with the bid, the name of the person, firm, or corporation that will execute payment and performance bonds as required in PART III, Article 13: **List information below:**

SECTION F: Certification of Nonsegregated Facilities

[Applicable to federally assisted construction contracts and related subcontracts not exempt from the Equal Opportunity clause (Article 14 of PART III - Supplemental Conditions)]

The federally assisted construction Contractor certifies they do not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not permit their employees to perform services at any location, under their control, where segregated facilities are maintained. The federally assisted construction Contractor certifies further that they will not maintain or provide for their employees any segregated facilities at any of their establishments, and that, they will not permit their employees to perform services at any location, under their control, where segregated facilities are maintained. The federally assisted construction Contractor agrees that a breach of this section is a violation of the Equal Opportunity clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms, washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin or because of habit, local custom, or otherwise. The federally assisted construction Contractor agrees that (except where they have obtained identical certifications from proposed subcontractors for specific time periods) they will obtain identical certifications from proposed subcontractors prior to the award of subcontracts which are not exempt from the provisions of the Equal Opportunity clause, and that they will retain such certifications in their files *[certification form in PART III, Suppl. Conditions, Article 15]*.

SECTION G-1: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

[Applicable to offers of \$25,000 or more]

(a) Instructions for Certification

(1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

(2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(3) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

(4) The terms herein are as defined in 2 CFR Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

(5) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 Code of Federal Regulations (CFR) part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

(6) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions of \$25,000 or more and in all solicitations for lower tier covered transactions. *[Copy of clause is provided in PART III, Supplemental Conditions, Article 17.]*

(7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Office of Federal

Compliance Programs electronic roster at the System for Award Management (SAM) website:
www.sam.gov.

(8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this offer.

SECTION G-2: Texas Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Bidder hereby certifies he/she is not presently on the State of Texas debarred vendor list maintained by the Texas Comptroller of Public Accounts.

SECTION H: Certification Regarding Lobbying Certification for Contracts, Grants, Loans, and Cooperative Agreements

[Applicable to offers of \$100,000 or more]

By signing and submitting this proposal, the offeror certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. *[A copy is provided in PART III, Supplemental Conditions, Article 18.]*

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION I: Clean Air and Water Certification *[Applicable if bid exceeds \$150,000*

--OR-- if facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA --OR-- if any resultant contract under this bid is not otherwise exempt.]

Bidder certifies as follows:

- (1) Any facility to be utilized in the performance of work described in this IFB [**IS / IS NOT**] listed on the Environmental Protection Agency List of Violating Facilities;
- (2) To promptly notify the Contracting Local Organization (CLO), before contract award, of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating that any facility which he/she proposes to use for the performance of the contract is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities; and
- (3) To include substantially this certification, including this subparagraph (3), in every nonexempt subcontract. *[Certification form in PART III, Suppl. Conditions, Article 19]*

SECTION J: Excluded Parties / Foreign Terrorist Organizations. Bidder certifies that it is not listed on the Federal government's terrorism watch list as described in Executive Order 13224. Bidder also represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

SECTION K: E-Verify. Contractor certifies and ensures that it utilizes and will continue to utilize the U.S. Department of Homeland Security E-Verify system to determine the eligibility of all persons and subcontractors performing duties within Texas during the term of the contract.

SECTION L: Israel Boycott. Bidder represents and warrants that, pursuant to Section 2271.002 of the Texas Government Code, bidder does not boycott Israel and will not boycott Israel during the term of the contract.

-- end of EXHIBIT E Bidder Certifications --

PART I – GENERAL PROVISIONS

SUBPART D

CONTRACT AGREEMENT (Sample)

THIS AGREEMENT, made the ____ day of _____, 2024, by and between the Plum Creek Conservation District, Lockhart, Texas (hereinafter called Owner) and _____ (hereinafter called Contractor).

WITNESSETH:

THAT WHEREAS: in accordance with law, Owner had contract documents prepared and an Invitation for Bids published, for and in connection with the Rehabilitation of Lower Plum Creek Watershed, Floodwater Retarding Structure Site 28, Caldwell County, Texas; and

WHEREAS, Contractor, in response to the Invitation for Bids, has submitted to Owner, in the manner and at the time specified, a sealed bid in accordance with Instructions to Bidders; and

WHEREAS, Owner, in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted, and has determined Contractor to be the lowest responsible bidder for the work and duly awarded to Contractor a contract therefor, for the sum or sums named in Contractor's bid.

NOW, THEREFORE, in consideration of the compensation to be paid to Contractor and of the mutual agreements herein contained, the parties have agreed and hereby agree, Owner for itself and its successors and assigns, and its, his/her, or their executors and administrators, as follows:

ARTICLE I. Contractor shall perform all work, including the assumption of all obligations, duties and responsibilities necessary to the successful completion of the contract and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work; tools, equipment, supplies, transportation, facilities, labor, superintendence and services required to perform the work; and bonds, insurance and submittals; all as indicated or specified in the contract documents to be performed or furnished by Contractor for the work included in and covered by Owner's official award of this contract to Contractor, such award being based on the acceptance by Owner of Contractor's bid.

ARTICLE II. Owner shall pay to Contractor for performance of the work embraced in this contract, and Contractor shall accept as full compensation therefor, the sum (subject to adjustment as provided in the contract documents) of _____ Dollars (\$ _____) for all work covered by and included in the contract award and designated in the foregoing Article I; payment thereof to be made in current funds in the manner provided in the contract documents.

ARTICLE III. The Contractor shall complete all work within eight hundred thirty-seven (837) calendar days from the date Contractor receives written Notice to Proceed.

ARTICLE IV. The contract documents that comprise the Contract between Owner and Contractor, attached hereto and made a part hereof, consist of the following:

- (1) This Contract Agreement.
- (2) Contractor's Bid: Exhibits A - E.
- (3) Invitation for Bids (IFB) Amendment Numbers _____.

- (4) Post-bid information and supplementary information submitted by Contractor prior to execution of this Contract Agreement.
- (5) Notice of Award.
- (6) PART II – General Conditions.
- (7) PART III – Supplemental Conditions.
- (8) PART IV – Construction and Material Specifications.
- (9) PART V – Drawing No. TX-EN-0781 (cover page + sheets 1-47).
- (10) PART VI – Prevailing Wage Rates Determination.
- (11) Notice to Proceed.
- (12) Any modifications (change orders) duly delivered or supplemental agreements duly entered into after execution of this Contract Agreement.
- (13) Notices of Final Completion and Acceptance.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement the day and year first above written.

OWNER

CONTRACTOR

PLUM CREEK CONSERVATION DISTRICT

By _____

By _____

JAMES A. HOLT, JR.
President, Board of Directors
Plum Creek Conservation District

Title _____

(CORPORATE SEAL)

Attest _____

Attest _____

Address for giving notices:
Plum Creek Conservation District
1101 West San Antonio Street
Lockhart, TX 78644

Address for giving notices

This action authorized at an official meeting
of the Plum Creek Conservation District on
_____ [add date], Lockhart, Texas

License No. _____

Agent for service of process:

DANIEL MEYER
PCCD Executive Manager

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

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GENERAL CONDITIONS
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PART II - GENERAL CONDITIONS

ARTICLE 1 – DEFINITIONS

Terms used or referred to herein and elsewhere in the contract documents are defined as follows:

(a) Contracting Local Organization (CLO): The organization or agency awarding the contract. (CLO) is the Plum Creek Conservation District, Lockhart, Texas. Also referred to as District and Owner.

(b) Contracting Officer (CO): The person who is designated and authorized to enter into and administer this contract on behalf of the Contracting Local Organization or his/her duly appointed successor or alternate. No other person has authority to act for the Contracting Officer as stated in these General Conditions or elsewhere in the contract documents unless such person has been delegated authority by the Contracting Officer in writing. Also referred to as Owner's Representative.

(c) Engineer: The person or his/her representative who is responsible for determining that the Contractor's work conforms to the technical requirements as set forth in the drawings and specifications. Also called Project Engineer, Government Representative (GR), Contracting Officer's Representative (COR), and Contracting Officer's Technical Representative (COTR).

(d) Inspector: The person who performs daily inspection services for the CLO at the construction site and maintains accurate daily records of the work accomplished and the factors affecting its progress and quality. Also called NRCS Construction Inspector, NRCS Inspector, and Government inspector.

(e) USDA-NRCS. United States Department of Agriculture, Natural Resources Conservation Service – the Federal agency providing engineering and inspection services for this contract. Also referred to as Government.

(f) Quality Assurance (QA). NRCS Construction Inspector (onsite).

(g) Quality Control (QC). NRCS Construction Inspector (onsite).

ARTICLE 2 – SPECIFICATIONS AND DRAWINGS

The Contractor shall keep on the worksite a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at his/her own risk and expense. The Contracting Officer shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

ARTICLE 3 – CHANGES

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Contracting Local Organization-furnished facilities, equipment, materials, services, or site; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the Contracting Officer, which causes any such change, shall be treated as a change order under this article, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this article or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this article causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: *Provided, however,* That except for claims based on defective specifications, no claim for any change under (b) above shall be

allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: *And provided further*, That in the case of defective specifications for which the Contracting Local Organization is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this article, Contractor must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Contracting Officer. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

ARTICLE 4 – DIFFERING SITE CONDITIONS

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Contracting Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Contracting Officer shall promptly investigate the conditions, and if he/she finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this article shall be allowed unless the Contractor has given the notice required in (a) above; provided, however, the time prescribed therefor may be extended by the Contracting Officer.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

ARTICLE 5 – TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, TIME EXTENSIONS

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Contracting Local Organization may, by written notice to the Contractor, terminate Contractor's right to proceed with the work or such part of the work as to which there has been delay. In such event the Contracting Local Organization may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the Contractor's right to proceed with the work is terminated, Contractor and his/her sureties shall be liable for any damage to the Contracting Local Organization resulting from his/her refusal or failure to complete the work within the specified time.

(b) If the Contracting Local Organization so terminates the Contractor's right to proceed, the resulting damage will consist of such actual damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Contracting Local Organization in completing the work.

(c) If the Contracting Local Organization does not so terminate the Contractor's right to proceed, the resulting damage will consist of such actual damages until the work is completed or accepted.

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the Contracting Local Organization in its contractual capacity, acts of another contractor in the performance of a contract with the Contracting Local Organization, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract), notifies the Contracting Officer in writing of the causes of delay.

(3) The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his/her judgment, such an extension is justified.

(e) The rights and remedies of the Contracting Local Organization provided in this article are in addition to any other rights and remedies provided by law or under this contract.

(f) As used in paragraph (d)(1) of this article, the term "subcontractors and suppliers" means subcontractors and suppliers at any tier.

ARTICLE 6 – CLAIMS

Any claim by the Contractor arising by virtue of this contract which is not disposed of by agreement shall be submitted in writing, together with any written and oral evidence in support thereof, to the Contracting Officer for decision. Before making a decision the Contracting Officer shall notify the Contractor that any additional written and/or oral evidence in support of the claim may be presented to the Contracting Officer within 30 days from receipt by the Contractor of such notification, or within such further period of time as may be granted by the Contracting Officer. The Contracting Officer shall make a decision in writing and mail or otherwise furnish a signed copy thereof to the Contractor. Pending the decision of the Contracting Officer the Contractor shall proceed diligently with the performance of this contract. *[See Also: PART III, Supplemental Conditions, Article 11 – Disputes/Alternative Dispute Resolution]*

ARTICLE 7 – PAYMENTS TO CONTRACTOR / INVOICING REQUIREMENTS

(a) The Contracting Local Organization will pay the contract price as hereinafter provided and will secure review and approval of Contractor invoices by various agencies as required by funding requirements.

(b) The Contracting Local Organization will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the Contracting Officer, at his/her discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration and if the Contractor furnishes satisfactory evidence that he/she has acquired title to the material and that it will be utilized on the work covered by the contract. Payment for material delivered to the Contractor at locations other than the site will not be authorized.

(c) In making such progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the Contracting Officer at any time after 50 percent of the work has been completed finds satisfactory progress is being made, he/she may authorize any of the remaining progress payments to be made in full without retention of a percentage. Also, whenever the work is substantially complete, the Contracting Officer, if he/she finds the amount retained to be in excess of the amount adequate for the protection of the Contracting Local Organization, at his/her discretion may release to the Contractor all or a portion of any excess amount. The Contracting Local Organization shall not be obligated to pay any interest on the 10 percent retainage held on the first 50 percent of work completed. If the Contracting Local Organization holds any retainage on the remaining 50 percent of the work completed, the Contracting Local Organization shall pay interest on such retainage from the date the retainage is withheld to the date of payment to the Contractor. The interest rate to be paid on such retainage shall be the rate of interest paid by the Contracting Local Organization's depository bank on interest bearing accounts of similar amounts during the period of time interest accrues as provided herein. Furthermore, on completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(d) All material and work covered by progress payments made shall thereupon become the sole property of the Contracting Local Organization, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Contracting Local Organization to require the fulfillment of all of the terms of the contract.

(e) "Properly Executed Invoice" Requirements

(1) The original and one copy of each invoice are to be delivered to the Contracting Officer at the designated payment office.

(2) One copy of each invoice and complete documentation of computations and supporting data as required by PART IV, Construction Specification 7 are to be submitted to the Engineer.

(3) The following must be attached to the original invoice submitted to the Contracting Officer and to the copy submitted to the Engineer:

(i) A complete remittance address along with vendor's tax identification number.

(ii) Billing period.

(iii) If requesting payment for materials delivered but not installed, Contractor will provide evidence of title to the materials and that it will be utilized on the work covered by the contract.

(iv) Itemization of payment requests by Contract Item Number (CIN) as shown in PART I, Subpart C, Exhibit B—Bid Schedule, of the contract. Invoice will include the quantity performed that is being invoiced, the unit price (if applicable) and the CIN total price, and a sum total of amount of payment requested. Invoice will also include the cumulative quantities and amount by CIN.

(f) Designated Payment Office Contact Point. The contact point described below coordinates the issuance of payments under this contract:

Name: Nora Lopez-Castillo

Title: Administrative Assistant

Address: Plum Creek Conservation District, 1101 W. San Antonio St., Lockhart, TX 76844

Telephone: (512) 398-2383 FAX: (512) 398-7776

(g) Final Payment Request

(1) The Contracting Local Organization shall pay the amount due the Contractor under this contract after--

(i) Completion and acceptance of all work;

(ii) Presentation of a properly executed invoice; and

(iii) Presentation of release as indicated in (g)(3) below.

(2) The **FINAL** invoice billing shall include the following information:

(i) All documentation called for in the contract documents, and

(ii) Consent of the surety, if required, to final payment.

(iii) Complete and legally effective releases or waivers (satisfactory to Contracting Local Organization) of all liens arising out of or filed in connection with the work. In lieu thereof and as approved by Contracting Local Organization, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which Contracting Local Organization or his/her property might in any way be responsible, have been paid or otherwise satisfied. If any subcontractor, manufacturer, fabricator, supplier, or distributor fails to furnish a release of receipt in full, Contractor may furnish a bond or other collateral satisfactory to Contracting Local Organization to indemnify Contracting Local Organization against any lien.

(3) The **FINAL** invoice shall also contain the following **RELEASE OF CLAIMS** statement:

"I, [*Name of Contractor*], do hereby release the Plum Creek Conservation District, Lockhart, Texas, from any and all claims of any character whatsoever arising under and by virtue of contract number [*Identify Contract*] dated [*Date*] as amended, except as herein stated [*LIST any Exceptions*].

(Date of Release)

(Signature of Contractor)

(4) Releases may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under Article 25 of these General Conditions – Assignment, of this contract.

(h) This contract is subject to regulations incorporated in Texas Government Code, Subtitle F, Chapter 2251 – Payment for Goods and Services, regarding payment due dates, late payment interest, and claims and disputes. These regulations include, but are not limited to, payments made by Contracting Local Organization, Contractor, and subcontractors for any work, goods, services, etc. provided under this contract.

ARTICLE 8 – MATERIAL AND WORKMANSHIP

(a) Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his/her option, use any equipment, material, article, or process which in the judgment of the Contracting Officer, is equal to that named. The Contractor shall furnish to the Contracting Officer for his/her approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Contracting Officer, the Contractor shall furnish the Contracting Officer for approval full information concerning the material or articles which Contractor contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

(b) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

ARTICLE 9 – INSPECTION AND ACCEPTANCE

(a) All work (which term includes but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Contracting Local Organization at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Contracting Local Organization and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirements. No inspection or test by the Contracting Local Organization shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Contracting Local Organization after acceptance of the completed work under the terms of paragraph (f) of this article, except as herein above provided.

(b) The Contractor shall, without charge, replace any material or correct any workmanship found by the Contracting Local Organization not to conform to the contract requirements, unless in the public interest the Contracting Local Organization consents to accept such material or workmanship with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Contracting Local Organization (1) may, by contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor, or (2) may terminate the Contractor's right to proceed in accordance with Article 5, Termination for Default - Damages for Delay – Time Extensions, of these General Conditions.

(d) The Contractor shall furnish promptly, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Contracting Local Organization shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract. The Contracting Local Organization reserves the right to charge to the Contractor any additional cost of inspection or test when material or workmanship is not ready at the time specified by the Contractor for inspection or test or when reinspection or retest is necessitated by prior rejection.

(e) Should it be considered necessary or advisable by the Contracting Local Organization at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his/her subcontractors, Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, an equitable adjustment shall be made in the contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, Contractor shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Contracting Local Organization shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Contracting Local Organization's rights under any warranty or guarantee.

ARTICLE 10 – SUPERINTENDENCE BY CONTRACTOR

The Contractor, at all times during performance and until the work is completed and accepted, shall give his/her personal superintendence to the work or have on the work a competent superintendent, satisfactory to the Contracting Officer and with authority to act for the Contractor.

ARTICLE 11 – PERMITS AND RESPONSIBILITIES

The Contractor shall, without additional expense to the Contracting Local Organization, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. Contractor shall be similarly responsible for all damages to persons or property that occur as a result of his/her fault or negligence. He/she shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. He/she shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which theretofore may have been accepted.

ARTICLE 12 – CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional expense to the Contracting Local Organization. The Contracting Local Organization assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this contract, unless such understanding or representations by the Contracting Local Organization are expressly stated in the contract.

ARTICLE 13 – OTHER CONTRACTS

The Contracting Local Organization may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and Contracting Local Organization employees and carefully fit his/her own work to such additional work as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Contracting Local Organization employees.

ARTICLE 14 – PATENT INDEMNITY

Except as otherwise provided, the Contractor agrees to indemnify the Contracting Local Organization and its officers, agents and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States (except Letters Patent issued upon an application which is now or may hereafter be, for reasons of national security, ordered by the Government to be kept secret or otherwise withheld from issue) arising out of the performance of this contract or out of the use or disposal by or for the account of the Contracting Local Organization of supplies furnished or work performed hereunder.

ARTICLE 15 – ADDITIONAL BOND SECURITY

If any surety upon any bond furnished in connection with this contract becomes unacceptable to the Contracting Local Organization, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the Contracting Local Organization, or if the contract price is increased to such an extent that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Contracting Local Organization and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

ARTICLE 16 – REAL PROPERTY RIGHTS

(a) Adequate real property rights needed in order to perform the work under this contract have been acquired by or on behalf of the Contracting Local Organization. The right to enter, remove, or otherwise make use of adjacent property, roads, utility lines, fences, and other improvements not included within the real property rights provided shall be the sole responsibility of the Contractor.

(b) Where ingress and egress is not defined on the drawings, the Contracting Officer shall designate the right-of-way to be used.

(c) The Contractor shall obtain owner's advance written approval if he/she plans to enter, remove, or otherwise make use of adjacent property, roads, utility lines, fences, and other improvements not included within the real property rights provided by the Contracting Local Organization. A copy of the written approval must be submitted to the Contracting Officer. The Contractor is responsible for any and all expenses associated with these items. Any Contractor-proposed changes to items designated or shown in the plans and specifications (e.g., site entrance, stockpile area, campsite, etc.) must be approved by the Contracting Officer at his/her sole discretion.

ARTICLE 17 – RECORDS OF TEST PITS AND BORINGS

The Contracting Local Organization does not represent that the available records show completely the existing conditions and does not guarantee any interpretation of these records. The Contractor assumes all responsibility for deductions and conclusions as to the nature of rock and other materials to be excavated, the difficulties of making and maintaining the required excavations and of doing other work affected by the geology of the site of the work, and for the final preparation of the foundations for the spillway, dikes, and other structures.

ARTICLE 18 – MATERIALS TO BE FURNISHED BY THE CONTRACTOR

(a) Unless otherwise specified in this contract, the Contractor shall furnish all materials required for the completion of the contract.

(b) Unless otherwise waived in writing by the Contracting Officer, the Contractor shall furnish the Contracting Local Organization with certifications dated and signed by the manufacturer and/or supplier to the effect that the items listed therein meet the requirements of this contract. Such certifications shall be furnished prior to the use of the material in any part of the construction and shall identify the project on which the material is to be used.

ARTICLE 19 – WATER

Unless otherwise specified in this contract, the Contractor shall provide and maintain at his/her own expense an adequate supply of water suitable for purposes of performing the work.

ARTICLE 20 – WORKWEEK—CONSTRUCTION SCHEDULE

(a) Unless furnished prior to contract award, the Contractor shall, prior to commencement of work, submit to the Contracting Officer for approval: (1) a construction schedule showing the order in which he/she proposes to carry on the work indicating the periods during which he/she will perform work on each item listed in the bid schedule; and (2) the hours and days in which he/she proposes to carry on the work.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the approved construction schedule, the Contractor shall take such steps as may be necessary to improve his/her process and the Contracting Officer may require him/her to either increase the number of shifts, days or hours of work, or the amount of construction plant, or all of them, and to submit for approval such revised construction schedule as may be deemed necessary to show the manner in which the agreed rate of progress will be regained, all without additional cost to the Contracting Local Organization. If the Contractor fails to submit a revised construction schedule within the time specified by the Contracting Officer, the Contracting Officer may withhold approval of progress payments and/or take such other actions as provided in this contract until such time as the Contractor submits the required construction schedule.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this article shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination, the

Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with Article 5 of the General Conditions.

(d) The maximum workweek that will be approved is:

- Monday through Saturday, up to 11 hours per day (not to exceed 60 hours per week).
- Work is permitted during "daylight" hours only.

(e) All work under this contract except minor items of work of an emergency, protective, or maintenance nature will be suspended for the periods listed below. These days are included in the original contract performance time: **2024:** Labor Day 9/2, Columbus Day 10/14, Veterans Day 11/11, Thanksgiving Break Nov. 27-30, Winter Break Dec. 22-31. **2025:** Winter Break (cont'd) Jan. 1-4, M.L. King Day 1/20, Presidents Day 2/17, Memorial Day 5/26, Juneteenth 6/19, Independence Day 7/4, Labor Day 9/1, Columbus Day 10/13, Veterans Day 11/11, Thanksgiving Break Nov. 26-29, Winter Break Dec. 21-31. **2026:** Winter Break (cont'd) Jan. 1-3, M.L. King Day 1/19, Presidents Day 2/16, Memorial Day 5/25, Juneteenth 6/19, Independence Day 7/4, Labor Day 9/7, Columbus Day 10/12.

(f) If the contract performance time is extended after the contract is awarded due to weather and its effects, or for other reasons, all work (except that of an emergency, protective, or maintenance nature) will be suspended on days listed below and the suspension days will be added to the performance time: **2026:** Veterans Day 11/11, Thanksgiving Break Nov. 25-28, Winter Break Dec. 20-31. **2027:** Winter Break (cont'd) Jan. 1-2, M.L. King Day 1/18, Presidents Day 2/15, Memorial Day 5/31.

ARTICLE 21 – SUBCONTRACTORS

(a) Work shall not be *subcontracted* in whole or in part without the prior written approval of the Contracting Officer. The request shall be in writing with the name and qualifications of the proposed subcontractor and a description of the work to be done.

(b) If at any time the Contracting Officer determines that any subcontractor is incompetent or undesirable, he/she shall notify the Contractor accordingly and the Contractor shall take immediate steps for cancellation of the subcontract.

(c) Subcontracting by subcontractors shall be subject to the above requirements.

(d) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Contracting Local Organization.

(e) Any *subcontract* awarded under this contract will not be awarded to any official of the Plum Creek Conservation District, Texas State Soil and Water Conservation Board, Hays County Soil and Water Conservation District, Caldwell-Travis Soil and Water Conservation District, or USDA-Natural Resources Conservation Service (all in the State of Texas), or to any firm in which any official or any member of such official's immediate family of these entities has direct or indirect interest in the pecuniary profits or contracts of such firms.

ARTICLE 22 – SURVEYS

See PART IV, *Construction Specification 7 – Construction Surveys*.

ARTICLE 23 – SUSPENSION OF WORK

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he/she may determine to be appropriate for the convenience of the Contracting Local Organization.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Contracting Officer in the administration of this contract, or by his/her failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this article for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this article shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and

(2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

ARTICLE 24 – CLEANUP WORK

(a) During performance of the work the Contractor shall keep the work site, areas adjacent to the work site and access roads in an orderly condition, free and clear from debris and discarded materials. Care shall be taken to prevent spillage when hauling is being done. Any spillage or debris resulting from the Contractor's operations shall be immediately removed.

(b) Upon completion of the work the Contractor shall remove from the work site, areas adjacent to the work site and access roads: all plant, buildings, debris, unused materials, concrete forms and other like material belonging to Contractor or used under his/her direction during the construction. Contractor shall grade all access roads, other than public, removing wheel tracks and smoothing up such roads.

ARTICLE 25 – ASSIGNMENT

The Contractor shall not assign in whole or in part this contract without the prior written consent of the Contracting Local Organization. The Contractor shall not assign any moneys due or to become due to him/her under this contract without the prior written consent of the Contracting Local Organization.

ARTICLE 26 – WEATHER

(a) The Contracting Officer may order suspension of the work in whole or in part, commencing with the day after receipt of the Notice to Proceed by the Contractor, due to weather or the effects of weather at the site, for such time as he/she considers it unfavorable for satisfactory prosecution of the work.

(b) When the Contracting Officer orders suspension under (a) of this article, the contract completion date shall be extended a full calendar day for each calendar day during suspension of the work if:

(1) All work is suspended except minor items as may be designated in this contract or as approved during the suspension period by the Contracting Officer at his/her sole discretion on a case-by-case basis (work of an emergency, protective or maintenance nature may be performed at any time); and

(2) The hours lost in any one workday of the authorized workweek through suspension equal one-half or more of the hours of an authorized workday.

(c) If the Contracting Officer orders suspension of work as provided in (b) of this article and the hours lost in the workday immediately preceding a nonworkday equal one-half or more of the hours in an authorized workday, the contract completion date shall be extended a full calendar day for each nonworkday during suspension of the work.

(d) When the Contracting Officer orders any suspension of the work under this article, the Contractor shall not be entitled to any cost or damages resulting from such suspension.

(e) When the contract completion date is extended under this article, the contract shall be modified in writing accordingly.

ARTICLE 27 – NONCOMPLIANCE WITH CONTRACT REQUIREMENTS

(a) The Contracting Officer may order suspension of the work in whole or in part for such time as he/she deems necessary because of the failure of the Contractor to comply with any of the requirements of this contract, and the contract completion date shall not be extended on account of any such suspension of the work.

(b) When the Contracting Officer orders any suspension of the work under (a) of this article, the Contractor shall not be entitled to any costs or damages resulting from such suspension.

(c) The rights and remedies of the Contracting Local Organization provided in this article are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 28 – QUANTITY VARIATIONS

(a) Where the quantity of work shown for an item in the bid schedule, including any modification thereof, is estimated, no adjustment of the contract price nor of the performance time shall be made for overruns or underruns which are within 25 percent of the estimated quantity of any such item.

(b) For overruns of more than 25 percent, the Contracting Officer shall re-estimate the quantity for the item, establish an equitable contract price for the overrun of more than 25 percent, adjust contract performance time

equitably, and modify the contract in writing accordingly; this article to thereafter be applicable to the total re-estimated item quantity.

(c) For underruns of more than 25 percent, the Contracting Officer shall determine the quantity for the item, establish an equitable contract price therefor, adjust contract performance time equitably, and modify the contract in writing accordingly.

ARTICLE 29 – FEDERAL, STATE, AND LOCAL TAXES

(a) Except as otherwise provided, contract unit prices shall include all applicable Federal, State, and local taxes.

(b) Texas State, County, and Municipal Sales and Use Tax. (1) The Contracting Local Organization is an exempt entity per §151.309(5) of the Limited Sales, Excise, and Use Tax Act (Texas Tax Code Chapter 151 – Limited Sales, Excise, and Use Tax) and will issue the Contractor an affidavit as proof of this exemption. This contract is a “lump-sum contract” as defined by Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter O – State Sales and Use Tax, Rule §3.291 (Contractors).

(2) When purchased by the Contractor for use in performance of this contract, certain tangible personal property and taxable services are exempt from State Sales and Use Tax under Texas Tax Code §151.311, and in most cases are also exempt from County and Municipal Sales and Use Tax. Contractor is subject to tax responsibilities in Texas Administrative Code Rule §3.291, section (c), and is responsible to issue a properly completed exemption certificate to a supplier in accordance with section (c)(5).

(3) Contractor is solely responsible to be adequately familiar with and comply with all requirements of Texas Tax Code, Texas Administrative Codes, and any other State/local regulations when claiming tax exemption for purchase of items for use in the performance of this contract.

(4) “Contractor” as used in this paragraph (b) includes subcontractors as defined in Texas Administrative Code Rule §3.291, section (a)(3).

ARTICLE 30 – SHOP DRAWINGS

(a) The term “shop drawings” includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract.

(b) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate his/her approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor’s approval may be returned for resubmission. The Contracting Officer will indicate his/her approval or disapproval of the shop drawings and if not approved as submitted shall indicate his/her reasons therefor. Any work done prior to such approval shall be at the Contractor’s risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (c) below.

(c) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation(s), he/she shall issue an appropriate contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

ARTICLE 31 – TERMINATION FOR CONVENIENCE OF THE CONTRACTING LOCAL ORGANIZATION

The Contracting Officer, by written notice, may terminate this contract in whole or in part, when it is in the interest of the Contracting Local Organization. If this contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the work actually accomplished. In addition, the Contractor shall be paid 10 percent for overhead expenses based on said direct costs, and 5 percent for profit based on the total of direct costs and overhead costs. From this will be deducted any payments or reimbursements previously paid and salvage value of materials paid for by the Contracting Local Organization but not used. Provided however, no profit shall be paid if the Contractor would have incurred a loss had the entire contract been completed.

ARTICLE 32 – PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

ARTICLE 33 – OPERATIONS AND STORAGE AREAS

(a) The Contractor shall confine all operations (including storage of materials) on Contracting Local Organization premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Contracting Local Organization, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Contracting Local Organization. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

ARTICLE 34 – USE AND POSSESSION PRIOR TO COMPLETION

(a) The Contracting Local Organization shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Contracting Local Organization intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Contracting Local Organization's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Contracting Local Organization has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Contracting Local Organization's possession or use, notwithstanding the terms of Article 11 (Permits and Responsibilities) of these General Conditions. If prior possession or use by the Contracting Local Organization delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

ARTICLE 35 – LAYOUT OF WORK

See *PART IV, Construction Specification 7 – Construction Surveys*.

ARTICLE 36 – PRECONSTRUCTION CONFERENCE

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

ARTICLE 37 – CONTRACTOR RECORDS

(a) Access to Records. Contractor shall provide access by Contracting Local Organization, Texas State Soil and Water Conservation Board, Texas State Auditor's Office, or USDA-Natural Resources Conservation Service, or any of their duly authorized representatives, to any books, documents, papers, and records of the Contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) Retention of Records. Contractor shall retain all records requiring access per paragraph (a) above for seven (7) years after the Contracting Local Organization makes final payment under the contract and all other pending matters between the Contracting Local Organization and the Contractor under the contract are closed.

ARTICLE 38 – ARCHEOLOGICAL OR HISTORIC SITES

If a previously unidentified archeological or historic site(s) is encountered, the Contractor shall discontinue work in the general area of the site(s) and notify the Contracting Officer immediately.

ARTICLE 39 – CONTROL OF EROSION, SEDIMENTATION, AND POLLUTION

(a) Operations shall be scheduled and conducted to minimize erosion of soils and to prevent silting and muddying of streams, rivers, irrigation systems, and impoundments (lakes, reservoirs, etc.).

(b) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged on the ground; into or nearby rivers, streams, or impoundments; or into natural or man-made channels. Wash water or waste from concrete or aggregate operations shall not be allowed to enter live streams prior to treatment by filtration, settling, or other means sufficient to reduce the sediment content to not more than that of the stream into which it is discharged.

(c) Mechanized equipment shall not be operated in flowing streams without written approval by the Contracting Officer.

ARTICLE 40 – VEGETATION DELAY DUE TO PRESCRIBED VEGETATION DATES

Part IV, Construction Specification 6 (Seeding, Sprigging, and Mulching) specifies dates when permanent vegetation shall be conducted. In the event that (1) the approved Construction Schedule date to conduct this work does not fall within the prescribed dates for vegetation, and (2) the majority of work for the project as determined by the Project Engineer has been completed, the Contracting Officer will issue a Suspend Work Order. The only work the Contractor will be allowed to perform during this suspension will be activities required in the SWP3, TCEQ requirements for temporary vegetation, and work of a protective, maintenance, or emergency nature. A Resume Work Order will be issued on the next working-day date that permanent vegetation is allowed. The Contracting Officer shall modify the contract to extend performance time by the number of calendar days of the suspension. The Contractor is not entitled to any change to contract price for the delay.

ARTICLE 41 – ACCIDENT PREVENTION AND SAFETY

(a) The Contractor shall provide and maintain work environments and procedures which will:

- (1) Safeguard the public and Contracting Local Organization personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;
- (2) Avoid interruptions of Contracting Local Organization operations and delays in project completion dates; and
- (3) Control costs in the performance of this contract.

(b) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or

Contracting Local Organization personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this article.

(c) The Contractor shall insert this article, including this paragraph (c), with appropriate changes in the designation of the parties, in subcontracts.

(d) Before commencing the work, the Contractor shall--

(1) Submit a written proposed plan for implementing this article. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

(e) In the event there is a conflict between the requirements contained in the specifications, Contractor's safety program, and U.S. Department of Labor construction safety and health standards, the more stringent requirement will prevail.

(f) Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926 Construction Industry Standards and Interpretations, and with the supplement below:

Supplement to OSHA Parts 1910 and 1926 Construction Industry Standards and Interpretations

Requests for variances or waiver from this supplement are to be made to the Contracting Officer in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for a waiver or a variance shall include--

- (1) Specific reference to the provision or standard in question;
- (2) An explanation as to why the waiver is considered justified; and
- (3) The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable Contracting Officer to render a decision.

No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of a provision until the Contracting Officer has given written approval. The Contractor is to hold and save harmless the United States Department of Agriculture, Natural Resources Conservation Service, Texas State Soil and Water Conservation Board, and the Contracting Local Organization free from any claims or causes of action whatsoever resulting from the Contractor or Subcontractors proceeding under a waiver or approved variance.

Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

A. GENERAL CONTRACTOR REQUIREMENTS

(1) SAFETY PROGRAM. Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Contracting Officer for approval before the start of operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including subcontractors and rental equipment operators. The program

shall be site specific and provide details relevant to the work to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

(2) **PRECONSTRUCTION SAFETY MEETING.** Representatives for the Contractor are to meet with the Contracting Officer or the CO's Representative before commencing work to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

(3) **JOINT SAFETY POLICY COMMITTEE.** The Contractor or designated on-site representative is to participate in monthly meetings of a joint Safety Policy Committee, composed of Contracting Officer, CLO Engineer and/or Inspector, and Contractor supervisory personnel. At these meetings the Contractor's project manager and the Contracting Officer will review the effectiveness of the Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

(4) **SAFETY PERSONNEL.** Each Contractor is to designate a competent supervisory employee satisfactory to Contracting Officer to administer the safety program.

(5) **SAFETY MEETINGS.** A minimum of one "on-the-job" or "toolbox" safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all personnel at the jobsite. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

(6) **SAFETY INSPECTION.** The Contractor shall perform frequent and regular safety inspections of the jobsite, materials, and equipment, and shall correct deficiencies.

(7) **FIRST AID TRAINING.** Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

(8) **REPORTS.** Each contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved by the Contracting Officer. A copy of all reports is to be provided to the Contracting Officer. All fatal or serious injuries are to be reported immediately to the Contracting Officer, and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Contracting Officer. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Contracting Officer in conducting accident investigations. The Contracting Officer is to be furnished all information and data pertinent to investigation of an accident.

(9) **CERTIFICATION OF INSURANCE.** Contractors are to provide the Contracting Officer with certificates of insurance before the start of operations indicating full compliance with State Worker's Compensation statutes, as well as other certificates of insurance required under the contract. *[See PART III – Supplemental Conditions, Articles 1, 2, and 3.]*

B. FIRST AID AND MEDICAL FACILITIES

(1) **FIRST AID KITS.** A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least 1 kit for each 25 employees. The first aid kits are to be moistureproof and dusttight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

(2) **EMERGENCY FIRST AID.** At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the jobsite.

(3) **COMMUNICATION AND TRANSPORTATION.** Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

(4) **FIRST AID AND MEDICAL REPORTS.** The Contractor is to maintain a record system for first aid and medical treatment on the jobsite. Such records are to be readily available to the Contracting Officer and are to include--

- (a) A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;
- (b) Cumulative record of injury for each individual;
- (c) Monthly statistical records of occupational injuries, classified by type and nature of injury; and
- (d) Required records for worker's compensation.

(5) **SIGNS AND DIRECTIONAL MARKINGS.** Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

(6) **EMERGENCY LISTING.** A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

C. PHYSICAL QUALIFICATIONS OF EMPLOYEES

(1) **GENERAL REQUIREMENTS.** Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

(2) **HOIST OPERATORS.** Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Contracting Officer.

(3) **HEAVY EQUIPMENT OPERATORS.** It is recommended that operators of trucks and heavy equipment be given physical examinations to determine if they are physically qualified to perform their assigned work without endangering themselves or others.

(4) **MOTOR VEHICLE OPERATORS.** Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated. The operators must have passed a physical exam administered by a licensed physician within the past year showing that they are qualified to operate vehicles safely.

D. PERSONAL PROTECTIVE EQUIPMENT

(1) **HARD HAT AREAS.** The entire jobsite, with the exception of offices, shall be considered a hard hat area. All persons entering the area are, without exception, required to wear hard hats. The Contractor shall provide hard hats for visitors entering hard hat areas.

(2) **LABELS.** Hard hats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.

(3) **POSTING.**

(a) Signs at least 3 by 4 feet worded as follows with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hard hat areas:

**CONSTRUCTION AREA - HARD HATS
REQUIRED BEYOND THIS POINT**

(b) These signs are to be furnished and installed by the Contractor at entries to shops, service yards, and job access points.

(4) **SAFETY GOGGLES (DRILLERS). DRILLERS AND HELPERS.** Drillers and helpers operating pneumatic rock drills must wear protective safety goggles.

E. MACHINERY AND MECHANIZED EQUIPMENT

(1) **SAFE CONDITION.** Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery is to be used by equipment operators.

(2) **TAGGING AND LOCKING.** The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work. Mixer barrels are to be securely locked out before permitting employees to enter them for cleaning or repair.

(3) HAUL ROADS FOR EQUIPMENT

(a) **ROAD MAINTENANCE.** The Contractor shall maintain all roadways, including haul roads and access roads, in a safe condition so as to eliminate or control dust and ice hazards. Wherever dust is a hazard, adequate dust-laying equipment shall be available at the jobsite and utilized to control the dust.

(b) **SINGLE-LANE HAUL ROADS.** Single-lane haul roads with two-way traffic shall have adequate turnouts. Where turnouts are not practical, a traffic control system shall be provided to prevent accidents.

(c) **TWO-WAY HAUL ROADS.** On two-way haul roads, arrangements are to be such that vehicles travel on the right side wherever possible. Signs and traffic control devices are to be employed to indicate clearly any variations from a right-hand traffic pattern. The road shall be wide enough to permit safe passage of opposing traffic, considering the type of hauling equipment used.

(d) **DESIGN AND CONSTRUCTION OF HAUL ROADS.** Haul road design criteria and drawings, if requested by the Contracting Officer, are to be submitted for approval prior to road construction. Sustained grades shall not exceed 12 percent and all curves shall have open-sight line with as great a radius as practical. All roads shall be posted with curve signs and maximum speed limits that will permit the equipment to be stopped within one-half the minimum sight distance.

(e) **OPERATORS.** Machinery and mechanized equipment shall be operated only by authorized qualified persons.

(f) **RIDING ON EQUIPMENT.** Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

(g) **GETTING ON OR OFF EQUIPMENT.** Getting on or off equipment while the equipment is in motion is prohibited.

(h) **HOURS OF OPERATION.** Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

(4) POWER CRANES AND HOISTS (TRUCK CRANES, CRAWLER CRANES, TOWER CRANES, GANTRY CRANES, HAMMERHEAD CRANES, DERRICKS, CABLEWAYS, AND HOISTS)

(a) **PERFORMANCE TEST.** Before initial on-site operation, at 12-month intervals, and after major repairs or modification, power cranes, derricks, cableways, and hoists must satisfactorily complete a performance test to demonstrate the equipment's ability to safely handle and maneuver the rated loads. The tests shall be conducted in the presence of a representative of the Contracting Officer (the Engineer and/or Inspector). Test data shall be recorded and a copy furnished to the Contracting Officer.

(b) **PERFORMANCE TEST--POWER CRANES (CRAWLER MOUNTED, TRUCK MOUNTED, AND WHEEL MOUNTED).** The performance test is to be carried out as per ANSI requirements. The test is to consist of raising, lowering and braking the load and rotating the test load through 360° at the specified boom angle or radius. Cranes equipped with jibs or boom tip extensions are to be tested using both the main boom and the jib, with an appropriate test load in each case.

(c) PERFORMANCE TEST--DERRICKS, GANTRY CRANES, TOWER CRANES, CABLEWAYS, AND HOISTS, INCLUDING OVERHEAD CRANES. This equipment is to be performance tested as per with ANSI requirements.

(d) BOOM ANGLE INDICATOR. Power cranes (including draglines) with booms capable of moving in the vertical plane shall be provided with a boom angle indicator in good working order.

(e) CRANE TEST CERTIFICATION. The performance test required by (4)(b) and (c) is fulfilled if the Contractor provides the Contracting Officer a copy of the certificate of inspection made within the past 12 months by a qualified person or by a government or private agency satisfactory to the Contracting Officer.

(f) POSTING FOR HIGH VOLTAGE LINES. A notice of the 10-foot (or greater) clearance required by OSHA 1926.550, Subpart N, shall be posted in the operator's cab of cranes, shovels, boom-type concrete pumps, backhoes, and related equipment.

(g) BOOM STOPS. Cranes or derricks with cable-supported booms, except draglines, shall have a device attached between the gantry of the A-frame and the boom chords to limit the elevation of the boom. The device shall control the vertical motions of the boom with increasing resistance from 83° or less, until completely stopping the boom at not over 87° above horizontal.

(h) SAFETY HOOKS. Hooks used in hoisting personnel or hoisting loads over construction personnel or in the immediate vicinity of construction personnel shall be forged steel equipped with safety keepers. When shackles are used under these conditions, they shall be of the locking type or have the pin secured to prohibit turning.

(5) ROLLOVER PROTECTIVE STRUCTURES (ROPS)

(a) ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1001 and 1002 are applicable regardless of the year in which the equipment was manufactured and regardless of the struck capacity of the equipment.

(b) EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting (5)(a) above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, water tankers (excluding trucks with cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

(c) EQUIPMENT REQUIRING SEATBELTS. The requirements for seatbelts as specified in OSHA Subpart O, Motor Vehicles, Mechanized Equipment, and Marine Operations, Section 1926.602 shall also apply to self-propelled compactors and rollers, and rubber-tired skid-steer equipment.

F. LADDERS AND SCAFFOLDING

(1) LADDERS. OSHA 1926, Subpart L - Section 450. Ladders shall be used as work platforms only when use of small hand tools or handling of light material is involved. No work requiring lifting of heavy materials or substantial exertion shall be done from ladders.

(2) SCAFFOLDING. OSHA 1926, Subpart L - Section 451. Scaffolds, platforms or temporary floors shall be provided for all work except that which can be done safely from the ground or similar footing.

(3) SAFETY BELTS, LIFELINE, AND LANYARDS. OSHA 1926, Subpart E, Section 104. Lifelines, safety belts and lanyards independently attached or attended, shall be used when performing such work as the following when the requirements of F(1) or (2) above cannot be met.

(a) Work on stored material in hoppers, bins, silos, tanks, or other confined spaces.

(b) Work on hazardous slopes, structural steel, or poles; erection or dismantling of safety nets, tying reinforcing bars; and work from Boatswain's chairs, swinging scaffolds, or other unguarded locations at elevations greater than 6 feet.

(c) Work on skips and platforms used in shafts by crews when the skip or cage does not block the opening to within 1 foot of the sides of the shaft, unless cages are provided.

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**PART III
SUPPLEMENTAL CONDITIONS**

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PART III - SUPPLEMENTAL CONDITIONS

ARTICLE 1 – TYPES AND LIMITS OF INSURANCE

Satisfactory certificates of insurance (COI) shall be filed with Contracting Local Organization prior to commencement of any work on this contract. Plum Creek Conservation District shall be listed as Certificate Holder. All approved Subcontractors also must file COI with PCCD that meets these Article 1 requirements. Insurance requirements stated below do not establish limits of the Contractor's or Subcontractor's liability.

(a) Workmen's Compensation and Employer's Liability Insurance

(1) Contractor shall provide workmen's compensation and employee's liability insurance at own expense. This insurance shall protect Contractor against all claims under applicable state workmen's compensation laws. Contractor shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of a workmen's compensation law.

(2) The liability limits shall be not less than:

Workmen's Compensation	Statutory
Employer's Liability	\$500,000

(b) Comprehensive Automobile Liability Insurance

(1) Contractor shall provide comprehensive automobile liability insurance at own expense. This insurance shall be written in comprehensive form and shall protect Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

(2) Policy shall list CLO as additional named insured per Article 1(f).

(3) The liability limits shall be not less than:

Combined single limit:	\$1 million each accident
------------------------	---------------------------

(c) Comprehensive General Liability Insurance

(1) Contractor shall provide comprehensive general liability insurance at own expense. This insurance shall be written in comprehensive form and shall protect Contractor against all claims arising from injuries to persons other than his/her employees or damage to property of Contracting Local Organization or others arising out of any act or omission of Contractor or his/her agents, employees, or subcontractors. The policy shall also include protection against claims insured by usual personal injury liability coverage, such as a "protective liability" endorsement to insure the contractual liability assumed by Contractor.

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

(3) Policy shall list CLO as additional named insured per Article 1(f).

(4) The liability limits shall be not less than:

Bodily injury	\$1 million each occurrence
Property damage	\$1 million each occurrence
Aggregate	\$2 million

(d) Umbrella Liability Policy. If aggregate of Comprehensive General Liability Insurance in (c)(4) above does not equal or exceed \$2 million, the Contractor shall provide umbrella liability policy at its own expense. This insurance shall protect Contractor against all claims in excess of the limits provided under the workmen's compensation and employer's liability, comprehensive automobile liability, and general liability policies. The liability limits of the umbrella liability policy shall not be less than \$2 million. The policy shall list CLO as additional named insured per Article 1(f).

(e) Policy Cancellation. Each policy shall contain a provision that the coverage afforded will not be canceled or materially changed until at least 30 days prior written notice has been given to the Contracting Local Organization or Contracting Officer.

(f) Additional Named Insured. The Contracting Local Organization (CLO) shall be listed as an additional named insured on Comprehensive Automobile Liability, Comprehensive General Liability, and Umbrella Liability policies.

(g) Waiver of Subrogation. All policies of insurance shall waive all rights of subrogation against the Contracting Local Organization, its officers, employees and agents.

ARTICLE 2 – SETTLEMENT OF INSURANCE CLAIMS

Losses insured under policies that include Contracting Local Organization, as a named insured, shall be adjusted with Contracting Local Organization and made payable to Contracting Local Organization as trustee for the insureds, as their interests may appear.

ARTICLE 3 – WORKERS' COMPENSATION INSURANCE COVERAGE

Contractor shall provide worker's compensation insurance coverage as specified below at own expense.

(a) Definitions. (1) Certificate of coverage ("certificate")—A copy of a certificate of insurance, a certificate of authority to self-insure issued by the TX Department of Insurance, Division of Workers' Compensation, or a coverage agreement (DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

(2) Duration of the project—Includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the Contracting Local Organization.

(3) Persons providing services on the project ("subcontractor" in §406.096, Texas Labor Code) includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

(b) The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all employees of the Contractor providing services on the project, for the duration of the project.

(c) The Contractor must provide a certificate of coverage to the Contracting Local Organization prior to being awarded the contract.

(d) If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Contracting Local Organization showing that coverage has been extended.

(e) The Contractor shall obtain from each person providing services on a project, and provide to the Contracting Local Organization:

(1) A certificate of coverage, prior to that person beginning work on the project, so the Contracting Local Organization will have on file certificates of coverage showing coverage for all persons providing services on the project, and

(2) No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

(f) The Contractor shall retain all required certificates of coverage for the duration of the project and then in accordance with PART II, General Conditions, Article 37, Contractor Records.

(g) The Contractor shall notify the Contracting Local Organization in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

(h) The Contractor shall post on each project site a notice [see paragraph (l) of this Article], in the text, form and manner prescribed by the Texas Department of Insurance, Division of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

(i) The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;

(2) Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) Obtain from each other person with whom it contracts, and provide to the Contractor:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) Retain all required certificates of coverage on file for the duration of the project and then in accordance with PART II – General Conditions, Article 37 – Contractor Records;

(6) Notify the Contracting Local Organization in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

(j) By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Contracting Local Organization that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the TX Department of Insurance, Division of Workers' Compensation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

(k) The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the Contracting Local Organization to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Contracting Local Organization.

(l) Posting of Notice: "REQUIRED WORKER'S COMPENSATION COVERAGE"

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee.

Call the Division of Workers' Compensation at 1-800-252-7031 or access the division's website at www.tdi.texas.gov/wc/indexwc.html to receive information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

ARTICLE 4 – POST-AWARD INFORMATION

Within five (5) workdays after receipt of Notice of Award, Contractor shall submit to the Contracting Officer the following post-award information:

- (a) Two (2) fully executed counterparts of the Contract Agreement including all the contract documents.
- (b) Performance and payment bonds as specified in Article 13 of these Supplemental Conditions.
- (c) Copy of all insurance certificates required in Articles 1, 2, and 3 of these Supplemental Conditions.
- (d) List of proposed subcontractors required in PART II, General Conditions, Article 21(a).
- (e) Major equipment schedule per PART II, General Conditions, Article 8(a). A firm commitment in writing from all suppliers of equipment that will be leased shall be provided. Equipment shall be open to inspection prior to award of the contract or commencement of work to verify soundness and reliability.
- (f) Contractor's proposed workweek (days and clock hours) per PART II, General Conditions, Article 20(a).
- (g) For a nonresident bidder who is a corporation, limited partnership, or limited liability company: a current Certificate of Authority from Texas Secretary of State, if not yet provided.
- (h) Form CIQ, Conflict of Interest Questionnaire, as required by Article 9 of these Supplemental Conditions.

Should the bidder to whom the contract is awarded fail or refuse to enter into a proper contract with the CLO, or fail or refuse to comply with these conditions within the time specified, the bidder forfeits the bid guarantee, and/or the CLO may pursue any other action allowed by law.

ARTICLE 5 – PERFORMANCE OF WORK BY CONTRACTOR

The Contractor shall perform on the site, and with its own organization, work equivalent to at least twenty (20) percent of the total amount of work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this contract if, during the performance of the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Contracting Local Organization.

ARTICLE 6 – COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK

- (a) Contractor shall be required to:
 - (1) Commence work under this contract within twenty (20) calendar days from the date of receipt of written Notice to Proceed [note: performance time commences the day after Notice to Proceed is received];
 - (2) Prosecute the work diligently; and
 - (3) Complete the entire work ready for use not later than eight hundred thirty-seven (837) calendar days from the day after Notice to Proceed is received by Contractor.
- (b) The time stated for completion shall include final cleanup of the premises.

ARTICLE 7 – VENUE

This contract shall be governed, construed and interpreted under the laws of the State of Texas. This contract is performable in Caldwell County, Texas. The Contracting Local Organization has domicile in Caldwell County, Texas, and any legal action must be filed in Caldwell County, Texas.

ARTICLE 8 – WAGES / BENEFITS**8.1 General**

Contractor shall pay or cause to be paid, without cost or expense to Contracting Local Organization, all Social Security, Unemployment and Federal Income Withholding Taxes of all such employees, and all such employees shall be paid wages and benefits as required by Federal and/or State law (including but not restricted to unemployment compensation coverage) and per wage rates requirements in Article 8.2 below. In accordance with Texas Labor Code §61.012, Contractor shall post in conspicuous places in the workplace notices indicating the paydays.

8.2 Laborers and Mechanics – Prevailing Wage Rates

(a) This contract requires the Contractor and any of his/her subcontractors at any tier to pay prevailing wage rates as specified in this article and to follow requirements contained in Texas Government Code, Chapter 2258, Prevailing Wage Rates.

(b) A copy of the Prevailing Wage Rates Determination that must be followed is included in PART VI of the contract.

(c) A worker employed or working upon the site of the work shall be paid the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) computed at rates not less than those contained in the Prevailing Wage Rates Determination for regular work and for legal holiday and overtime work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such workers. "Worker" includes laborers or mechanics.

(d) Workers shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill. Those performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(e) The wage determination shall be posted at all times by the Contractor and subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by workers.

(f) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(g) The Contractor or subcontractor shall insert in any subcontracts this Article 8, and also a clause requiring subcontractors to include Article 8 in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with this article.

(h) Payroll records. A Contractor and subcontractor shall keep a record showing: (i) the name and occupation of each worker (includes a laborer or mechanic) employed by the Contractor or subcontractor in the construction of the public work; and (ii) the actual per diem wages paid to each worker. The record shall be open at all reasonable hours to inspection by the officers and agents of the Contracting Local Organization and others as required by PART II, General Conditions, Article 37 (Contractor Records).

(i) A Contractor or subcontractor who violates this article shall pay to the Contracting Local Organization a penalty of \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated.

ARTICLE 9 – ETHICS / CONFLICTS OF INTEREST

(a) Texas Local Government Code Chapter 171 provisions apply to award of this contract.

(b) A bidder and/or Contractor shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the Contracting Local Organization, USDA-Natural Resources Conservation Service, or Texas State Soil and Water Conservation Board.

(c) Contractor shall submit Form CIQ, Conflict of Interest Questionnaire, to PCCD with its Post-Award Information (see Article 4 of these General Conditions) and update the submittal if there are any changes during performance of the contract.

(d) Section 2252.908, Texas Government Code, as amended, requires that all contracts with private business entities requiring approval by the PCCD Board of Directors, and/or with the amount of the contract being in excess of \$1,000,000, will require the on-line completion of Form 1295, Certificate of Interested Parties. Form 1295 is also required for any and all contract amendments, extensions or renewals. The awarded Contractor will be required to complete and file electronically with the Texas Ethics Commission using the online filing application. If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of the Contractor. Please visit State of Texas Ethics Commission website for more information:

- <https://www.ethics.state.tx.us/filinginfo/1295/>

ARTICLE 10 – PROTESTS

(a) Any actual or prospective bidder, offeror, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest to the Contracting Officer. Such protests must be in writing and received by the Contracting Officer within ten working days after such aggrieved person knows, or should have known, of the occurrence of the action which is protested. Formal protests must conform to the requirements of this article and subsection (c) of this article, and shall be resolved in accordance with the procedure set forth in subsections (d) and (e) of this article. Copies of the protest must be mailed or delivered by the protesting person to the project manager, if any, and other interested persons. For the purposes of this section, "interested persons" means all vendors who have submitted bids or proposals for the contract involved.

(b) In the event of a timely protest or appeal under this section, the Contracting Local Organization shall not proceed further with the solicitation or with the award of the contract unless the Contracting Officer makes a written determination that the award of a contract without delay is necessary to protect substantial interests of the state.

(c) A formal protest must be sworn and notarized and contain:

- (1) a specific identification of the statutory or regulatory provision(s) that the action complained of is alleged to have violated;
- (2) a specific description of each act alleged to have violated the statutory or regulatory provision(s) identified in paragraph (1) of this subsection;
- (3) a precise statement of the relevant facts;
- (4) an identification of the issue or issues to be resolved;
- (5) argument and authorities in support of the protest; and
- (6) a statement that copies of the protest have been mailed or delivered to other identifiable interested persons.

(d) The Contracting Officer may settle and resolve the dispute concerning the solicitation or award of a contract by mutual agreement with the protesting person. The Contracting Officer may solicit written responses to the protest from other interested persons.

(e) If the protest is not resolved by mutual agreement, the Contracting Officer will issue a written determination on the protest.

(1) If the Contracting Officer determines that no violation of rules or statutes has occurred, he or she shall inform the protesting person and other interested persons by letter which sets forth the reasons for the determination.

(2) If the Contracting Officer determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, he or she shall inform the protesting person and other interested persons by letter that sets forth the reasons for the determination and the appropriate remedial action.

(3) If the Contracting Officer determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he or she shall inform the protesting person and other interested persons by letter which sets forth the reasons for the determination, and the appropriate remedial action, which may include ordering the contract void.

(f) After the Contracting Officer's determination has been made, the aggrieved person or interested persons may request reconsideration of the Contracting Officer's determination to be made by the Plum Creek Conservation District Board President or his/her designee. Such request must be in writing and must be received in the Board office no later than ten working days after the date of the Contracting Officer's determination, which shall be calculated from the date the Contracting Officer's letter is hand-delivered, delivered by a nationally recognized courier service, or mailed by certified or registered mail. The request shall be limited to review of the Contracting Officer's determination. Copies of the request must be mailed or delivered by the aggrieved person to other interested persons. The request must contain an affidavit that such copies have been provided.

(g) The Plum Creek Conservation District Board President shall issue a final determination on the protest within 15 days after receipt of the aggrieved person's request for reconsideration.

(h) A decision issued in writing by the Plum Creek Conservation District Board President in response to a request for reconsideration shall be the final administrative action of the Board.

(i) Unless good cause for delay is shown or the Contracting Officer or Plum Creek Conservation District Board President determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

(j) In the event of a protest, all documents collected by the Plum Creek Conservation District Board as part of a solicitation, evaluation, and/or award of a contract shall be retained by the Board for a period of four years to include the current fiscal year and three additional fiscal years.

ARTICLE 11 – DISPUTES / ALTERNATIVE DISPUTE RESOLUTION (ADR)

[This article supplements PART II, General Conditions, Article 6 – Claims]

11.1 Claims

(a) The Contracting Local Organization's policy is to try to resolve all contractual issues in controversy by mutual agreement at the Contracting Officer's level. Reasonable efforts should be made to resolve controversies prior to the submission of a claim. Use of ADR procedures to the maximum extent practicable is encouraged.

(b) Initiation of a claim. (1) Contractor claims shall be submitted, in writing, to the Contracting Officer for a decision no later than the 180th day after accrual of a claim. The claim must state with particularity the nature of the breach, the amount the Contractor seeks as damages, and the legal theory of recovery. The Contracting Officer shall document the contract file with evidence of the date of receipt of any submission from the Contractor deemed to be a claim by the Contracting Officer. The Contracting Officer must assert, in a writing delivered to the Contractor, any counterclaim not later than the 90th day after the date of receipt of Contractor's written claim

(2) The Contracting Local Organization shall issue a written decision on any Contracting Local Organization claim initiated against a Contractor no later than the 180th day after accrual of the claim. This time period shall not apply to a Contracting Local Organization claim based on a Contractor claim involving fraud.

(c) Contractor certification. Contractor shall provide the certification specified below when submitting any claim exceeding \$100,000, or regardless of the amount claimed when using ADR procedures. The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim. The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim. The certification shall state as follows:

"I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Contracting Local Organization is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(d) The Contracting Local Organization shall pay interest on a Contractor's claim on the amount found due and unpaid from the date that the Contracting Officer receives the claim (certified if required by Article 11.1(c) above); or payment otherwise would be due, if that date is later, until the date of payment. If a claim has a defective certification, interest shall be paid from the date that the Contracting Local Organization receives a proper certification. Amount of interest due will be per Texas and local law and regulation.

11.2 Alternative Dispute Resolution (ADR)

(a) The objective of using ADR procedures is to increase the opportunity for relatively inexpensive and expeditious resolution of issues in controversy. Essential elements of ADR include:

- (1) Existence of an issue in controversy,
- (2) A voluntary election by both parties to participate in the ADR process,
- (3) An agreement on alternative procedures and terms to be used in lieu of formal litigation,
- (4) Participation in the process by officials of both parties who have the authority to resolve the issue in controversy, and

- (5) Certification by the Contractor in accordance with Article 11.1(c) when using ADR procedures to resolve all or part of a claim.

(b) If either party rejects a request for ADR from the other party, the rejecting party shall inform the other party in writing of the specific reasons for rejecting the request, including but not limited to why ADR procedures are inappropriate for the resolution of the dispute.

(c) ADR procedures may be used at any time that the Contracting Officer has authority to resolve the issue in controversy. If a claim has been submitted, ADR procedures may be applied to all or a portion of the claim.

When ADR procedures are used subsequent to the issuance of a Contracting Officer's final decision, their use does not constitute a reconsideration of the final decision.

(d) When appropriate, a neutral person may be used to facilitate resolution of the issue in controversy using the procedures chosen by the parties.

(e) The rights of Contracting Local Organization and Contractor to exercise such rights or remedies as either party may otherwise have under the contract or by laws or regulations in respect of any claims, disputes, and other issues in controversy are not affected by action taken under this Article.

(f) ADR procedures must be consistent with Chapter 154, Texas Civil Practice and Remedies Code, and Chapter 2009, Texas Government Code, Alternative Dispute Resolution for Use by Governmental Bodies.

11.3 Definitions

(a) Accrual of a claim occurs on the date when all events, which fix the alleged liability of either the Contracting Local Organization or the Contractor and permit assertion of the claim, were known or should have been known. For liability to be fixed, some injury must have occurred. However, monetary damages need not have been incurred.

(b) Alternative dispute resolution (ADR) means any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These procedures may include, but are not limited to, assisted settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini-trials, and arbitration.

(c) Claim as used in this Article means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the contractor seeking the payment of money exceeding \$100,000 is not a claim under this Article until certified as required by Article 11.1(c) above. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the Contracting Officer within time limits in section 11.1(b) of this Article, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) Defective certification as used in this Article means a certificate which alters or otherwise deviates from the language in this Article or which is not executed by a person duly authorized to bind the Contractor with respect to the claim. Failure to certify shall not be deemed to be a defective certification.

(e) Issue in controversy means a material disagreement between the Contracting Local Organization and the Contractor which:

- (1) May result in a claim, or
- (2) Is all or part of an existing claim.

(f) Misrepresentation of fact as used in this Article means a false statement of substantive fact, or any conduct which leads to the belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(g) Neutral person as used in this Article means an impartial third party, who serves as a mediator, fact finder, or arbitrator, or otherwise functions to assist the parties to resolve the issues in controversy. A neutral person may be a permanent or temporary officer or employee of the Contracting Local Organization, or the Federal government, or any other individual who is acceptable to the parties. A neutral person shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral person may serve. An "impartial third party" must possess the qualifications required under Section 154.052, Texas Civil Practice and Remedies Code.

ARTICLE 12 – INDEMNIFICATION CLAUSE

The Contractor shall defend, indemnify, and hold harmless the Contracting Local Organization, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Contractor or any agent, employee, subcontractor, or supplier of Contractor in the execution of performance of this contract.

ARTICLE 13 – PERFORMANCE AND PAYMENT BONDS**13.1 General**

(a) This contract requires performance and payment bonds as outlined in 13.2 below. Such bonds are due within five (5) workdays after receipt of Notice of Award (see Article 4 of these Supplemental Conditions). The Contracting Local Organization will attach to the Notice of Award the bond forms to be used.

(b) Bonds shall be made payable to: Plum Creek Conservation District.

(c) Bonds are subject to requirements stated in this Article and requirements of Texas Government Code, Chapter 2253, Public Work Performance and Payment Bonds, and must be executed by a corporate surety in accordance with Texas Insurance Code, Chapter 3503 (Surety Bonds and Related Instruments), Subchapter A.

13.2 Performance and Payment Bonds—Construction

(a) **Definitions.** As used in this clause-- "Contract price" means the award price of the contract. "Government" means the Contracting Local Organization.

(b) The successful offeror shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) **Performance Bond:**

(i) The penal amount of performance bond shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) **Payment Bond:**

(i) The penal amount of payment bond shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in 13.1 above.

(d) A bond may be executed only by a corporate surety company that is authorized and admitted to write surety bonds in the State of Texas.

(e) For both the Performance bond and Payment bond, the surety must (i) hold a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or (ii) have obtained reinsurance for any liability in excess of \$1,000,000 from a reinsurer that is an authorized reinsurer in the State of Texas or is a holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. U.S. Treasury Department Circular 570 is published in the *Federal Register* and lists Treasury approved surety companies and their underwriting limitations.

(f) All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

(g) A bond required under this Article must clearly and prominently display on the bond or on an attachment to the bond: (1) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or (2) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

ARTICLE 14 – EQUAL OPPORTUNITY (FEDERALLY ASSISTED CONSTRUCTION)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for

training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor will send to each labor union or representative of workers, with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as provided by law.

(g) The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 15 – NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

(a) A Certification of Nonsegregated Facilities (included in PART I – General Provisions, Subpart C, Bid Forms, Exhibit E, Section F) must be submitted prior to the award of a federally assisted construction contract which is not exempt from the provisions of the Equal Opportunity clause (Article 14 of these Supplemental Conditions).

(b) Contractors receiving federally assisted construction contract awards not exempt from the provisions of the Equal Opportunity clause will be required to forward the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts and are not exempt from the provisions of the Equal Opportunity clause (Article 14 of these Supplemental Conditions).

Notice to Prospective Subcontractors of Requirement for Certification of Nonsegregated Facilities

(a) A Certification of Nonsegregated Facilities shown below must be submitted prior to the award of a subcontract which is not exempt from the provisions of the Equal Opportunity clause.

(b) Contractors receiving subcontract awards not exempt from the provisions of the Equal Opportunity clause will be required to forward this notice to prospective subcontractors for supplies and construction contracts where the subcontracts are not exempt from the provisions of the Equal Opportunity clause.

Certification of Nonsegregated Facilities

[Applicable to federally assisted construction contracts and related subcontracts not exempt from the Equal Opportunity clause (Article 14 of PART III - Supplemental Conditions)]

The federally assisted construction Contractor certifies they do not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not permit their employees to perform services at any location, under their control, where segregated facilities are maintained. The federally assisted construction Contractor certifies further that they will not maintain or provide for their employees any segregated facilities at any of their establishments, and that, they will not permit their employees to perform services at any location, under their control, where segregated facilities are maintained. The federally assisted construction Contractor agrees that a breach of this section is a violation of the Equal Opportunity clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms, washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin or because of habit, local custom, or otherwise. The federally assisted construction Contractor agrees that (except where they have obtained identical certifications from proposed subcontractors for specific time periods) they will obtain identical certifications from proposed subcontractors prior to the award of subcontracts which are not exempt from the provisions of the Equal Opportunity clause, and that they will retain such certifications in their files.

NOTE: Penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

ARTICLE 16 – STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

(1) As used in these specifications:

- (a) "Covered area" means the geographical area described in the solicitation from which this contract resulted.
- (b) "Director" means Director, Office of Federal Contract Act Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority.
- (c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 94 1.
- (d) "Minority" includes: (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban Central or South American or other Spanish Culture or origin, regardless of race); (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract, in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation which is set forth in the solicitations from which the contract resulted.

(3) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractors or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

(4) The Contractor shall implement the specific affirmative action standards provided in Paragraphs (7)(a) through (7)(p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographic area where the work is being performed. Goals are published periodically in the *Federal Register* in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal procurement Contracting Officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

Notice for IFB No. PCCD-24-LPCW28Rehab-01

- (a) Covered Area is Caldwell County, Texas.
 - (b) Goal for Female Participation: 6.9 percent (all trades)
 - (c) Goal for Minority Participation: 24.2 percent (all trades)
 - (d) Goals are expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area.
- (5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under the specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- (6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- (7) The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (a) Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor; or, when the Contractor has other information that the union referral process had impeded the Contractor's efforts to meet its obligations.
 - (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded

or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under paragraph (7)(b) above.

- (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of the applications for apprenticeship or other training by any recruitment sources the Contractor shall send written notification, to organizations such as the above, describing the openings, screening procedure, and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (m) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- (n) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of the affirmative action obligations [paragraphs (7)(a) through (7)(p)]. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under paragraphs (7)(a) through (7)(p) of the specifications, provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(9) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

(10) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

(11) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(12) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

(13) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (7) of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

(14) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

(15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ARTICLE 17 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

[Applicable to offers of \$25,000 or more]

Per Contractor's certification given in PART I, Subpart C, Exhibit E, Section G, this Article shall be included, without modification, in all lower tier covered transactions (subcontracts) of \$25,000 and more and in all solicitations for lower tier covered transactions.

(a) Instructions for Certification

(1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

(2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(3) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

(4) The terms herein are as defined in 2 CFR Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

(5) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 Code of Federal Regulations (CFR) part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

(6) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions of \$25,000 or more and in all solicitations for lower tier covered transactions.

(7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Office of Federal Compliance Programs electronic roster at the System for Award Management (SAM) website: www.sam.gov.

(8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this offer.

NOTE: Penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

ARTICLE 17A – TEXAS CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

Contractor shall not subcontract to perform work under this contract with any firm that is presently on the State of Texas debarred vendor list maintained by the Texas Comptroller of Public Accounts.

ARTICLE 18 – CERTIFICATION REGARDING LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

[Applicable to all subcontracts to a prime contract of \$100,000 or more at any tier under a Federal grant.]

Per Contractor's certification given in PART I, Subpart C, Exhibit H, Section G, the language of the following certification shall be included in the award documents for all subcontracts at all tiers and that all subcontractors shall certify and disclose accordingly:

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 19 – CLEAN AIR AND WATER CLAUSE / CERTIFICATION

[Applicable to all contracts that exceed \$150,000 and to all subcontracts to prime contracts that exceed \$150,000 --OR-- if facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA --OR-- if the contract/subcontract is not otherwise exempt.]

(a) The Contractor under this contract/subcontract agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this contract by the Contracting Local Organization.

(2) That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was signed by the Contracting Local Organization unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this article in any nonexempt subcontract, including this subparagraph (a)(4).

(b) The terms used in this article have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-55).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), and approved implementation

procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term “clean water standards” means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (3 U.S.C. 1317).

(5) The term “compliance” means compliance with clean air or water standards. Compliance shall also mean compliance with the scheduled or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or any air or water pollution control issued pursuant thereto.

(6) The term “facility” means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned, leased or supervised by a sponsor, to be utilized in the performance of a contract or subcontract. Where a location of site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collated in one geographical area.

[end of clause]

Per Contractor's certification given in PART I, Subpart C, Exhibit E, Section I, the certification below (and the above Clean Air and Water Clause) shall be included in every nonexempt subcontract and all subcontractors shall certify accordingly:

Clean Air and Water Certification

[Applicable to all subcontracts to a prime contract that exceeds \$150,000 --OR-- if facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA --OR-- if any subcontract is not otherwise exempt.]

Subcontractor certifies as follows:

- (1) Any facility to be utilized in the performance of work described in this subcontract **[IS / IS NOT]** listed on the Environmental Protection Agency List of Violating Facilities.
- (2) Prior to the signing of a subcontract, to promptly notify the Contracting Local Organization (CLO) under the prime contract of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating that any facility which he/she proposes to use for the performance of the subcontract is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.
- (3) To include substantially this certification, including this subparagraph (3), in every nonexempt subcontract.

ARTICLE 20 – SUBCONTRACTOR CERTIFICATION (TPDES)

All subcontractors at any tier who perform work that may impact pollution control measures per PART IV, Construction Specification 5 (Pollution Control) must complete and submit, prior to performing any work on the project, a “Subcontractor Certification” statement regarding the Texas Pollutant Discharge Elimination System (TPDES) permit. Each subcontractor shall certify as follows:

I certify under penalty of law that I understand the terms and conditions of the general Texas Pollutant Discharge Elimination System (TPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction identified as part of this certification.

The certification shall include the subcontractor's firm, address, phone number, date of certification, and signature/title of person making such certification.

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PART VI

PREVAILING WAGE RATES DETERMINATION

Per PART III – Supplemental Conditions

Article 8 – Wages / Benefits

PART VI
PREVAILING WAGE RATES DETERMINATION
[Per PART III – Supplemental Conditions, Article 8 – Wages / Benefits]
Heavy & Highway Construction (includes Caldwell County, Texas)

Occupation	Rate	Occupation	Rate
Cement Mason/Concrete Finisher (Paving and Structures)	\$12.56	POWER EQUIPMENT OPERATOR	
		Front End Loader, 3 CY or less	\$13.04
Electrician	26.35	Front End Loader, over 3 CY	13.21
Form Builder/Setter (Paving & Curb)	12.94	Loader / Backhoe	14.12
Form Builder/Setter (Structures)	12.87	Mechanic	17.10
Laborer: Asphalt Raker	12.12	Milling Machine	14.18
Laborer: Flagger	9.45	Motor Grader, Fine Grade	18.51
Laborer: Common	10.50	Motor Grader, Rough	14.63
Laborer: Utility	12.27	Pavement Marking Machine	19.17
Laborer: Pipelayer	12.79	Reclaimer / Pulverizer	12.88
Laborer: Work Zone Barricade Servicer	11.85	Roller, Asphalt	12.78
Painter (Structures)	18.34	Roller, Other	10.50
POWER EQUIPMENT OPERATOR		Scraper	12.27
Agricultural Tractor	12.69	Spreader Box	14.04
Asphalt Distributor	15.55	Trenching Machine, Heavy	18.48
Asphalt Paving Machine	14.36	Servicer	14.51
Boom Truck	18.36	STEEL WORKER	
Broom or Sweeper	11.04	Reinforcing	14.00
Concrete Pavement Finishing Machine	15.48	Structural	19.29
Crane, Hydraulic 80 tons or less	18.36	TRAFFIC SIGNAL INSTALLER	
Crane, Lattice Boom 80 tons or less	15.87	Traffic Signal/Light Pole Worker	16.00
Crane, Lattice Boom over 80 tons	19.38	TRUCK DRIVER	
Crawler Tractor	15.67	Lowboy-Float	15.66
Directional Drilling Locator	11.67	Off Road Hauler	11.88
Directional Drilling Operator	17.24	Single Axle	11.79
Excavator 50,000 lbs. or less	12.88	Single or Tandem Axle Dump Truck	11.68
Excavator over 50,000 lbs.	17.71	Tandem Axle Trailer w/Semi Trailer	12.81
Foundation Drill, Truck Mounted	16.93	Welder	15.97