



**CITY OF CARROLLTON  
GENERAL CONDITIONS**

**AND**

**SPECIFICATIONS**

**FOR**

**REQUEST FOR PROPOSAL FOR BRICK SCREENING WALL  
REPAIRS & RETAINING WALL FACADES**

**RFP# 20-014**

**CLOSING DATE:**

**MONDAY, MAY 4, 2020**

**11:30 AM**

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**Exhibit 1** – General Design Standards - All Construction Activities must comply with the North Central Texas Council of Governments Standard Specifications for Public Works Construction and the current City of Carrollton General Design Standards. Contractor must obtain copies of the latest General Design Standards from the City. These Guidelines, Amendments and Standard Details may also be obtained from the City of Carrollton website at <http://www.cityofcarrollton.com/index.aspx?page=802> *Also listed as Exhibit 1 on the website*

## ADVERTISEMENT & NOTICE TO BIDDERS – PAGE 1 OF 2

Due to the pandemic, Request for Proposals will be received via email, [purchasing.bids@cityofcarrollton.com](mailto:purchasing.bids@cityofcarrollton.com), provided a digital signature is included, until the hour 11:30 AM on the 4<sup>th</sup> day of May 2020; at which time bids duly delivered and submitted will be considered for supplying the following:

### REQUEST FOR PROPOSAL FOR BRICKWALL SCREENING AND REPAIR

#### RFP # 20-014

The service and materials to be purchased from this annual contract will include repairs and/or replacements to the brick walls located throughout the City.

The submitted bids will be opened on **Monday, May 4, 2020 11:00 AM**. The successful Bidder **must furnish a Payment Bond and a Performance Bond** in the amount of 100% of the contract price from an approved Surety Company holding a permit from the State of Texas, to act as Surety and acceptable (according to the latest list of companies holding certificates of approval by the State Board of Insurance under 7.19-1 of the Texas Insurance Code). The successful bidder must also be able to show evidence that it is authorized to do business in the State of Texas prior to executing the contract.

All blanks on the Pricing Sheets must be completed and all subtotal and total prices must be stated in both script and figures where indicated. The City of Carrollton (“City”) reserves the right to reject any or all rfp/bids and to waive formalities. In case of ambiguity or lack of clearness in stating the price in the bids, the City reserves the right to consider the most advantageous construction thereof or to reject the bid. Unreasonable or unbalanced unit prices will be considered sufficient cause of rejection of any bid or bids.

**Bidders shall have performed at least three (3) projects with a similar scope of work within the past three years.**

#### CONDITIONS OF SITE AND WORK

Bidder should carefully examine the plans, specifications and all other information provided with the RFP Documents, (referenced documentation will be located on the ([City of Carrollton Currents Bid Website](#))) visit the work site and fully inform themselves as to all conditions and matters which can in any way affect the work or costs thereof. Should a Bidder find discrepancies in, or omissions from the provided information, or should Bidder be in doubt as to the meaning and intent, Bidder shall notify the City in writing at once and obtain clarification prior to submitting a Bid. **The submission of a Proposal by Bidder shall be conclusive**

**evidence that the Bidder is fully acquainted and satisfied as to the character, quality and quantity of work to be performed and materials to be furnished.**

The awarded vendor will be responsible for replacing sod to any disturbed areas. Awarded vendor will be responsible for securing the construction site.

### **LIABILITIES**

No costs associated with the presentation of this RFP, or incurred in any manner by the bidder, may be charged to the City of Carrollton. All responses shall become property of the City of Carrollton and subject to disclosure under the Texas Open Records Law.

### **RESERVED RIGHTS**

City of Carrollton reserves the right to reject any and/or all proposals and to waive any and/or all technicalities and informalities received in response to this Bid as allowed by law.

### **GUARANTEE OF FUNDING**

The City of Carrollton has funds available and authorized for the full contract amount for the construction of the improvements for all of its contracts approved in accordance with its policies.

### **PROJECT BONDING**

The successful Bidder must furnish Performance and Payment Bonds each in the amount of 100% of the contract price from an approved Surety Company holding a permit from the State of Texas, to act as a Surety and acceptable (according to the latest list of companies holding certificates of approval by the State Board of Insurance under 7.19-1 of the Texas Insurance Code) **on the City's attached form.**

The successful Bidder must also be able to show evidence that it is authorized to do business in the State of Texas prior to executing the contract.

**Bidders are expected to inspect the site of the work and to inform themselves regarding local conditions under which the work is to be done. Attention is called to the provisions of the Acts of the 43<sup>rd</sup> Legislature of the State of Texas and subsequent amendments concerning the wage scale and payment of prevailing wages specified.** Prevailing wage rate will be established by the City of Carrollton for this project. All bidders must comply with the rules and regulations for the Americans with Disabilities Act of 1990.

Any request for proposals received after stated closing time will not be accepted. If an internet service provider or in the internal mail system of the City of Carrollton beyond the date and hour set for the request for proposal opening, request for proposals thus delayed will not be considered.

**DUE TO THE COVID-19 PANDEMIC CITY OF CARROLLTON FACILITIES ARE CLOSED. PROPOSALS MUST BE SENT ELECTRONICALLY TO [PURCHASING.BIDS@CITYOFCARROLLTON.COM](mailto:PURCHASING.BIDS@CITYOFCARROLLTON.COM)**

Information on the RFP/Bid process/procedures may be obtained from the Purchasing Department, Ebonie Williams, Buyer, City of Carrollton at (972) 466-3105, or email : [purchasing@cityofcarrollton.com](mailto:purchasing@cityofcarrollton.com).

Information related to the bid/rfp specifications may be obtained from Kirk Iverson, Contract Administrator, Public Works Department, via email [kirk.iverson@cityofcarrollton.com](mailto:kirk.iverson@cityofcarrollton.com); please be sure to email [purchasing@cityofcarrollton.com](mailto:purchasing@cityofcarrollton.com) on all communication.

Until the final award by the city of Carrollton, said City reserves the right to reject any and/or all bids, to waive technicalities, to re-advertise, to proceed otherwise when the best interests of said City will be realized hereby. Bids will be submitted sealed and plainly marked with the date and time of opening.

The city of Carrollton Municipal Building is wheelchair accessible. To request a reasonable accommodation needed for bid openings for a disability, please contact the Purchasing Office 72 hours in advance at (972) 466-3115.

**\* DUE TO THE COVID-19 PANDEMIC CITY OF CARROLLTON FACILITIES ARE CLOSED.**

CITY OF CARROLLTON, TEXAS



Patricia Helms, Purchasing Manager

**Publication Dates: Sunday, April 19, 2020 & Sunday, April 26, 2020**

**Closing Date: Monday, May 4, 2020 @ 11:30 AM CST**

**PART I**  
**GENERAL CONDITIONS**

# GENERAL REQUEST FOR PROPOSAL CONDITIONS

## 1.1 ADDENDA

**It is the responsibility of the Vendor to check for addenda.** Addenda will be posted to the City's website: [City of Carrollton Current Bids](#)

## 1.2 ASSIGNMENT OF REQUEST FOR PROPOSAL/CONTRACT

The successful proposer may not assign their rights and duties under an award without the written consent of the City Manager or Assistant City Manager authorized to bind City on. Such consent shall not relieve the assignor of liability in event of default by their assignee.

## 1.3 REQUEST FOR PROPOSAL CONSIDERATION / TABULATION

After request for proposals are opened and publicly read, the request for proposals will be tabulated for comparison on the basis of the request for proposal prices and quantities (lowest responsible Vendor) or by the best value method shown in the Proposal. Until final award of the Contract, the city reserves the right to reject any or all request for proposals, to waive technicalities, to re-advertise for new request for proposals, or to take other action deemed in the best interests of the City.

**Proposals will be rated based on the following criteria:**

- Pricing ..... 55 %
- Experience/References/Past Vendor Performance ..... 45%

## 1.4 REQUEST FOR PROPOSAL SUBMISSION \*

***\*DUE TO THE COVID-19 PANDEMIC CITY OF CARROLLTON FACILITIES ARE CLOSED\****

- Request for Proposals may be submitted electronically only.
- To submit a Request for Proposal electronically, all documents must be returned, and a **digital signature provided on the proposal to submitters form. SUBMIT REQUEST FOR PROPOSALS VIA EMAIL TO [PURCHASING.BIDS@CITYOFCARROLLTON.COM](mailto:PURCHASING.BIDS@CITYOFCARROLLTON.COM)**
- All documents must be returned, and an original signature provided on the proposal to bidders sheet.
- RFP's will not be accepted in either format without a signature.

## 1.5 BRAND NAMES

If items for which request for proposals have been called for have been identified by a “brand name or equal” description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Request for proposals offering “equal” products will be considered for award if such products are clearly identified in the request for proposals and are determined by the Purchasing Manager and requesting Department to be equal in all material respects to the brand name products referenced. **Unless the proposer clearly indicates in their request for proposal that they are offering an “equal product”, their request for proposal shall be considered as offering a brand name product referenced in the Proposal Schedule.**

## 1.6 CANCELLATION OF REQUEST FOR PROPOSALS

Request for proposals may be cancelled with **60** days written notice with good cause as determined by the City.

## 1.7 CHANGES OR ALTERATIONS

No part of this request for proposal may be changed/alterd in any way. Vendors must submit written requests to change any specifications/conditions no later than the deadline for questions. *Changes made without submission of a written request to this request for proposal will result in disqualification.*

## 1.8 COMPLETING INFORMATION

Proposer must fill in all information asked for in the blanks provided under each item. Failure to comply may result in rejection of the Request for Proposal at the City’s option.

## 1.9 CONTRACT CLAUSE

All proposers understand and agree that the vendor’s request for proposal response will become a legally binding contract upon acceptance in writing by the City. This contract may be superseded only if replaced with a more extensive contract that is agreed to by both parties.

## 1.10 DEFAULT

In case of default of the successful proposer, the City of Carrollton may procure the articles from other sources and hold the proposer responsible for any excess cost occasioned thereby.

### **1.11 DELIVERY**

The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Proposer fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. All prices are to be F.O.B. Carrollton, Texas all freight prepaid.

### **1.12 DELIVERY DATE**

Delivery date is an important factor to the City and may be required to be a part of each request for proposal. The City of Carrollton considers delivery time to be that period elapsing from the time the individual order is placed until that order or work thereunder is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery at Carrollton, Texas. Failure of the proposer to meet guaranteed delivery dates or service performance could affect future City orders.

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Manager, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.

### **1.13 INDEMNIFICATION**

**IN CASE ANY ACTION IS BROUGHT AGAINST THE CITY, OR ANY OFFICER OR AGENT OF THE CITY, FOR THE FAILURE, OMISSION, OR NEGLECT OF THE VENDOR TO PERFORM ANY OF THE COVENANTS, ACTS, MATTERS, OR THINGS BY THIS CONTRACT UNDERTAKEN; OR FOR INJURY OR DAMAGE CAUSED BY THE ALLEGED NEGLIGENCE OF THE VENDOR OR HIS SUBCONTRACTORS, OR HIS OR THEIR AGENTS, OR IN CONNECTION WITH ANY CLAIM BASED ON LAWFUL DEMANDS OF SUBCONTRACTORS, WORKMEN, MATERIALMEN, OR SUPPLIERS, THE VENDOR SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS OFFICERS AND AGENTS, FROM ALL LOSSES, DAMAGES, COSTS, EXPENSES, JUDGMENTS, OR DECREES ARISING OUT OF SUCH ACTION, INCLUDING ATTORNEY FEES.**

## 1.14 INSURANCE

Deductibles, of any type, are the responsibility of the vendor/contractor.

A. Before commencing work, Bidder shall, at its own expense, procure, pay for and maintain during the term of this Agreement the following insurance written by companies approved by the state of Texas with an A.M. Best rating of at least A and acceptable to the City. Bidder shall furnish to the City of Carrollton Purchasing Department certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number. Subscriber has the right to a copy of the full policy. The City of Carrollton shall be listed as an additional insured under all liability policies except for professional & automobile liability policies.

1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Continuing Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$2,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.

B. With reference to the foregoing required insurance, Bidder shall endorse applicable insurance policies as follows:

1. A waiver of subrogation endorsement shall be added to Bidder's workers' compensation policies to eliminate the potential that the workers' compensation insurer will subrogate against the City, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.

2. The City of Carrollton, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader.
  3. All insurance policies shall be endorsed to the effect that City of Carrollton will receive at least thirty (30) days' notice prior to cancellation, non-renewal, termination, or material change of the policies.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of at least A or better as assigned by A.M. Best Company.

#### **Other Insurance Provisions**

1. The City is to be named as an additional insured on the Commercial General Liability Insurance policy. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by the insurer to bid coverage on its behalf.
2. Insurance is to be placed with insurers with a Best rating of no less than A. The company must also be duly authorized to transact business in the State of Texas.
3. Workers' Compensation and Employers' Liability Coverage: Statutory. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from the activities under this contract.
4. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to the Purchasing Manager upon award of the contract(s).
5. Insurance Certificate must be submitted and issued with the City listed as the certificate holder.

## **1.15 MISCELLANEOUS**

Except as to any supplies or components which the specifications provide need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, they shall notify the Purchasing Manager immediately, in writing, including the reasons therefore and proposing any consideration which will flow to the City if authorization to use supplies or components is granted.

The City of Carrollton supports a recycling program. Recycled materials are acceptable and will be considered for award. The City desires to use recycled products when a comparable material/product is available. If your company distributes products made of recycled materials, please submit an alternate request for proposal for the items requested. All recycled products should meet the minimum standards established in the request for proposal specifications provided. State any exceptions: costs, warranties and percentage of recycle materials used in the manufacture of the material/product. The City will determine the acceptability of the materials/product request for proposal as an alternate.

The City will consider special vendor pricing on discounts in exchange for City's willingness to participate in new product testing or promotion including ability of vendor to bring other potential customers to city job sites to demonstrate product. The amount of product discount in exchange for these services should be clearly stated in the request for proposal document. Any promotional strategies should be discussed with the Purchasing Manager and approved by the appropriate City Official(s) before submission of the request for proposal.

Successful proposer(s) agrees to extend prices to all entities that have entered into or will enter into joint purchasing inter-local cooperation agreements with the City of Carrollton. As such, the City of Carrollton has executed or may enter into an inter-local agreement with certain other governmental entities authorizing participation in a cooperative purchasing program. The successful vendor may be asked to provide product/services, based upon the request for proposal price, to any other participant in the forum.

The City operates on a fiscal year that ends on September 30<sup>th</sup>. State law mandates that a municipality may not commit funds beyond a fiscal year; this request for proposal is subject to cancellation if funds for this commodity are not approved in the next fiscal year.

## **1.16 PAYMENT TERMS & CONDITIONS**

All proposals shall specify terms and conditions of payment, which will be considered as part of, but not control, the award of request for proposal. City review, inspection, and processing procedures ordinarily require thirty (30) days after receipt of invoice, materials or service. Request for proposals which call for payment before 30 days from receipt of invoice, or cash discounts given on such payment, will be considered only if in the opinion of the Purchasing Manager the review, inspection and processing procedures can be completed as to the specific purchases within the specified time.

It is the intention of the City of Carrollton to make payment on completed orders within thirty (30) days of receiving invoicing unless unusual circumstances arise. Invoices shall be fully documented as to labor, materials and equipment provided. Orders will be placed by the Purchasing Department and must be given a Purchase Order Number to be valid. No payments shall be made on invoices not listing a Purchase Order Number. No partial payment will be made.

Payment will not be made by the City until the vendor has been given a Purchase Order Number, has furnished proper invoice, materials, or services, and otherwise complied with City Purchasing procedures, unless this provision is waived by the City.

## **1.17 PROVISIONAL CLAUSES**

The City of Carrollton will not enter into any contract where the cost is provisional upon such clauses generally known as “escalator” or “cost-plus” clauses.

## **1.18 REJECTION OF REQUEST FOR PROPOSALS**

The City reserves the right to reject any or all request for proposals or to waive technicalities at its option when in the best interests of said City.

Request for proposals will be considered irregular if they show any omissions, alteration of form, additions, or conditions not called for, unauthorized alternate request for proposals or irregularities of any kind. However, the City reserves the right to waive any irregularities and to make the award in the best interests of the City.

The City reserves the right to reject any or all request for proposals, and all request for proposals submitted are subject to this reservation. Request for proposals may be rejected, among other reasons, for any of the following specific reasons:

- Request for proposals received after the time limit for receiving request for proposals as stated in the advertisement.
- Proposal containing any irregularities.
- Unbalanced value of any items.

Proposers may be disqualified and their request for proposals not considered, among other reasons, for any of the following specific reasons:

- Reason for believing collusion exists among the Proposers.
- Reasonable grounds for believing that any Proposer is interested in more than one Proposal for the work contemplated.
- The Proposer being interested in any litigation against the City.
- The Proposer being in arrears on any existing contract or having defaulted on a previous contract.
- Lack of competency as revealed by a financial statement, experience and equipment, questionnaires, etc.
- Uncompleted work, which in the judgment of the City will prevent or hinder the prompt completion of additional work if awarded.

### **1.19 REQUEST FOR NON-CONSIDERATION**

Request for proposals deposited with the City cannot be withdrawn prior to the time set for opening request for proposals. Request for non-consideration of request for proposals must be made in writing to the Purchasing Manager and received by the City prior to the time set for opening request for proposals. After other request for proposals are opened and publicly read, the Proposal for which non-consideration is properly requested may be returned unopened. The Proposal may not be withdrawn after the request for proposals have been opened, and the Proposer, in submitting the same, warrants and guarantees that this request for proposal has been carefully reviewed and checked, that it is in all things true and accurate and free of mistakes, and that such request for proposal will not and cannot be withdrawn because of any mistake committed by the Proposer.

### **1.20 SALES TAX**

The total for each request for proposal submitted must include any applicable taxes. Although the City is exempt from most City, State, or Federal taxes, this is not true in all cases. It is suggested that taxes, if any, be separately identified, itemized, and stated on each request for proposal. The City cannot determine for the proposer whether or not the request for proposal is taxable to the City. The proposer through the proposer's attorney or tax consultant must make such determination. Bills submitted for taxes after the request for proposals are awarded will not be honored.

## **GENERAL CONSTRUCTION CONDITIONS**

### **1. CONTRACT DOCUMENTS:**

It is understood and agreed that the Advertisement for Bids, Instructions to Bidders, Proposal, Proposal Data, Owner's Purchase Order, General Conditions, Special Conditions, Specifications, Council of Governments Standard Specifications for Public Works, 1983 Edition as amended, Drawings, Addenda, specifications, and Superintendent data furnished by the Contractor and accepted by the Owner, are contract documents. Additionally, any other written instruments, correspondence, etc., bound in the volume of the contract documents at the time of execution by the Owner and Contractor shall be "contract documents" whether specifically designated as such or otherwise.

The City reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and execution of their work, and where required, shall properly connect and coordinate his work with theirs.

### **NO PREJUDICE AGAINST OWNER:**

It is understood and agreed by Contractor that Owner has independently prepared most of the Contract Documents and Contractor agrees that, notwithstanding any doctrine of law to the contrary, no presumption and/or prejudice against Owner shall be presumed against Owner (nor construed in favor of Contractor) by any court of competent jurisdiction in its interpretation of the Contract Documents.

### **2. LEGAL ADDRESSES:**

All notices, letters, and other communications to the Contractor will be mailed or delivered to either the contractor's business address listed in the Proposal or the contractor's office in the vicinity of the work, with delivery to either of these addresses being deemed as delivery to the Contractor. The addresses of the Owner appearing on page 3 are hereby designated as the place to which all notices, letters, and other communication to the Owner shall be mailed or delivered. Either party may change his address at any time by an instrument in writing delivered to the Owner and to the other party.

### **3. SCOPE AND INTENT OF CONTRACT DOCUMENTS:**

The specifications are intended to supplement but not necessarily duplicate each other. Any work exhibited in the one and not the other shall be executed as if it had been set forth in both, so that the work will be constructed according to the complete design as determined by the Owner.

Should anything necessary for a clear understanding of the work be omitted from the specifications and drawings, or should the requirements appear to be in conflict, the Contractor shall secure written

instructions from the Owner before proceeding with the work affected thereby. It is understood and agreed that the work shall be performed accordingly to the true intent of the contract documents.

**4. INDEPENDENT CONTRACTOR:**

The relationship of the Contractor to the Owner shall be that of an independent Contractor. Owner and Contractor agree that the negotiation, preparation and execution of the Contract Documents were negotiated, prepared, and executed as part of an arms-length transaction, and that no duty of good faith and fair dealing exists between Owner and Contractor, now, in the future, nor at any time in the past. The Owner shall not have the right to control the day-to-day activities of how the Contractor performs the work, being interested only in the results to be achieved.

**5. ASSIGNMENT AND SUBCONTRACTING:**

The Contractor shall not assign or subcontract the work or any part thereof, without the previous written consent of the Owner, nor shall he assign, by power of attorney or otherwise, any of the money payable under this contract unless written consent of the Owner has been obtained. No right under this contract, nor claim for any money due or to become due hereunder shall be asserted against the Owner, or person acting for the Owner, by reason of any so called assignment of this contract or any part thereof, unless such assignment has been authorized by the written consent of the Owner. In case the Contractor is permitted to assign moneys due or to become due under this contract, the instrument of assignment shall contain a clause subordinating the claim of the assignee to all prior liens for services rendered or materials supplied for the performance of the work.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him, his subcontract shall be immediately terminated by the Contractor upon notice from the Owner. The Contractor shall be as of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the Owner.

It is the intent of these specifications that the Contractor shall perform the majority of the work with his own forces and under the management of his own organization. Only subcontractors who have been listed in the proposal and who are accepted by the Owner as provided in the General Conditions may subcontract specific portions of the work. All subcontractors shall be directly responsible to the Contractor and shall be under his general supervision. All work performed under subcontracts shall be subject to the same contract provisions as the work performed by the contractor's own forces.

This Contract is considered personal between the Contractor and Owner therefore, any sale of more than 50% ownership of Contractor shall be considered as an assignment.

**6. ORAL STATEMENTS:**

It is understood and agreed that the written terms and provisions of this agreement shall supersede all oral statements of representatives of the Owner, and oral statements shall not be effective or be construed as being a part of the contract.

**7. REFERENCE STANDARDS AND LAWS AND REGULATIONS:**

Reference to the standards of any technical society, organization, or association, or to codes of local or state authorities, shall mean the latest standard, code, specification, or tentative standard adopted and published at the date of taking bids, unless specifically stated otherwise.

The Contractor shall keep itself fully informed of, and shall observe and comply with, all laws, ordinances, and regulations which, in any manner, affect those engaged or employed on any work, or the materials and equipment used in any work or in any way affect the performance of any work, and of all orders and decrees of bodies or tribunals having jurisdiction or authority over work performed under the contract. If any discrepancy or inconsistency should be discovered between the contract and any such law, ordinance, regulation, order or decree, the Contractor shall immediately report the same in writing to the Owner. The Contractor shall be responsible for the compliance with the above provisions by subcontractors of all tiers.

Except as otherwise specified, the Contractor shall procure any pay for all permits and inspections and shall furnish any bonds, security or deposits required to permit performance of its work hereunder.

- (a) OSHA: all work and job site conditions shall, at all times, adhere to the requirements of the latest provisions of the Occupational Safety and Health Act.
- (b) REQUIREMENTS AND CODES: Wherever references are made in the contract to requirements or codes in accordance with which work is to be performed or tested, the addition or revision of the requirements or codes current on the date of this contract shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such requirements or codes is solely for technical information.

This contract shall be governed by the laws of the State of Texas and by such federal laws as may be applicable.

The parties agree that all claims, disputes, and other matters in question between the Contractor and the Owner arising out of or pertaining to the contract documents or the breach thereof, shall, except as otherwise expressly provided, be decided solely in the Courts of the State of Texas, in the County of Dallas.

Interest, if any, allowable on the claims of either party shall be at the current rate for judgments in the Courts of the State of Texas.

**8. NO WAIVER OF RIGHTS:**

Neither the inspection by the Owner or any of their officials, employees, or agents, nor any order by the Owner for payment of money, or any payment for, or acceptance of, the whole or any part of the work by the Owner, nor any extension of time, nor any possession taken by the Owner or its employees, nor any action of the Owner shall operate as a waiver of any provision of this contract, or of any power herein reserved to the Owner, or of any right to damages herein, provided nor shall any waiver of any breach in this contract be held to be a waiver of any other or subsequent breach.

**9. CONTRACTOR'S SUPERINTENDENT AND EMPLOYEES:**

The Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized, and financed to perform such work.

The Contractor shall act as an independent contractor maintaining complete control over its employees and all of its subcontractors. The Contractor shall perform all work in an orderly and workmanlike manner, enforce strict discipline and order among its employees and assure strict discipline and order by its subcontractors.

Before starting work, the Contractor shall designate a competent, authorized representative to represent and act with full authority for the contract and shall inform the Owner in writing of the name, address, telephone number (day and night) of such representative, and of any change in such designation. This representative shall have authority to make binding and enforceable decisions in the name of the Contractor and to accept service of all notices, which the Owner desires to serve or which are required by this contract to be served on the Contractor. As an alternate, such written notices may be mailed directly to the address of that party shown on the face of the Contract Agreement form. Such representative shall be present or be duly represented at the site of work at all times when work is actually in progress and, during period when work is suspended, arrangements acceptable to the Owner shall be made for any emergency work which may be required. Competent assistants, shall support the Contractor's authorized representative as necessary, and the authorized representative and its assistants shall be satisfactory to the Owner. All requirements, instructions, and other communications given to the Contractor's authorized representative by the Owner shall be as binding as if given to the Contractor.

The Contractor shall employ only fully experienced and properly qualified persons to perform any work. The Contractor shall be responsible for maintaining satisfactory conduct of its employees. The

Contractor's site representative shall stay on the project until final completion of the work in accordance with the contract documents.

**10. SUPERINTENDENT INSPECTION:**

The Owner may appoint such inspectors, as the Owner deems proper to inspect the materials furnished and the work performed for compliance with the drawings and specifications. The Contractor shall furnish all reasonable assistance required by the Owner, or inspectors, for the proper inspection of the work. Should the Contractor object to any interpretation of the contract by any inspector, the Contractor may make written appeal to the Owner for a decision, but the Owner's decision shall be final.

Inspectors shall have the authority to reject work, which is unsatisfactory, faulty, or defective or does not conform to the requirements of the drawings and specifications. Inspection shall not relieve the Contractor from any obligation to construct the work strictly in accordance with the drawings and specifications. Work not so constructed shall be removed and replaced by the Contractor at his own expense.

**11. RIGHT OF OWNER TO TERMINATE CONTRACT:**

If the work to be done under this contract is abandoned by the Contractor; or if this contract is assigned by him without the written consent of the Owner; or if the Contractor is adjudged bankrupt, or files for voluntary bankruptcy; or if a general assignment of his assets is made for the benefit of his creditors; or if a receiver is appointed for the Contractor of any of his property or if at any time in writing to the Owner determines that the performance of the work under this contract is being unnecessarily delayed, that the Contractor is violating any of the conditions of this contract, or that he is executing the same in bad faith or otherwise not in accordance with the terms of said contract; or if the work is not substantially completed within the time named for its completion or within the time to which such completion date may be extended; then the Owner may serve written notice upon the Contractor and his surety of the Owner's intention to terminate this contract. Unless within five (5) days after the serving of such notice, a satisfactory arrangement is made for continuance, this contract shall terminate. In the event of such termination, the surety shall have the right to take over and complete the work, provided that if the surety does not commence performance within 30 days, the Owner may take over and prosecute the work to completion, by contract or otherwise. The Contractor and his surety shall be liable to the Owner for all excess cost sustained by the Owner by reason of such prosecution and completion. The Owner may take possession of, and utilize in completing the work, all materials, equipment, tools, and plant on the site of the work, including such materials, etc., as may have been placed on the site by or at the direction of the Contractor.

The Owner may, at its option, terminate the performance of the work in accordance with this section, in whole, or from time to time in part, at any time by written notice thereof the Contractor, whether or not the Contractor is in default. Upon any such termination, Contractor shall waive any claims for damages, including loss of anticipated profits, on account thereof, but as the sole right and remedy of the Contractor, the Owner shall pay Contractor in accordance with subparagraph (b) below, provided, however, that those provisions of the contract documents which by their very nature survive final acceptance under the contract documents shall remain in full force and effect after such termination.

- (a) Upon receipt of any such notice, the Contractor shall, unless the notice requires otherwise:
  - (1) Immediately discontinue work on the date and to the extent specified in the notice;
  - (2) Place no further order or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of work under the contract that is not terminated;
  - (3) Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to the Owner of all order and subcontracts to the extent they relate to the performance of work terminated, or assign to the Owner those orders and subcontracts, and revoke agreements specified in such notice; and
  - (4) Assist the Owner, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by the Owner under the contract.
  
- (b) Upon any such termination, the Owner will pay the Contractor an amount determined in accordance with the following (without duplication of any item):
  - (1) All amounts due and not previously paid to the Contractor for work completed in accordance with the contract prior to such notice, and for work thereafter completed as specified in such notice;
  - (2) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in subparagraph (a) (3) above;
  - (3) The reasonable cost incurred pursuant to subparagraph (a) (4) above;
  - (4) Any other reasonable costs incidental to such termination of work.

The foregoing amounts will include a reasonable sum, under all of the circumstances, as profit for all work satisfactorily performed by the Contractor.

## **11.1 TERMINATION FOR CONVENIENCE:**

Owner hereby reserves the right to terminate this Agreement without regard to fault or breach upon written notice to Contractor, effective immediately unless otherwise provided in said notice to Contractor, effective immediately unless otherwise provided in said notice. In the event of such termination, Owner shall pay as the sole amount due to Contractor in connection with the work (i) all sums due for Work performed to date including allowing profit and overhead (except retainage sums shall not be paid prior to thirty (30) days following the date of termination); and (ii) reasonable cost of termination. Such sums will be due and payable on the same conditions as set forth in this Agreement for final payment to the extent applicable. Upon receipt of such payment, the parties hereto shall have no further obligations to each other except for Contractor's obligations to perform corrective and/or warranty work and to indemnify Owner as provided for in this Agreement. It is understood and agreed that no profit, fee or other compensation shall be due or payable for unperformed work. Contractor agrees that each subcontract and purchase order issued by it will reserve for Contractor the same right of termination provided by this Section 15.1 and Contractor further agrees to require that comparable provisions be included in all lower tier subcontracts and purchase orders.

Upon a determination by any court or body that termination of Contractor, or its successor in interest, was wrongful, such termination will be deemed converted to a termination for convenience and Contractor's remedy for wrongful termination is limited to the recovery of the payments permitted for termination for convenience as set forth above.

The rights and remedies of Owner and Contractor under this Agreement shall be non-exclusive, and shall be in addition to all the other remedies available to such parties at law or in equity, subject, however, in the case of Contractor, to the limitation contained above and other pertinent provisions of this Agreement.

## **12. EQUAL OPPORTUNITY:**

The Contractor is aware of, and is fully informed of, the Contractor's obligations under Executive Order 11246, and, where applicable, shall comply with the requirements of such order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-1.4, and the clause therein entitled "Equal Opportunity Clause" which, by this reference, is incorporated herein.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under Executive Order No. 11701, "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such order, and all orders, rules and regulations promulgated thereunder unless

exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR 60-250 et seq. and the clause therein entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era" which, by this reference is incorporated herein.

The Contractor certifies those segregated facilities, including, but not limited to, washrooms, work areas, locker rooms, are not, and will not, be maintained or provided for the Contractor's employees. Where applicable, the Contractor shall obtain similar certification from any of its subcontractors, vendors, or suppliers performing work under this contract.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under the Rehabilitation Act of 1973, and, where applicable, shall comply with the provisions of the Act, and the regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-741 and the clause entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Handicapped Workers" which, by this reference, is incorporated herein. Contractor must also comply with the rules and regulations as established by the Americans with Disabilities Act of 1990.

**13. PROTECTION OF WORK AND PROPERTY:**

The Contractor shall be responsible for and shall bear any and all risk of loss of, or damage to work in progress, all materials delivered to the site, and all materials, tools, and equipment until completion and final acceptance of the work to be performed under this contract.

The Contractor shall promptly take all precautions, which are necessary and adequate against any conditions created during the progress of the Contractor's activities hereunder which involve a risk of bodily harm to persons or a risk of damage to any property. Contractor shall continuously inspect all work, materials and equipment to discover and determine, and shall be solely responsible for discovery, determination and correction of any conditions which involve a risk of bodily harm to persons or damage to property.

The Contractor shall comply with all applicable safety laws, standards, codes and regulations in the jurisdiction where the work is being performed specifically but without limiting the generality of the foregoing and regardless of any exemptions provided by law, with all rules, regulations and standards adopted pursuant to the Occupational Safety and Health Act of 1970.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interface with

the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. The Contractor will protect from damage all existing improvements, utilities, roads, and bridges at or near the site of work and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract or the failure to exercise reasonable care in the performance of the work. Under no circumstances will county or township roads and bridges be subject to greater than normal highway truck loadings.

The Contractor shall provide and maintain such temporary work as is required for the protection of the public and those employed in or about the work site, including all signs, guards, barricades, night lights and any other temporary protection as may be necessary. Contractor shall provide and maintain such temporary work as is required for protection of finished work, including building paper, boxing, planking, protective coating, and such other protection as may be deemed necessary by the Owner. All such work shall be returned to original condition by the Contractor on completion of the contract.

Whenever necessary to maintain proper temperatures for performance of work, or to protect or to close in work in place, Contractor shall provide and maintain temporary enclosures as directed by the Owner for all openings or exterior surfaces that are not enclosed with finishing materials.

The Contractor shall protect all the work including buildings, structures, equipment, excavations, trenches, etc. from water damage including damage by rainwater, ground water, backing-up of drains, downspouts of sewers and shall construct and maintain all necessary drainage and do all pumping required to protect or to perform the work. Contractor shall provide protection to any equipment in place, as required to prevent damage by moisture. Contractor, in general, shall at all times carefully protect the work, materials, and equipment against damage from the weather, and comply with the directions of the Owner in order to avoid any adverse effect on the project from weather conditions.

The Contractor assumes all liability for its failure to comply with the provisions of this Article. The Contractor shall include this Article in its entirety in all subcontracts for any work at the project site.

Upon the failure of the Contractor or its subcontractors to comply with any of the requirements of the Article, the Owner shall have the authority to stop any operations of the Contractor or its subcontractors affected by such failure until such failure is remedied. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for increased costs or damages by the Contractor or its subcontractors.

**14. SAFETY:**

The Contractor shall at all times conduct all operations under the Contractor in a manner to avoid the risk of bodily harm to persons or risk of damage to any property. The Contractor shall promptly take all precautions, which are necessary and adequate against any conditions, which involve a risk of bodily harm to persons or a risk of damage to any property. The Contractor shall continuously inspect all work, materials and equipment to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such conditions. The Contractor shall designate an employee as safety supervisor who is acceptable to the Owner.

The Contractor shall comply with all applicable laws, regulations and standards. The Contractor shall coordinate with other Contractors and subcontractors on safety matters and shall promptly comply with any specific safety directions given to the Contractor by the Owner.

The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazard, promulgating safety regulations and notifying the Owner and users of adjacent properties and utilities.

The Contractor shall maintain a Safety Program with detail commensurate with the work to be performed. Such review shall not relieve the Contractor of its responsibility for safety, nor shall it be construed as limiting in any manner the Contractor's obligation to undertake any action, which may be necessary or required to establish and maintain safe working conditions at the site.

The Contractor shall maintain accurate accident and injury reports.

The Contractor shall hold regular scheduled meetings to instruct its personnel on safety practices. The Contractor shall furnish safety equipment and enforce the use of such equipment by its employees.

All equipment furnished and installed on this project shall be manufactured and installed in accordance with the applicable parts of the Williams-Steiger Occupational Safety and Health Act of 1970, and its subsequent amendments and revisions. All work shall be performed in accordance with the regulations and requirements of the above noted Act, revisions and amendments.

**15. TAXES, PERMITS AND LICENSES:**

The Contractor shall obtain and pay for all licenses, permits, and inspections required for the work.

The Contractor shall pay all appropriate sales taxes, excluding materials permanently retained by the City of Carrollton franchise taxes, income taxes, gross receipts taxes, and other business or occupation taxes imposed upon the Contractor.

**16. PATENTS:**

Royalties and fees for patents covering materials, articles, apparatus, devices, equipment, or processes used in the work, shall be included in the contract amount. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees and he shall be liable for any damages or claims for patent infringements. The Contractor shall, at his own cost and expense, defend all suits or proceedings that may be instituted against the Owner for alleged infringement of any patents involved in the work and, in case of an award of damages, the Contractor shall pay such award. Final payment to the Contractor by the Owner will not be made while any such suit or claim remains unsettled.

In the event the Contractor is found to have infringed a patent, the Contractor shall either replace the part or process with a non-infringing part or process approved by the Owner, or secure the right to use the infringing part or process. Either choice shall be at the Contractor's expense.

**17. MATERIALS AND EQUIPMENT:**

Unless specifically provided otherwise in each case, all materials and equipment furnished for permanent installation in the work shall conform to applicable standard specifications and shall be new, unused, and undamaged when installed or otherwise incorporated in the work. No such material or equipment shall be used by the Contractor for any purpose other than that intended or specified, unless such use is specifically authorized by the Owner in each case.

**18. GUARANTEE:**

Contractor shall guarantee that all products are in accordance with the manufacture's guarantees, warranties, or Policies. Any replacement of defective material or materials will be made in accordance with such guarantee or warranty policies but, in any case, responsibility ends with the replacement of the defective part or parts, and no responsibility will be assumed for unauthorized repair or replacement of said equipment. Nor any expense will be incurred due to failure of said equipment excepting replacement of its defective part or parts by the manufacturer and in accordance with said manufacturer's policies.

Contractor's warranty against defects in material and workmanship shall extend two years from the date of final payment.

## 19. INSURANCE:

The Contractor shall secure and maintain throughout the duration of this contract insurance of such types and in such amount as may be necessary to protect himself and the interest of the Owner against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be acceptable to the Owner but regardless of such acceptance it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve him of any contractual responsibility or obligation.

Satisfactory certificates of insurance shall be filed with the Owner prior to starting any construction work on this contract. The certificates shall state that 30 days advance written notice will be given to the Owner before any policy covered thereby is changed or canceled.

The Contractor shall comply with all Federal, State and local laws and ordinances relating to Social Security, Unemployment Insurance, Pensions, etc.

### 19.1 WORKERS COMPENSATION INSURANCE COVERAGE:

(A) Definitions:

**Certificate of coverage ("certificate")** - copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-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.

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

(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 governmental entity 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 governmental entity showing that coverage has been extended.
- (E) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
  - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity 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 for one year thereafter.
- (G) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten 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, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (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, §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 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:
    - (a) a certificate of coverage, prior to the other person beginning work on the project; and
    - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period 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 for one year thereafter;
  - (6) notify the governmental entity 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 governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for 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 commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- (K) The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the

governmental entity.

**19.2 COMPREHENSIVE AUTOMOBILE LIABILITY:**

This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

The liability limits shall not be less than:

Bodily injury	..... \$500,000/person
	..... \$500,000/occurrence
Property Damage	..... \$100,000/occurrence

The insurance shall be of the occurrence type.

**19.3 COMPREHENSIVE GENERAL LIABILITY:**

This insurance shall be written in comprehensive form and shall protect the Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act of omission of the Contractor or his agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under the article entitled DEFENSE OF SUITS.

To the extent that the Contractor's work, or work under his direction, may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damage to underground property. The liability limits shall not be less than:

Bodily Injury	..... \$500,000/person
	..... \$500,000/occurrence
Property Damage	..... \$500,000/occurrence
	..... \$1,000,000/aggregate

The insurance shall be of the occurrence type.

20. **DEFENSE OF SUITS:**

In case any action in court is brought against the Owner, or any officer or agent of the Owner, for the failure, omission, or neglect of the Contractor to perform any of the covenants, acts, matters, or things by this contract undertaken; or for injury or damage caused by the alleged negligence of the Contractor or his subcontractors or his or their agents, or in connection with any claim based on lawful demands of subcontractors, workmen, materialmen, or suppliers the Contractor shall indemnify and save harmless the Owner and his officers and agents, from all losses, damages, costs, expenses, judgements, or decrees arising out of such action.

21. **PATENT INDEMNITY:**

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified. But, if the Contractor has reason to believe that the design, process, or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner.

22. **INDEMNITY AND RELEASE:**

**THE CONTRACTOR IS SOLELY RESPONSIBLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD OWNER (OR ANY OF OWNER'S REPRESENTATIVES OR EMPLOYEES), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, DEMANDS, LOSSES, DAMAGES, COSTS OR EXPENSE TO ALL PERSONS (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES) ARISING OUT OF RESULTING FROM OR OCCURRING IN CONNECTION WITH THE PERFORMANCE OF THE WORK THAT IS (I) ATTRIBUTABLE TO ANY BODILY OR PERSONAL INJURY, SICKNESS, DISEASES OR DEATH OF ANY PERSON OR ANY DAMAGE OR INJURY TO OR DESTRUCTION OF REAL OR PERSONAL PROPERTY (OTHER THAN THE WORK ITSELF) INCLUDING THE LOSS OF USE THEREOF, AND (II) CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT, STRICT LIABILITY OR OTHER ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR OR SUPPLIER, THEIR RESPECTIVE AGENTS OR EMPLOYEES OR ANY OTHER PARTY FOR WHOM ANY OF THEM MAY BE LIABLE REGARDLESS OF WHETHER SUCH IS CAUSED IN PART BY THE NEGLIGENT, STRICT LIABILITY OR OTHER ACT OR OMISSION OF A PARTY OR PARTIES INDEMNIFIED HEREUNDER.**

**SAID INDEMNITY AND HOLD HARMLESS AGREEMENT SHALL ALSO APPLY TO CLAIMS ARISING FROM ACCIDENTS TO CONTRACTOR, ITS AGENTS OR EMPLOYEES, WHETHER OCCASIONED BY CONTRACTOR OR ITS EMPLOYEES, THE OWNER OR HIS EMPLOYEES, OR BY ANY OTHER PERSON OR PERSONS.**

**THE FOREGOING INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER WORKERS' OR WORKMEN'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

**23. FINAL PAYMENT AND RELEASE:**

Acceptance by the Contractor of last payment shall be a release to the Owner and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the Owner or of any person relating to or affecting the work.

**24. INSPECTION:**

The Owner shall have the right, without extra charge therefore; to inspect all materials and equipment supplied under this contract at any time, including the place of manufacture, either during performance of the work, on final inspection, or during any applicable warranty period. The Owner or its designated representative shall have the right to reject equipment, materials and work not complying with the requirements of this contract. The Owner shall notify the Contractor in writing that such equipment, material or work is rejected. Thereupon, rejected work shall be satisfactorily corrected, rejected equipment shall be satisfactorily repaired or replaced with satisfactory equipment, and rejected material shall be satisfactorily replaced with satisfactory material, all in accordance with the contract, and the Contractor shall promptly segregate and remove rejected materials and equipment from the premises. All such correcting, repairing, replacing, and removing shall be by and at the expense of the Contractor. The Owner will perform inspections in such a manner so as not to delay the work unreasonably, and the Contractor shall perform its work in such a manner as not to delay inspection unreasonably.

**25. FINAL INSPECTION:**

When the work has been completed and at a time mutually agreeable to the Owner and Contractor, the Owner will make a final inspection of the work as to the acceptability and completeness of the work.

**26. ESTIMATES AND PAYMENTS:**

On or about the first day of each month the Contractor shall make an estimate of the value of the work completed. The Contractor and the Owner shall review the estimate prior to submitting the formal invoice to the Owner. The estimated cost of repairing, replacing, or rebuilding any part of the work or replacing materials which do not conform to the drawings and specifications will be deducted from the estimated value by the Owner.

The Contractor shall furnish to the Owner such detailed information as he may request to aid in the preparation of monthly estimates. After each estimate has been found acceptable, the Owner will pay to the Contractor on or about the 25<sup>th</sup> day of the month 90% of the estimated value less any previous payments. The Contractor shall be responsible for payment to vendors and subcontractors in accordance with article Chapter 2251, Texas Government Code.

Payments to the contractor involving federal funding will require the contractor to submit a copy of the current wage rate for that project with each request for payment.

**27. PAYMENTS:**

Payments may be withheld by Owner for (1) defective work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to subcontractors or for labor, materials or equipment, (4) reasonable evidence that the work cannot be completed for the unpaid balance of the contract price, (5) damage to the Owner or another contractor, (6) reasonable evidence that the work will not be completed by the scheduled work completion date and that the unpaid balance of the contract price would not be adequate to cover actual or liquidated damages for the anticipated delay, (7) persistent failure to carry out the work in accordance with the Contract Documents or (8) statutory retainage as described in Chapter 53 of the Texas Property Code.

**28. LIENS:**

Neither the Contractor, nor any of his subcontractors, workers or suppliers shall have the right of lien against the work performed under this contract, or any property of the Owner to secure payment for labor and materials.

**29. STATE LAW:**

**This contract is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Dallas County, Texas.**

**PART II**  
**INSTRUCTION TO BIDDERS**

## **RFP# 20-014**

### **BRICK SCREENING WALL REPAIRS & RETAINING WALL FACADES SPECIFICATIONS**

#### **GENERAL**

The “General Conditions of Agreement” shall be those set forth in the “General Conditions of Bidding” of the City of Carrollton Purchasing Department and shall be maintained unless there exists a conflict with the provisions of the Special Conditions shall govern. Work shall be done in accordance with and as indicated in the Specifications or in these Special Conditions.

#### **LOCATION OF WORK**

Work under this contract shall be performed on any brick-screening wall located within the City’s right of way or screening wall maintenance easement dedicated to the City.

#### **SCOPE OF WORK**

The primary intent of the work to be performed under this Contract is to provide for the timely repair of both single and double course brick screening walls, and columns damaged by a vehicular accident and/or structural failure. Also includes repair to various stone facades and the re-mortar of existing panels and columns.

The contractor shall furnish all labor, materials, equipment, vehicles and incidentals necessary in order to perform brick screen wall repairs and maintenance within the City of Carrollton. Work will be performed in accordance with these Specifications and the Contract Documents.

#### **PERIOD OF CONTRACTS**

The work covered under this contract includes the furnishing of all labor, materials, tools and equipment as specified for a period to begin on the tenth (10<sup>th</sup>) day after the Contract has been signed by the City and extending to one year thereafter. The City shall have the right and option to extend the term of the contract by two (2); one-(1) year terms based on written approval of the extension by the contractor.

#### **WORK ORDERS AND COMPLETION OF REPAIRS**

The Street Department shall notify the contractor by telephone and/or e-mail of the location of the needed repair. Contractor shall remove all debris and hazardous sections of the damaged wall.

Contractor shall complete all repairs within thirty (30) calendar days after date of notification. Allowance will be made for inclement weather. Failure to complete repairs within the stipulated time period will be grounds for cancellation of this contract.

## **WORKING HOURS**

Standard daylight hours shall be defined as the hours between one (1) hour after sunrise and until sunset. No construction equipment or machinery shall be operated before one (1) hour after sunrise within one thousand (1000) feet of any residence.

For purpose of this Contract, the following days shall be recognized as legal holidays:

- 1) New Year's Day
- 2) Martin Luther King's Birthday (observed)
- 3) Memorial Day
- 4) July 4
- 5) Labor Day
- 6) Thanksgiving Day and the Friday after
- 7) Christmas Eve
- 8) Christmas Day

## **MEASUREMENT AND PAYMENT**

Measurement and payment for work done under this contract shall be for the number of square feet of wall repaired and number of columns repaired times the unit price bid for the two types of walls and columns.

Double brick screening walls shall be measured and paid for on the basis of square footage of one side of the wall only. Contractors shall submit invoices upon completion to the Street Department.

## **ADDITIONAL WORK**

The City reserves the right to negotiate with the contractor for repairs that cannot be qualified on a per square feet of wall repaired and number of columns repaired times the unit price bid for the two types of walls and columns.

## **REPAIR OF BRICK SCREENING WALLS**

This item shall consist of supplying all materials and labor for the repair of single course, "thin wall" and double course brick screening walls along major thoroughfares within the City of Carrollton.

The unit cost bid for the double course brick walls shall be total unit cost to repair a wall composed of two brick panels. Measurement of square footage for repair will be based on measurement of one side only of the wall.

The City Street Department will remove all debris laying on the ground and such additional wall material that presents a hazard to the public. The contractor shall be responsible for any additional wall removal as will be necessary to get to solid structure.

All work shall conform to the latest version of the City of Carrollton General Design Standards (GDS).

## **A. Materials**

### **1. Brick**

The contractor shall make every attempt to identify the brick of the existing screening wall and attempt to obtain that brick for the repair.

If the brick is no longer available, the contractor shall match the existing brick as close as possible in color, texture and size with another brick type. The brick must be approved by the City's contract administrator prior to work commencing.

On "thin wall" panels replaced under this contract, the contractor shall supply and install a painted galvanized steel lintel, 3"X3"X3/8" under the new panel. Cost of supply and installation is subsidiary to the repair of "thin wall" screening walls.

### **2. Lime Mortar**

Lime mortar for brick screening wall repairs shall be composed of Portland cement, hydrated lime, sand and water. The mortar shall be Type "S", in accordance with the requirements of ASTM C-270. Color additives shall be added as necessary to match existing mortar.

After completion, the repaired wall section shall be washed to remove cement film and scale. Contractor shall remove all debris and trash from the site.

### **3. Reinforcement**

Reinforcement in walls shall be either three (3) #3 vertical reinforcing bars placed at quarter points along wall between columns or #9 gauge, 1 3/4" wide hot-dipped galvanized ladder wire in the top, bottom and every other course of masonry. Yield strength of the steel shall be 60,000 psi.

### **4. Column Caps (Standard 24" x 24")**

Column caps shall be attached to the brick by the use of standard masonry anchors and an epoxy adhesive.

## **RE-MORTAR OF BRICK PANELS AND COLUMNS**

This item shall consist of supplying all materials and labor required to point tuck and refit existing bricks as directed by City staff. This item shall be paid by the square foot of wall or column repaired.

## **REPAIR OF MILSAP STONE ON CONCRETE RETAINING WALL**

This item shall consist of supplying all materials and labor for the repair of milsap stone on concrete retaining walls within the City of Carrollton.

The unit cost bid for the repair of the stone shall be total unit cost to replace the stone that has come loose from the wall. Measurement of square footage for repair will be based on measurement of one side only of the wall.

There will be two separate pay items for this work. One will be for repair of the wall where the stone is still on site or provided by the City and can be reused in the repair process. The second will be for repair of the wall where the stone is not on site and not provided by the City and the contractor must provide this material.

All work shall conform to the latest version of the City of Carrollton General Design Standards (GDS). ***SEE EXHIBIT 1***

A. Materials

### **1. Milsap stone**

## **REPAIR OF OWENS-CORNING FEATHERLITE “STICK ON” VENEER RETAINING WALL**

This item shall consist of supplying all materials and labor for the repair of Owens-Corning Featherlite “Stick On” veneer on concrete retaining walls within the City of Carrollton.

The unit cost bid for the repair of the stone shall be total unit cost to replace the stone that has come loose from the wall. Measurement of square footage for repair will be based on measurement of one side only of the wall.

There will be two separate pay items for this work. One will be for repair of the wall where the stone is still on site or provided by the City and can be reused in the repair process. The second will be for repair of the wall where the stone is not on site and not provided by the City and the contractor must provide this material.

All work shall conform to the latest version of the City of Carrollton General Design Standards (GDS). – ***SEE EXHIBIT 1***

A. Materials

### **1. Owens-Corning, Limestone – Cedar (CSV-2044)**

# RETAINING WALL FACADES



**Milsap Stone Wall**



**Owens-Corning Featherlite "Stick On" Stone Wall**

## ADDITIONAL SPECIFICATIONS

### H.1 PROJECT:

The project is located within the City of Carrollton.

### H.2 SITE INVESTIGATION & EXISTING UTILITIES:

The Contractor shall carefully examine the site and satisfy himself about all conditions, which can in any way affect the work or the cost thereof. The Contractor will be responsible for adjusting all utilities as needed within the repair area. Typical adjustments shall be manholes, water valves and clean outs. Prior to demolition, contractor will notify inspector and the water department shall verify the water valve stacks are intact and operable. Should a valve stack be damaged or need replacement, the water department will replace the valve stack prior to preparation of the sub grade for new pavement.

### H.3 SPECIFICATIONS:

All construction must comply with current City of Carrollton standards and specifications and the North Central Texas Council of Government Standard Specifications with the Carrollton amendments.

### H.4 PROPOSAL:

Bidders shall fill out the proposal completely, stating all prices in both script and figures.

The prices bid in the proposal shall be full compensation for all material, labor, equipment and incidental items required to complete the project ready for use. The cost of all material, labor, equipment and incidental work required to complete the project ready for use must be included in the unit or lump sum prices for the bid items provided in the proposal, and no direct compensation will be made for any other work. In case of error, ambiguity, or lack of clearness the Owner reserves the right to consider the bid in the manner that is most advantageous to the Owner.

### H.5 ADDENDA:

Bidders desiring further information, or interpretation of the plans or specifications, must make request for such information in writing to the Superintendent, prior to 48 hours before the bid opening. Answers to all such Addenda will be bound with and made a part of the Contract Documents. No other explanation or interpretation will be considered official or binding. Should a bidder find discrepancies in or omissions from the plans, specifications, or other contract documents, or should he be in doubt as to their meaning, he should at once notify the Superintendent in order that a Written Addendum may be sent to all bidders. Any Addenda issued prior to 24 hours of the opening of bids will be mailed or

delivered to each Contractor contemplating the submission of a proposal on this work. The proposal as submitted by the Contractor is to include any Addenda if such are issued by the Superintendent prior to 24 hours of the opening of bids. Verbal changes in the work, made prior to submission of bids will not be binding.

H.6 SPECIFICATIONS/CONTRACT DOCUMENTS:

Titles to divisions and paragraphs in these Contract Documents are introduced merely for convenience and are not to be taken as part of the Specifications and are, furthermore, not to be taken as a correct and complete segregation of the several units of material and labor. No responsibility, either direct or implied, is assumed by the Superintendent/Owner for omissions or duplications by the Contractor or his Sub-Contractor, due to real or alleged error in arrangement of matter in these Contract Documents.

H.7 CONFLICTS BETWEEN SPECIFICATIONS AND PROPOSAL:

In the event of conflicts between methods of measurement and payments for the various items of work between the Proposal and the Specifications, the Proposal shall prevail.

H.8 CLEAN UP:

The Contractor shall, at all times, keep the site free from accumulation of waste material, debris, or rubbish caused by his employees or work. At the completion of the work, he shall remove from the site all his tools, surplus materials, debris, and shall leave the site and his work "broom clean", or its equivalent at his expense, unless otherwise noted on the drawings or specified herein.

All vendors / contractors are required to use City of Carrollton Solid Waste collection services.

H.9 BARRICADES, WARNING AND DETOUR SIGNS:

The contractor shall not close a street to traffic or interfere with traffic movement on a street without first notifying the City Inspector and securing permission to do so. When any street or any section of a street is closed, or traffic flow is restricted, the Contractor shall furnish and maintain barricades, warning and directing signs, lights and red flags along the entire street within the limits of the project in accordance with the Texas Manual on Uniform Traffic Control Devices. All lights shall be kept burning between the hours of sunset and sunrise.

All expense incurred for furnishing and maintaining flagmen, barricades, warning and directing signs, flags and lights and any incidentals necessary for the proper direction, safety and convenience of traffic during the contract period shall be borne by the Contractor. Flagmen shall be provided when deemed necessary by the Director of Public Works or his representative.

H.10 PRE-CONSTRUCTION CONFERENCE:

A pre-construction conference will be scheduled upon award of bid.

H.11 SANITARY FACILITIES:

The Contractor shall provide and maintain sanitary facilities at a location satisfactory to the Owner, for use by the employees of the Contractor, and by the Superintendent. They shall be well ventilated, but provide concealment, and shall be kept scrupulously clean at all times by the Contractor. The facilities shall be removed and the site restored to its original condition upon completion of the work. All such facilities shall conform to the requirements of State and local health authorities, ordinances and laws.

"Porta Can" or other similar facilities, which may be rented from commercial concerns, will be acceptable.

H.12 HOLD HARMLESS AGREEMENT:

Prior to any commencing work or storing materials on private property, the Contractor shall arrange for permission to do the work or storage from each property owner. The Contractor shall be responsible for obtaining a "Hold Harmless Agreement" for the City with each property owner. This should be in writing and one copy given to the City for their files.

H.13 PROTECTION OF TREES, PLANTS, SPRINKLER SYSTEMS, FRENCH DRAINS, MAILBOXES AND SOIL:

Any trees or other landscape features scarred or damaged by the Contractor's operations shall be restored or replaced at the Contractor's expense. Should any sprinkler systems, French drains mail boxes or any other property private or public be damaged by the contractor, contractor shall replace or repair to original condition at contractors own expense. **NOTE: State Law and City Ordinance require that any person performing irrigation work shall be a licensed plumber or irrigator that is registered as a contractor with the City of Carrollton.** In the event the contractor has disturbed more than six inches of surrounding area to facilitate the construction, the contractor shall be required to install a like sod to the area. If that area is on private property, only one foot into the property will be required to be replaced with like sod. Trimming or pruning to facilitate the work will be permitted only by experienced workmen in an approved manner. Pruned limbs of 1" (one inch) diameter or larger, shall be thoroughly treated as soon as possible with a tree wound dressing. Contractor is to notify property Owner before pruning begins. The Contractor shall take all precautions required to prevent soil erosion during the construction. If excessive erosion occurs, the Contractor shall take immediate measure to prevent further erosion and restore the disturbed surface with topsoil at completion of the work.

## SPECIAL CONDITIONS

1. Insurance Requirement Affidavit **must be submitted as part of the proposal**. Please see Insurance Requirements as listed in the proposal .
  
2. Insurance Certificate must be submitted and issued with the City listed as the certificate holder within 10 days of notice of award. See the general terms and conditions for detailed insurance requirements.
  - i. Cancellation Policy must read as follows:
  
  - ii. “Should any of the above described polices be cancelled before the expiration date thereof, the issuing insurer will mail a 30 days written notice to the certificate holder named to the left.”
  
3. By signing the proposal sheet, the representative has read and understands all plans, specifications, and general design standards involved with this project.
  
4. The anticipated budget for this work is approximately **\$200,000.00**. The city reserves the right to increase or decreases this amount either prior to the approval by City Council or after approval through change orders.
  
5. The RFP will be evaluated based on price being 55% of the consideration, and experience/references being considered as 45%.
  
6. The term of the contract is for one-year with the option to renew for two additional one-year periods; under the same terms and conditions if mutually agreed upon by both parties.
  
7. The City shall have the right and option to extend the term of the contract by two (2); one- (1) year terms based on written approval of the extension by the contractor.
  
8. Performance and Payment bonds will be required of the winning vendor, please factor those costs into your bid response. The city will require that you use the standard city forms for these bonds, and copies are included in this bid package.

- a. **A payment bond must be submitted by the winning contractor. (Even if you are not using sub-contractors you are required to submit a payment bond; due to the fact you are purchasing supplies from another vendor(s) for this contract).**
9. Please provide at least (3) three references of governments, individual or companies that have used your services. This document must be submitted with your proposal.
10. Please refer to the following documents for additional details and requirements: Exhibit 1  
  
\*[General Design Standards](#)- click on link (can also be found on City of Carrollton site)
11. All blanks on the Pricing Sheets must be completed with all subtotal and total prices stated in figures where indicated and the lump sum price written in words in the RFP Proposal. The City reserves the right to reject any or all proposals and to waive formalities. In case of ambiguity or lack of clearness in stating the price in the Proposals, the City reserves the right to consider the most advantageous construction thereof, or to reject the proposal. Unreasonable or unbalanced unit price will be considered sufficient cause of rejection of any Proposal.
12. The Bidder submits the following Pricing Sheets for the work to be performed as shown on the Plans and described in the Specifications, and agrees that items of work not specifically mentioned in the Schedule which are necessary and required to complete the work intended shall be done incidental to and as part of the work for which a unit price is given, and understands that no additional payment will be made for such incidental work. The City shall have the right to reduce or increase the scope of work at any time. The City shall determine which unit prices will be the basis for any additions or deductions to the lump sum price.

**PART III**  
**ALL NECESSARY FORMS FOR COMPLETION**

## PROPOSAL OF BIDDERS

*The term RFP and BID are used as interchangeable terms in this document.*

All:

The following RFP is made for furnishing the materials/services for the city of Carrollton, Texas.

The undersigned declares that the amount and nature of the materials/services required is understood and that this proposal is in strict accordance with the requirements of the RFP and is a part of this bid, and that there will at no time be a misunderstanding as to the intent of the specifications or conditions to be overcome or pleaded after the bids are opened.

The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any Department of Transportation (DOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements 49 CFR part 26. The proposer shall take all-necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). Further, pursuant to City of Carrollton Ordinance No. 3896, Contractor shall not discriminate against any individual due to age, race, sex, religion, national origin, sexual orientation, gender identity, pregnancy, or political beliefs.

The undersigned hereby proposes to furnish any supplies or equipment necessary for this bid/rfp, F.O.B. Carrollton, Texas, freight pre-paid at the unit prices quoted herein after notice of bid award. The undersigned affirms that they are duly authorized to execute this contract that this company, corporation, firm, partnership or individual and has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this type of business prior to the official opening of this rfp/bid.

**PROPOSAL OF BIDDERS**

**Page2 of 3**

Texas Government Code §2270.002 forbids Texas government entities from contracting with any company that excludes or boycotts Israel or will do so during the term of a contract. Also, Texas Government Code §2252.152 prohibits Texas governments from contracting with companies who do business with Iran, Sudan, or foreign terrorist organizations. If Bidder or Bidder's company boycotts Israel or will boycott Israel during the contract, does business with Iran, Sudan, a terrorist organization, or is an organization listed with the Texas Comptroller pursuant to Chapter 2252 of the Texas Government Code, you must disclose this in your bid response and provide details of such business. In addition, the Vendor who wins a bid award must guarantee that they will not employ a subcontractor in the performance of the bid award who falls under either law. Submission of a bid proposal shall be deemed an affirmative statement that Bidder does not and will not boycott Israel, and Bidder does not and will not contract with Iran, Sudan, or any terrorist organization. If you need to provide the city any detail regarding these new laws, please attach details as needed.

**Please sign on the line below as verification that your company is not excluded from contracting with the city of Carrollton by either Texas law, and will remain in compliance with all of the above for the term of the bid award.**

**SIGNATURE:** \_\_\_\_\_

**PROPOSAL OF BIDDERS**

**Page 3 of 3**

**RFP # 20-014**

**BRICK SCREEN WALL REPAIR AND**

**Respectfully Submitted,**

**PLEASE PROVIDE A COPY OF  
YOUR W-9**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME TITLE

\_\_\_\_\_  
COMPANY NAME CONTACT PERSON

\_\_\_\_\_  
MAILING ADDRESS CITY STATE ZIP

\_\_\_\_\_  
PAYMENT ADDRESS CITY STATE ZIP

\_\_\_\_\_  
PHONE NUMBER FAX NUMBER

\_\_\_\_\_  
E-MAIL ADDRESS WEB PAGE

**HUB Vendor Status**           **YES (attach certification)**           **NO**       

**HUB VENDORS:** HUB Vendors (Historically Underutilized Business) are Vendors whose company is owned by either a minority or woman. If you are classified as a HUB Vendor and have certification to prove this, please respond below and attach a copy of your certification. If you would like to read the Texas bid statute, which references HUB Vendors, please follow this link <http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.252.htm>

**NO BIDS:** If response is not received in the form of a “RFP” or “NO RFP RESPONSE” bidder will be removed from bid list. Please give a specific reason as to why you are unable to bid, i.e.: we do not sell the required product/service.

**NO BIDS** may be sent to [purchasing.bids@cityofcarrollton.com](mailto:purchasing.bids@cityofcarrollton.com)





## **ATTACHMENT C**

**20-014 PRICING PROPOSAL SCHEDULE – PLACEHOLDER PAGE**

**PLEASE SEE ATTACHEMENT C**

**THIS DOCUMENT MUST BE SUBMITTED ELECTRONICALLY TO**

**[purchasing.bids@cityofcarrollton.com](mailto:purchasing.bids@cityofcarrollton.com) and in Excel Format only.**

# ATTACHMENT D

## CONFLICT OF INTEREST QUESTIONNAIRE

Chapter 176 of the Texas Local Government Code requires that any Vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the Vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the City Secretary of the city of Carrollton not less than the seventh business day after the person becomes aware of facts that require the statement to be filed.

The conflict of Interest Questionnaire must be completed and returned with your bid if a Vendor or its agent has a conflict pursuant to Chapter 176.

It is the responsibility of every Vendor filling out and returning this bid to determine if there is a conflict meeting the parameters listed above. If so, **the City of Carrollton requires that this Questionnaire be completed and turned in with your bid.** If there is no conflict, or if the amount of the conflict is less than \$23,500, then you are not required to submit the Questionnaire with your bid. In addition to the foregoing, after the submission of a bid a Vendor must file a questionnaire if the Vendor becomes aware of facts or an event that would constitute a conflict pursuant to state law, or if the facts or event would make a statement in a previously filed questionnaire incomplete or inaccurate.

See Section 176.006, Local Government Code which reads, "A person commits an offense if the person violated Section 176.006, Local Government Code. An offense under this section is:

- (1) A Class C misdemeanor if the contract amount is less than \$1 million or if there is no contract amount for the contract;
- (2) A Class B misdemeanor if the contract amount is at least \$1 million but less than \$5 million; or
- (3) A Class A misdemeanor if the contract amount is at least \$5 million.

The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a Vendor failed to file a conflict of interest questionnaire required by Section 176.006.

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

**This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**  
 This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).  
 By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.  
 A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY	
Date Received	

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

---

**2**  **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3 Name of local government officer about whom the information is being disclosed.**

---

Name of Officer

**4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes       No

**5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

**6**  Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

**7**

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

# ATTACHMENT E

## CERTIFICATE OF INTERESTED PARTIES

Form 1295 (Certificate of Interested Parties attached) must be submitted through the Texas Ethics Commission's website, and a notarized original form as printed from the website to the City prior to approval of the contract. More information is found at the following link:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

[https://www.ethics.state.tx.us/whatsnew/FAQ\\_Form1295.html](https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html)

**Once bid evaluations take place by city staff, you will be notified that an award to your company is pending and that this form is mandatory. You will need to provide this form to the city before City Council approval can be considered.**

**You can fill out the form online, get a certificate number, and that number goes in the upper right box.**

**CERTIFICATE OF INTERESTED PARTIES**

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

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

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

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

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

5 Check only if there is NO Interested Party.

**6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address: \_\_\_\_\_ (street) \_\_\_\_\_ (city) \_\_\_\_\_ (state) \_\_\_\_\_ (zip code) \_\_\_\_\_ (country)

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

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 (month) (year)

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

**ADD ADDITIONAL PAGES AS NECESSARY**

**PART IV**  
**NECESSARY FORMS OF AWARDED VENDOR**

## PAYMENT BOND

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_ of the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_, as principal, and \_\_\_\_\_ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bond unto the City of Carrollton (Owner), in the penal sum of two hundred thousand dollars **(\$200,000.00)** for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

**WHEREAS, the Principal has entered into a certain written contract with the City, dated the \_\_\_\_\_ day of \_\_\_\_\_ 2020, for RFP 20-014 Brick Screening Wall Repair & Retaining Wall Facades which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein**

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal and its subcontractors shall well and faithfully make payment to each and every claimant (as defined in Chapter 2253, Texas Government Code, as amended) supply labor or materials in the prosecution of the work under the contract, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as currently amended, and all liabilities on this bond shall be determined in accordance with the provisions of said statute to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. The surety company must have a minimum rating of A VII.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

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

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

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Name

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_

## PERFORMANCE BOND

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

KNOW ALL MEN BY THESE PRESENTS: That, \_\_\_\_\_ as principal, and \_\_\_\_\_ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Carrollton, Texas (Owner), in the sum of two hundred thousand dollars **(\$200,000.00)** as an appropriate measure of liquidated damages for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

**WHEREAS, the Principal has entered into a certain written contract with the City, dated the \_\_\_\_\_ day of \_\_\_\_\_ 2020, for RFP 20-014 Brick Screening Wall Repair & Retaining Wall Facades which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein**

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall faithfully perform the work in accordance with the plans, specifications, and contract documents and shall fully indemnify and save harmless Owner from all costs and damages which Owner may suffer by reason of Principals default, and reimburse and repay Owner all outlay and expense which Owner may incur in making good such default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as currently amended, and all liabilities on this bond shall be determined in accordance with the provisions of said statute to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specification, or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. The surety company must have a minimum rating of A VII.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

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

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

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_