

PROPOSAL FORMS, CONTRACT DOCUMENTS,  
TECHNICAL SPECIFICATIONS FOR

# FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT

GREG COUNTY BID NO. 2016-623

JPI Project No. 2563-005

August 23, 2016



Prepared By:



**Johnson & Pace Incorporated**

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[www.johnsonpace.com](http://www.johnsonpace.com)

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

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**NOTICE TO BIDDERS OF THE INTENT OF GREGG COUNTY, TEXAS TO LET BIDS FOR THE CONSTRUCTION OF FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

SEALED BIDS will be received by Kelli L. Davis, CPPB, Gregg County Purchasing Department, at 101 East Methvin Street, Suite 205, Gregg County Courthouse, Longview, Texas 75601, until **Wednesday, September 21, 2016 at 2:00 p.m.**, for furnishing all labor, materials, equipment, supplies, and supervision necessary for the construction of the **Fritz Swanson Rabbit Creek Bridge Guardrail Replacement**, in accordance with the plans and specifications on file at Johnson & Pace Incorporated. Upon opening, bids will be publicly read aloud. Any bids received after the above stated time will be returned unopened. All interested parties may attend.

Contract documents including bid proposal forms, plans sheets, and specifications for the Project may be obtained from Johnson and Pace Incorporated, 1201 NW Loop 281, Suite 100, Longview Texas 75604 (903-753-0663). Printed copies of the Contract Documents may be viewed at the Engineer's office. Please submit questions for this project to Jeff Hamilton, P.E. at [jeffh@johnsonpace.com](mailto:jeffh@johnsonpace.com) at least 72 hours prior to bid opening. Gregg County reserves the right to accept or reject in whole or in part any bid received and to waive any irregularities or formalities in the best interest of the County.

Advertisement Dates:

Longview News Journal

1st Publication: Sunday, September 4, 2016; 2nd Publication: Sunday, September 11, 2016

**ALL BID PROPOSALS** submitted should be marked clearly on the outside of the sealed envelope with the project name and bid opening time and date.

**A CERTIFIED OR CASHIER'S CHECK**, or an acceptable bid bond in an amount not less than five percent (5%) of the base bid shall accompany each bid as a guaranty that, if awarded the contract, the bidder will promptly enter into contract with Gregg County, Texas and furnish bonds on the forms provided.

**THE SUCCESSFUL BIDDER OR BIDDERS** will be required to furnish a Performance Bond, Payment Bond, and Maintenance Bond, in the amount of the contract, written by a responsible surety company authorized to do business in the State of Texas, and satisfactory to the Owner as required by Article 5160 V.A.T.C.S.

**BIDDERS ARE EXPECTED TO INSPECT** the site of the work and to inform themselves of all local conditions. Time of completion shall be **45** calendar days, including Saturdays, Sundays, and legal holidays.

**NO BID** may be withdrawn after the scheduled closing time for receipt of bids for at least 90 calendar days.

**IN CASE** of ambiguity or lack of clearness stating the price in the bids, the Owner reserves the right to consider the most advantageous construction thereof or to reject the bid. The Owner reserves the right to reject any or all bids, waive any or all informalities, and to award the contract to the bidder or bidders who, in the opinion of the Owner, offers the proposal to the best interest of same.

**EEO/M/F/V/H/D.**

The Honorable Bill Stoudt, County Judge  
Gregg County, Texas

**GREGG COUNTY BID NO. 2016-623**  
**INFORMATION FOR BIDDERS**

**INTENT**

Gregg County, Texas is requesting sealed bids for the Fritz Swanson Rabbit Creek Guardrail Replacement located in Kilgore, Texas.

1. **Receipt and Opening of Proposals.** Gregg County (Owner) invites Proposals to be submitted on the forms provided. Proposals will be received by the Owner at the 101 East Methvin Street, Suite 205, Gregg County Courthouse, Longview, Texas 75601, until the time and date specified in the Notice to Bidders, and then at the stated time and place publicly opened and read aloud. Only the total amount of the bid will be read aloud, however, the Proposals will be open for public inspection immediately following the opening.

The Owner reserves the right to waive any informality and to reject any or all bids. Any Proposal received after the specified time will be returned to the Bidder unopened. No Proposal may be withdrawn within 90 days from the opening date. Conditional bids will not be considered.

2. **Preparation of Proposals.** Each Proposal must be submitted in a sealed envelope bearing on the outside the name of the bidder, their address, and the name of the project for which the Proposal is submitted. If forwarded by mail, the sealed envelope containing the Proposal must be enclosed in another envelope addressed as specified.
3. **Withdrawal or Modification of Bid.** Prior to the bid opening, no Proposal may be withdrawn after 48 hours before the time of the bid opening. Any modification of any bid may be made under the same conditions as set forth for submitting a Proposal.
4. **Qualifications of Bidders.** The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that the bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.
5. **Bid Security.** Each Proposal must be accompanied by cash, certified check of the Bidder, or a bid bond duly executed by the Bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of 5% of the base bid. Such cash, checks or bid bonds will be returned to all except the two lowest Bidders within three days after the opening of bids, and the remaining cash, checks, or bid bonds will be returned promptly after the Owner and the accepted Bidder have executed the contract, or if no award has been made within 90 days after the date of

the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his Proposal.

6. **Liquidated Damages for Failure to Enter into Contract.** The successful Bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within 15 days after he has received notice of the acceptance of his Proposal, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his Proposal.
7. **Time of Completion and Liquidated Damages.** Bidder must agree to commence work within 10 days after the date to be specified in a written "Notice to Proceed" by the Owner and to fully complete the project within the time stated in the Proposal. The bidder must agree to pay, as liquidated damages, the sum of **\$200** for each consecutive calendar day thereafter as hereinafter provided for in the General Conditions.
8. **Conditions of Work.** Each Bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful Bidder of his obligation to furnish all material and labor necessary to carry out the provision of his Contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.
9. **Addenda and Interpretation.** No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any Bidder orally. Every request for such interpretation must be in writing addressed to **Jeff Hamilton, P.E. at jeffh@johnsonpace.com** and must be received at least three days prior to the date fixed for the opening of Proposals to be given consideration. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be distributed via email to all prospective bidders not later than two days prior to the date fixed for the opening of Proposals. Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from any obligation under his bid as submitted. Each Bidder shall check with **Johnson & Pace Incorporated** at an appropriate time to determine that he or she has received all Addenda; failure to do so shall be the complete responsibility of the Bidder. All addenda so issued shall become part of the contract documents.
10. **Security for Faithful Performance.** Simultaneously with his delivery of the executed Contract, the Contractor shall furnish bonds as security for faithful performance of this Contract and for the payment of all persons performing labor on the project under Contract and furnishing materials in connection with Contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner. In the case that the total

bid is \$25,000, or less, the Contractor may elect not to furnish a Performance and Payment Bond; provided that it is understood and agreed that no progress or monthly payment will be made and that final payment will be made following completion and acceptance by the City of the entire project.

11. **Power of Attorney**. Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.
12. **Laws and Regulations**. The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout and they will be deemed to be included in the Contract the same as though herein written out in full.
13. **Obligation of Bidder**. At the time of the opening of Proposals each Bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents, including all addenda. The failure or omission of any Bidder to examine any form, instrument or document shall in no way relieve any Bidder from any obligation in respect of his bid.
14. **Certification of Completion**. A Certificate of Completion, which is included in these contract documents, will be required in the final completion and acceptance of the project.

**AFFIDAVIT AND COMPLETION CERTIFICATE**

STATE OF TEXAS           §  
  §  
COUNTY OF GREGG       §

THAT I, the undersigned, being duly sworn, say that I was the Contractor for the performance of certain work under a Contract entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2016, between Gregg County, Texas (Owner) and \_\_\_\_\_(Contractor) for construction of the **Fritz Swanson Rabbit Creek Bridge Guardrail Replacement.**

**KNOW ALL MEN BY THESE PRESENTS:**

1. The undersigned further certifies the improvements on the aforementioned project have been fully and satisfactorily completed in conformity with the contract.
2. The undersigned further certifies that there are no claims of laborers or mechanics for unpaid wages arising out of the performance of said contract and that the wage rates paid by Contractor and all Subcontractors were in conformity with the contract provisions relating to said wage rates.
3. The undersigned further certifies that there are no claims of subcontractors or materials suppliers for unpaid bills for labor or materials and supplies furnished in the course of the contract.

CERTIFIED TRUE AND CORRECT

\_\_\_\_\_  
Contractor

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, AD., 2016.

\_\_\_\_\_  
Notary Public in and for  
\_\_\_\_\_ County, Texas

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

PROJECT: Fritz Swanson Rabbit Creek Bridge Guardrail Replacement  
Gregg County Bid No. 2016-623

DATE OF ISSUANCE: \_\_\_\_\_

OWNER: County of Gregg, Texas

CONTRACTOR: \_\_\_\_\_(Contractor)

ENGINEER: Johnson & Pace Incorporated

This Certificate of Substantial Completion applies to all work in the Bid Proposal and subsequent field and/or change orders.

TO: Gregg County, Texas

And to: \_\_\_\_\_(Contractor)

The Work to which this Certificate applies has been inspected by authorized representatives of the OWNER, CONTRACTOR, and ENGINEER, and that work is hereby declared to be substantially complete in accordance with the Contract Documents on

\_\_\_\_\_  
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is shown below:

- 1.

This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of Contractor to complete all the Work in accordance with the Contract Documents. The items in the list shall be completed or corrected by CONTRACTOR within 30 days from the date of Substantial Completion.



This certificate does not constitute an acceptance of the Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER on \_\_\_\_\_, 20\_\_\_\_

Johnson & Pace Incorporated

By: \_\_\_\_\_  
Authorized Signature

CONTRACTOR accepts this Certificate of Substantial Completion on \_\_\_\_\_, 20\_\_\_\_

(Contractor)

By: \_\_\_\_\_  
Authorized Signature

OWNER accepts this Certificate of Substantial Completion on \_\_\_\_\_, 20\_\_\_\_

Gregg County, Texas

By: \_\_\_\_\_  
Authorized Signature



Crawler Tractor.....	\$ 13.62
Excavator 50,000 pounds or less.....	\$ 13.67
Excavator Operator over 50,000 pounds.....	\$ 13.52
Foundation Drill, Truck Mounted.....	\$ 22.05
Front End Loader , over 3 cy.....	\$ 12.33
Front End Loader, 3 cy or less.....	\$ 13.40
Loader/Backhoe.....	\$ 12.97
Mechanic.....	\$ 17.47
Milling Machine.....	\$ 12.22
Motor Grader, Fine Grade....	\$ 16.88
Motor Grader, Rough.....	\$ 15.83
Pavement Marking Machine....	\$ 13.10
Roller, Asphalt.....	\$ 11.96
Roller, Other.....	\$ 10.44
Scraper.....	\$ 10.85
Spreader Box.....	\$ 13.12
Servicer.....	\$ 14.11
Steel Worker (Reinforcing).....	\$ 17.53
TRUCK DRIVER	
Lowboy-Float.....	\$ 13.41
Off-Road Hauler.....	\$ 10.08
Single Axle.....	\$ 10.75
Single or Tandem Axle Dump..	\$ 11.95
Tandem Axle Tractor w/Semi Trailer.....	\$ 12.50

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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**END OF GENERAL DECISION**

**PROPOSAL**

**GREGG COUTY PURCHASING AGENT  
GREGG COUNTY COURTHOUSE  
101 E. METHVIN STREET, SUITE 205  
LONGVIEW, TX 75601**

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT  
2:00 P.M., WEDNESDAY, SEPTEMBER 21, 2016**

Proposal of \_\_\_\_\_,  
(hereinafter called "Bidder"), a corporation, organized and existing under the laws of the  
State of \_\_\_\_\_ a partnership, or an individual doing business as  
\_\_\_\_\_ (strike out inapplicable terms).

TO GREGG COUNTY, TEXAS (OWNER):

The undersigned bidder, in response to the Notice to Bidders for the construction of the above project and in conformance with the Information for Bidders; having examined the plans, specifications, related documents and the site of the proposed work; being familiar with all of the conditions relating to the construction of the proposed project, including the availability of materials and labor; hereby proposes to furnish all labor, materials, supplies, equipment, and superintendence necessary for the construction of the project in accordance with the plans, specifications, and contract documents at the unit prices proposed herein.

The undersigned Bidder proposes, acknowledges, and agrees to construct the entire project as shown on the plans, fully in accordance with the requirements of the plans, specifications, and contract documents for the prices included in this Proposal and fully understands and agrees that the various items of material, labor, and construction not specifically enumerated and provided for herein are considered subsidiary to the several items for which this direct payment is specifically provided. Furthermore, the undersigned agrees that one such subsidiary item is the protection, maintenance, repair, or replacement of all underground lines and services, whether shown on the plans or not, all to the full satisfaction of the Engineer and in a timely manner.

**PROPOSAL:**  
**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

The undersigned Bidder hereby agrees to begin work under the contract on or before the date to be specified in the written Notice to Proceed and to fully complete the project within **45** consecutive calendar days. The undersigned Bidder further agrees to pay, as liquidated damages, the sum of **\$200.00** for each consecutive calendar day thereafter as provided in Item 7 of the Information for Bidders.

The undersigned Bidder has contacted, within 72 hours prior to this bid opening, the office of the \_\_\_\_\_ and has determined that all Addenda are as follows:

Addendum No. 1, dated \_\_\_\_\_; \_\_\_\_\_  
Addendum No. 2, dated \_\_\_\_\_; \_\_\_\_\_

The undersigned Bidder acknowledges and agrees that this Proposal shall be good and may not be withdrawn for a period of 90 calendar days from the date of this bid opening.

The undersigned Bidder is obligated to and shall show accurate unit prices as well as total amounts, and agrees that in the case of ambiguity between unit prices and total amounts or in the case of any other ambiguity the Owner may interpret an ambiguity in a manner most advantageous to the Owner or reject the bid.

The undersigned Bidder further acknowledges and agrees that a bid that has been opened may not be changed for the purpose of correcting an error in the final bid price.

The undersigned Bidder agrees to execute the Contract Agreement and furnish the required Performance Bond, Payment Bond, and Maintenance Bond within 15 calendar days from the date of acceptance of the Proposal.

The undersigned Bidder has attached and made a part of this Proposal a bid security in conformance with Item 5 of the Information for Bidders.

Submitted by:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Firm)

\_\_\_\_\_  
(Name - Typed or Printed)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(City, County, State, Zip Code)

\_\_\_\_\_  
Attest - Date)

\_\_\_\_\_  
(Area Code-Telephone Number)

\_\_\_\_\_  
(Fax Number)

**SCHEDULE OF RATES AND PRICES**  
**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

Full compensation for compliance with Each and every provision of the Proposal and Bid, the Specifications, and the Contract will be considered as included in the unit prices for the work set forth below, and no separate payment will be made for the compliance with Each and every provision of the Proposal and Bid, the Specifications, and the Contract, unless separate payment is expressly provided for therein.

GENERAL & MISCELLANEOUS ITEMS							
BID ITEM	TxDOT ITEM	DESCRIPTION CODE	BID ITEM DESCRIPTION WITH UNIT PRICES IN WORDS	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
1	104	6037	REMOVE CONC (RAIL) per plans and specifications at a unit price of: dollars & cents	400	LF	\$ _____	\$ _____
2	354	6174	PLANE ASPH CONC PAV (1.5" TO 5") per plans and specifications at a unit price of: dollars & cents	935	SY		
3	432	2039	RIP RAP (MOW STRIP)(4 IN) per plans and specifications at a unit price of: dollars & cents	10	CY	\$ _____	\$ _____
4	451	6004	RETROFIT RAIL (TY T131RC) per plans and specifications at a unit price of: dollars & cents	400	LF	\$ _____	\$ _____
5	500	2001	MOBILIZATION per plans and specifications at a unit price of: dollars & cents	1	LS	\$ _____	\$ _____
6	502	2001	BARRICADES, SIGNS, AND TRAFFIC HANDLING per plans and specifications at a unit price of: dollars & cents	1	MO	\$ _____	\$ _____
7	540	2011	MTL BEAM GD FEN TRANS (THRIE-BEAM) per plans and specifications at a unit price of: dollars & cents	4	EA	\$ _____	\$ _____
8	544	2011	GUARDRAIL END TREATMENT (INSTALL) per plans and specifications at a unit price of: dollars & cents	4	EA	\$ _____	\$ _____

**TOTAL** \$ \_\_\_\_\_

**CONTRACTOR SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_



***CERTIFICATION OF ELIGIBILITY***

By submitting a bid or Bid in response to this solicitation, the bidder/proposer certifies that at the time of submission, he/she is ***not*** on the Federal Government's list of suspended, ineligible, or debarred contractors.

In the event of placement on the list between the time of bid/Bid submission and time of award, the bidder/proposer will notify the Gregg County Purchasing Agent. Failure to do so may result in terminating this contract for default.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

**BID SIGNATURE FORM**

The undersigned agrees this bid becomes the property of Gregg County after the official opening.

The undersigned affirms he has familiarized himself with the local conditions under which the work is to be performed; satisfied himself/herself of the conditions of delivery, handling and storage of equipment and all other matters which may be incidental to the work, before submitting a bid.

The undersigned agrees if this bid is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the Specifications. The period for acceptance of this Bid will be ninety (90) calendar days unless a different period is noted by the bidder.

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other Bidder, nor any employee of Gregg County, and that the contents of this bid have not been communicated to any other bidder or to any employee of Gregg County prior to the official opening of this bid.

Vendor hereby assigns to purchase any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications and any attachments contained in this bid package. ***Failure to sign and return this form will result in the rejection of the entire bid.***

**Signature** \_\_\_\_\_ **X**

Company Name		
Address		
City/State/Zip Code		
Phone:	Office:	Fax:
	Cell:	Email:
Print Name		
Job Title		

To: Vendors of Gregg County, Texas  
From: Kelli L. Davis, CPPB, Purchasing Agent  
Re: ***Conflict of Interest Form (CIQ)***

Vendor;

Attached, please find link below to a Conflict of Interest Questionnaire. Please complete this form if you have a conflict of interest with any Gregg County Official, Employee, or Department. The questionnaire should reflect the name of the individual with whom the conflict of interest occurs. If you have any questions regarding compliance with Chapter 176 of the Texas Local Government Code, please consult your legal representative. Compliance is the responsibility of each individual, business, agent or representative who is subject to the law's filing requirements.

<http://www.ethics.state.tx.us/forms/CIQ.pdf>

Original completed forms should be filed with the County Clerk's Office and a copy sent to the Gregg County Purchasing Department either through bid return, fax, or email. Please see contact information below.

**Gregg County Clerk**

Gregg County Courthouse  
101 East Methvin, St. 200  
Longview, Texas 75601  
Ph: 903-236-8430

**Gregg County Purchasing Department**

Email: [purchasing@co.gregg.tx.us](mailto:purchasing@co.gregg.tx.us)  
Ph: 903-237-2684  
Fx: 903-237-2682

***Applicable Law***

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 records administrator of Gregg County (County Clerk) no later than the 7<sup>th</sup> business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Texas Local Government Code.

**VENDOR COMPLIANCE TO STATE LAW**

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

A. Non-resident vendors in \_\_\_\_\_ (insert state), our principal place of business, are required to be \_\_\_\_\_ percent lower than resident bidders by state law. A copy of the statute is attached.

Non-resident vendors in \_\_\_\_\_ (insert state), our principal place of business, are not required to underbid resident bidders.

B. \_\_\_\_\_ Our principal place of business or corporate offices are in the State of Texas.

BIDDER:

\_\_\_\_\_  
(company)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city, state, zip)

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(title)

**THIS FORM MUST BE INCLUDED WITH YOUR SEALED BID**

## **Certificate of Interested Parties (Form 1295)**

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a government entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the government entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

### **The Filing Process:**

1. Prior to award by Commissioners Court, your firm will be required to log in to the Texas Ethics Commission, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate Number." Your firm must print, sign and notarize Form 1295.
3. **Within ten (10) business days** from notification of pending award by the Gregg County Purchasing Agent, the completed Form 1295 **must** be submitted to Gregg County.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modification and/or amendments to a Gregg County contract.

Instructions and information are available at <https://www/ethics.state.tx.us/tec/1295-Info.htm> or you may call the Texas Ethics Commission at (512) 463-5800.

**STANDARD FORM OF AGREEMENT**

STATE OF TEXAS §  
COUNTY OF GREGG §

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between the County of Gregg, Texas, acting through the Honorable Bill Stoudt, County Judge, thereunto duly authorized so to do, Party of the First Part, hereinafter termed OWNER, and \_\_\_\_\_ of the City of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_, Party of the Second Part, hereinafter termed CONTRACTOR.

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Party of the First Part (OWNER), and under the conditions expressed in the bond having even date wherewith, the said Party of the Second Part (CONTRACTOR), hereby agrees with the said party of the First Part (OWNER) to commence and complete the construction of certain improvements described as follows:

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

and all extra work in connection therewith, under the terms as stated in the General Conditions of the Agreement and at his (or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the Notice to Bidders, General and Special Conditions of Agreement, Plans and other drawings and printed or written explanatory matter thereof, and the Specifications and addenda therefore, as prepared by KSA Engineers, Inc. hereinafter entitled ENGINEER, together with the CONTRACTOR's written Proposal, the General Conditions of the Agreement, and the Performance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract.

THE CONTRACTOR hereby agrees to commence work within ten (10) days after the date written notice to do so shall have been given to him, and to substantially complete the same within 45 calendar days after the date of the written notice to commence work, subject to such extensions of time as are provided by the General and Special Conditions.

THE OWNER agrees to pay the Contractor in current funds \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), such payments to be subject to the General and Special Conditions of the contract.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day first above written.

County of Gregg  
OWNER, Party of the First Part  
  
By: \_\_\_\_\_  
**County Judge**

\_\_\_\_\_  
CONTRACTOR, Party of the Second Part  
  
By: \_\_\_\_\_

STATE OF TEXAS §  
COUNTY OF GREGG §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_, CONTRACTOR, known to me to be the person and office whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said and that executed the same as the act of such for the purposes and consideration therein expressed, and in the capacity herein stated.

GIVEN UNDER, my hand and seal of office this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
Notary Public in and for

\_\_\_\_\_  
County State

My Commission Expires: \_\_\_\_\_

STATE OF TEXAS §  
COUNTY OF GREGG §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_, OWNER, known to me to be the person and office whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said and that executed the same as the act of such for the purposes and consideration therein expressed, and in the capacity herein stated.

GIVEN UNDER, my hand and seal of office this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
Notary Public in and for

\_\_\_\_\_  
County State

My Commission Expires: \_\_\_\_\_

**PERFORMANCE BOND**

STATE OF TEXAS           §  
COUNTY OF GREGG       §

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

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to complete

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

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

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

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

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



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

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Surety

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

**PAYMENT BOND**

STATE OF TEXAS           §  
COUNTY OF GREGG       §

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

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to construct

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

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

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

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

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

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

\_\_\_\_\_  
Principal

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

**ONE-YEAR MAINTENANCE BOND**

STATE OF TEXAS §

COUNTY OF GREGG §

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_  
as Principal, hereinafter called "Contractor", and the other subscriber hereto as Surety, do hereby  
acknowledge ourselves to be held and firmly bound to the Gregg County, Texas, (OWNER), in the  
sum of \_\_\_\_\_ DOLLARS  
(\$ \_\_\_\_\_) for the payment of which sum well and truly to be made to the Gregg County, and  
its successors, the said Contractor and Surety do bind themselves, their successors and assigns jointly  
and severally. The conditions of this obligation are such that:

WHEREAS, the said Contractor has entered into a contract in writing with Greg County,  
Texas, dated of even date herewith, for completion of

**FRITZ SWANSON RABBIT CREEK BRIDGE GUARDRAIL REPLACEMENT**

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all of such work to be done as set out in full in said contract and the plans and specifications therein  
referred to.

NOW, THEREFORE, if the said Contractor shall repair, replace and restore any and all  
defects in or damages to said construction, occasioned by, and resulting within one (1) year from and  
after the day of the acceptance of said work by said Gregg County from defects in materials  
furnished by, or workmanship of the Contractor, in performing the work covered by said contract,  
then this obligation shall become null and void, and shall be of no further force and effect; otherwise,  
the same is to remain in full force and effect.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

ATTEST/SEAL: (if a corporation)  
WITNESS: (if not a corporation)

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
(Full Name of Surety)

ATTEST/WITNESS:

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_



***STANDARD TERMS AND CONDITIONS***  
***Gregg County, Texas***

**Awarded vendor certifies and agrees to the following:**

1. Non-performance or non-compliance of the Standard Terms & Conditions, or non-performance or non-compliance with the Specifications shall be basis for termination by Gregg County of the bid or final executed contract. Termination in whole, or in part, by the County may be made solely at the County's option and without prejudice to any other remedy to which Gregg County may be entitled by law or in equity, or elsewhere under this Bid or the agreement, by giving thirty (30) days written notice to the vendor with the understanding that all work being performed under this agreement shall cease upon the date specified in such notice. Gregg County shall not pay for work, equipment, services or supplies, which are unsatisfactory. The Respondent may be given reasonable opportunity prior to termination to correct any deficiency. This however shall in no way be construed as negating the basis for termination for non-performance or non-compliance.
2. Respondent shall make all inquiries necessary to be thoroughly informed as to the specifications and all other requirements proposed in the Bid. Any apparent omission or silence of detail in the description concerning any point in the specifications shall be interpreted on the basis of best commercial practices, and best commercial practices shall prevail.
3. Invoices shall be sent to the Gregg County Purchasing Department, 101 East Methvin, St. 205, Longview, TX, 75601. Invoices must detail the materials/equipment/services delivered and **must reference the Gregg County Purchase Order Number.** Payments are processed after the Purchasing Department has verified that the material or equipment and/or services have been delivered in good condition and that no unauthorized substitutions have been made according to specifications. Neither a signed receipt nor payments shall be construed as an acceptance of any defective work, improper materials, or release of any claim for damage.
4. Only the Commissioners Court of Gregg County, Texas acting as a body may enter into any type of agreement or contract on behalf of Gregg County. Department heads, other elected or appointed officials, are not authorized to enter into any type of agreement or contract on behalf of Gregg County, or to agree to any type of supplemental agreements or contracts for goods or services. Contracts are subject to review by the County's attorney prior to signature by the authorized County official.

5. The Respondent shall be considered an independent Contractor and not an agent, servant, employee or representative of the County in the performance of the work. No term or provision, hereof, or act of the Respondent shall be construed as changing that status.
6. The Respondent shall defend, indemnify, and shall save whole and harmless the County and all its officers, agents, employees from and against all suits, actions, or claims of the character, name and description brought for or on account of any injuries or damages (including but not restricted to death) received or sustained by any person(s) or property on account of, arising out of, or in connection with the performance of the work, including without limiting the generality of the foregoing, any negligent act or omission of the Respondent on the execution or performance of the Contract.
7. The Respondent agrees, during the performance of the work, to comply with all applicable codes and ordinances of the City of Longview, Gregg County, or State of Texas as they may apply, as these laws may now read or as they may hereafter be changed or amended.
8. The awarded vendor shall obtain from the appropriate City, Gregg County, or State of Texas the necessary permit(s) required by the ordinances of the City, County, or State, for performance of the work.
9. The awarded contractor shall not sell, assign, transfer or convey the agreement in whole or in part, without the prior written consent of the County.
10. The parties herein agree that the agreement shall be enforceable in Gregg County, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Gregg County, Texas.
11. The agreement shall be governed by, and construed in accordance with, the Laws of the State of Texas and all applicable Federal Laws.
12. Funding Clause - Payments required to be made by Gregg County under the terms of the agreement shall be contingent upon and subject to the initial and continuing appropriation of funding for the agreement by and through the Commissioners Court of Gregg County, Texas. In the event appropriations for funding of the agreement are not approved by and through the Commissioners Court, the contract shall terminate. Gregg County shall, submit written notice to Respondent thirty (30) days prior to such termination. Upon notice of termination, as provided in this paragraph, the Respondent may submit a final invoice to the County and coordinate with the Purchasing Agent to remove all property belonging to said Respondent as soon as possible. Payment for final invoice will be subject to verification and approval by the purchasing agent. Thereupon, Gregg County will be released from its obligation to make further payments.
13. Gregg County is exempt from federal excise and sales taxes, ad valorem taxes and personal property taxes; therefore, tax must not be included in proposals tendered. Proposals offered must be complete and all inclusive. Gregg County will not pay additional taxes, surcharges or other fees not included in bid prices.

14. In case any one or more of the provisions contained in the agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and the agreement shall be considered as if such had never been contained herein.
15. The agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties. A contract will be executed after determination of the award.
16. Awarded Respondent must provide a certificate of insurance conforming to the above listed requirements or a statement of Respondent's insurance carrier certifying that the required coverage shall be obtained by Respondent within ten (10) days of formal award of the Contract. In the case where a certification letter from an insurance carrier is attached to the bid in lieu of an insurance certificate, any formal award of a contract shall be contingent upon required coverage being put into force **prior** to any performance required by subject agreement.
17. Gregg County reserves the right to terminate an agreement/contract at any time, without cause, upon thirty (30) days written notice to awarded contractor. Upon termination, Gregg County shall pay Respondent for those costs directly attributable to work done or supplies obtained in preparation for completion or compliance with the Contract, except no payment shall be made for costs recoverable by Respondent in the normal course of doing business or which can be mitigated through the sale of supplies or materials obtained for use under this Contract. It is further agreed by Respondent that Gregg County shall not be liable for loss or reduction in any anticipated profit.
18. Gregg County is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the total procurement process. The County, its contractors, their suppliers and sub-contractors, vendors of goods, equipment, services, and professional services, shall not discriminate on the basis of race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in contractor, sub-contractor, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with Gregg County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Gregg County.
19. The awarded contractor agrees that Gregg County assumes no responsibility for any costs associated with any administrative or judicial proceedings resulting from the solicitation process.
20. The awarding Respondent shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least two (2)



years after completion of the contract resulting from this request for proposal. Gregg County shall have access to all records, documents and information collected and/or maintained by others in the course of the administration of this agreement.

21. Contractor understands and agrees that in returning a response to this proposal/bid that it is neither an "offer" nor an "acceptance" until such time a formal contract is authorized/awarded by the Gregg County Commissioners Court; if any.
22. Gratuities— Gregg County may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Gregg County that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of Gregg County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Gregg County pursuant to this provision, Gregg County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
23. Termination - The performance of work under this order may be terminated in whole or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Buyer.
24. Force Majeure - If, by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemies, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

25. Assignment Delegation - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
26. Waivers - No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
27. Modification - Contract can be modified or rescinded only by a written and signed agreement by both of the parties duly authorized agents.
28. Applicable Law - This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
29. Advertising - Seller shall not advertise or publish, without Buyer's prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.
30. Right to Assurance - Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
31. Venue - Both parties agree that venue for any litigation arising from this contract shall be in Longview, Gregg County, Texas.
32. No negotiations, decisions, or actions shall be executed by the vendor as a result of any discussions with any public service official, employee and/or consultant. Only those transactions provided in written form may be considered binding.
33. The contents of each vendor's bid, including specifications shall remain valid for a minimum of 60 calendar days from the Bid due date.
34. Subcontracting: The Vendor must function as the single point of responsibility for the Agency. No vendor shall submit a proposal comprised of separate software packages from multiple subcontractors.

35. Conflict of Interest: No public official shall have interest in this contract except in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171. State Law (CHAPTER 176 of the Local Government Code) requires the filing of a CONFLICT OF INTEREST QUESTIONNAIRE by certain individuals and businesses.
36. Design, Strength, Quality of materials and workmanship must conform to the highest standards of manufacturing and engineering practice.
37. All Hardware of any other item offered in this bid must be new and unused, unless otherwise specified, in first-class condition and of current manufacture.
38. Descriptions: Whenever an article or material is defined or used in the BID specifications by describing a proprietary product or by using the name of a manufacturer, model number, or make, the term "or equal" if not inserted, shall be implied. Any reference to specified article or material shall be understood as descriptive, NOT restrictive, and is used to indicate type and quality level desired for comparison purposes unless otherwise noted. Bids must be submitted on units of quantity specified, extended, and totaled. In the event of discrepancies in extension, the unit prices shall govern.
39. Addendum: Any interpretations, corrections or changes to this Bid and Specifications will be made by addendum, unless otherwise stated. Issuing authority of addendum shall be the Commissioners' Court of Gregg County, Texas. Addendum will be mailed, emailed, or faxed to all that are known to have received a copy of the Bid. Vendors shall acknowledge receipt of all addenda and include receipt and response to addenda with submission.
40. Patents/Copyrights: The successful vendor agrees to protect Gregg County from claims involving infringements of patents and/or copyrights.
41. Contract Administrator: The Contract Administrator will serve as sole liaison between the Gregg County Commissioners Court and affected Gregg County Departments and the successful vendor. Unless directly outlined in this specification the vendor shall consider no one but the Contract Administrator authorized to communicate, by any means, information or suggestions regarding or resembling this bid throughout the proposal process. The Contract Administrator has been designated the responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. The County will not pay for work, equipment or supplies, which it deems unsatisfactory. Vendors will be given a reasonable opportunity to correct deficiencies before termination. This however, shall in no way be construed as negating the basis for termination for non-performance.
42. Packing slips or other suitable shipping documents shall accompany each special order shipment and shall include:

- (a) Name and address of successful vendor;
  - (b) Name and address of receiving department and/or location;
  - (c) Gregg County Purchase Order number; and,
  - (d) Descriptive information of the materials shipped or services rendered, including item numbers, serial numbers, quantities, number of containers and package numbers, address/location of services rendered, as applicable.
43. Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
44. Invoices must show all information as stated above, and will be issued for each purchase order.
45. Equipment/Good/Services supplied under this contract shall be subject to the County's approval. Item(s) found defective or not meeting specifications shall be picked up and replaced by the successful vendor within one (1) week after notification at no expense to the County. If item(s) is not picked up within one (1) week after notification, the item(s) will become a donation to the County for disposition.
46. Warranty: Successful vendor shall warrant that all equipment/goods/services shall conform to the proposed specifications and/or all warranties stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title.
47. Remedies: The successful vendor and Gregg County agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
48. Silence of Specification: The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
49. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The Contractor's insurance coverage shall be primary insurance with respect to the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be considered in excess of the Contractor's insurance and shall not contribute to it. Further, the Contractor shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. **All Certificates of Insurance and endorsements shall be furnished to the County's Purchasing Agent and approved by the County *before* work commences.**

50. ***Standard Insurance Policies Required:***

- a. Commercial General Liability Policy
- b. Automobile Liability Policy
- c. Worker's Compensation Policy

General Requirements applicable to all policies:

- a. Only insurance carriers licensed and admitted to do business in the State of Texas will be accepted.
- b. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- c. "Claims Made" policies will not be accepted.
- d. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Gregg County.
- e. All insurance policies shall be furnished to Gregg County upon request.

Commercial General Liability

- a. General Liability insurance shall be written by carrier with an A:VIII or better rating in accordance with the current Best Key Rating guide.
- b. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily Injury and property damage with Gregg County named as an additional insured.
- c. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

Automobile Liability

- a. General Liability Insurance shall be written by a carrier with an A:VIII or better rating in accordance with the current Best Key Rating Guide.
- b. Minimum Combined Single Limit of \$600,000.00 per occurrence for bodily injury and property damage.

51. ***Workers Compensation Insurance*** - Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas compensation insurance policy; either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved TWCC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

The worker's compensation insurance shall include the following terms:

- a. Employer's Liability limits of \$500,000.00 for each accident is required.

- b. "Texas Waiver of Our Right to Recover from Others Endorsement" shall be included in this policy. (Waiver of Subrogation)

Pursuant to the explicit terms of Title 28, Section 110.110 (c) (7) of the Texas Administrative Code, the Proposal specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

**Definitions:**

**Certificate of coverage ("certificate")** - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Worker's Compensation Commission, or a coverage agreement (TWCC-81), TWCC-83, or TWCC-84), showing statutory worker's 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 ("subcontractors" in section 406.096 {of the Texas Labor Code})** - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person 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 respondents, office supply deliveries, and delivery of portable toilets.

- The Contractor shall provide coverage, based on the proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that 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.
- The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- 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.
- 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 providing services on the project, and certificates of coverage showing coverage for all person; and
- (2) no later than seven calendar 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.
- (3) The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

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

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.

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 agreement, that meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (4) obtain from each other person with whom it contracts, and provide to the Contractor:
  - (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 calendar 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; with the certificates of coverage to be provided to the person for whom they are providing services.

By signing a contract with Gregg County, or providing, or causing to be provided a certificate of coverage, the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the 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.

***CERTIFICATES OF INSURANCE*** shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:

- a. The company is licensed and admitted to do business in the State of Texas.
- b. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
- c. All endorsements and insurance coverage according to requirements and instructions contained herein.
- d. The form of the notice of cancellation, termination, or change in coverage provisions to Gregg County.
- e. Original endorsements affecting coverage required by the section shall be furnished with the certificates of insurance.



## ***BONDING REQUIREMENTS***

If applicable, a Bid Bond shall be required. Pursuant to the provisions of Section 262.032 (a) of the Texas Local Government Code, if the contract contemplated by this request is a bid for the construction of public works, or will be under a contract exceeding \$100,000.00, Gregg County may require the vendor to execute a good and sufficient bid bond in the amount of five percent (5%) of the total contract price. Said bond shall be executed with a surety company authorized to do business in the State of Texas.

If applicable, a Performance Bond shall be required. Pursuant to the provisions of Section 262.032 (b) of the Texas Local Government Code, within thirty (30) days of the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid by Gregg County Commissioners Court and prior to commencement of the actual work, the successful vendor shall furnish a performance bond to Gregg County for the full amount of the contract if the contract exceeds \$50,000.00. Said bond shall be for the purpose of insuring the faithful performance of the work in accordance with the plans, specifications and contract documents associated with the contract.

If applicable, a Payment Bond shall be required. Pursuant to the provisions of Section 2253.021, Texas Government Code, if the amount of the contract awarded to the successful vendor exceeds \$25,000.00, the successful vendor shall execute a payment bond in the amount of the contract. Said bond is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. This bond must be issued to the County within ten (10) days of the award of the contract and before vendor begins the work.

If applicable, a Performance Bond shall be required. Pursuant to the provisions of Section 2253.021, Texas Government Code, if the amount of the contract awarded to the successful vendor exceeds \$100,000.00, the successful vendor shall execute a performance bond in the amount of the contract. Said performance bond is solely for the protection of Gregg County and is conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond must be issued to the County within ten (10) days of the award of the contract and before the vendor begins the work.