

Document 00911

NOTICE OF
ADDENDUM NO. 1

Date of Addendum: March 30, 2020

PROJECT NAME: Deerwood Trail/Path from Westheimer Road to Terry Hershey Hike & Bike Trail

PROJECT NO: N-MD0450-0008-7

BID DATE: April 15, 2020

FROM: Mark Woodward, P.E.
LAN – Lockwood Andrews and Newnam. Inc.
2925 Briarpark Drive, Suite 400
Houston, Texas 77042

TO: Prospective Bidders

CHANGE IN BID DATE

The Bid Date for this Project has been changed from April 9, 2020 to April 15, 2020.
Date Date

The place for submittal remains the same.

The referenced Addendum forms a part of the Bidding Documents and will be incorporated into the Contract documents, as applicable.

Written questions regarding this Addendum may be submitted to the Project Manager following the procedures specified in Document 00200 – Instructions to Bidders. Immediately notify the City Engineer through the named Project Manager upon finding discrepancies or omissions in the Bid Documents.

This Addendum includes:

ADDENDUM SYNOPSIS

Changes to Project Manual
Introductory Information
Bidding Requirements
Contracting Requirements
Specifications
Clarifications

END OF DOCUMENT

00911-1
Addendum No. 1
02-01-2004



Firm: Lockwood, Andrews & Newnam, Inc.
Firm ID: 2614
Date: 03/30/2020

Document 00910

ADDENDUM NO. 1

Date of Addendum: March 30, 2020

PROJECT NAME: Deerwood Trail/Path from Westheimer Road to Terry Hershey Hike & Bike Trail

PROJECT NO: N-MD0450-0008-7

BID DATE: April 15, 2020

FROM: Mark Woodward, P.E.
LAN – Lockwood Andrews and Newnam, Inc.
2925 Briarpark Drive, Suite 400
Houston, Texas 77042

TO: Prospective Bidders

This Addendum forms a part of the Bidding Documents and will be incorporated into the Contract documents, as applicable. Insofar as the original Project Manual and Drawings are inconsistent, this Addendum governs.

A Disadvantage Business Enterprise (DBE) contract goal has been established for this project. The contract goal has been set at 10%. All bidders shall make a good faith effort to achieve this goal in their bid. For available DBE subcontractors, please review the Texas Unified Classification Program (TUCP) at the following website - <https://txdot.txdotcms.com/>. For more information regarding the DBE Program and Good Faith Effort, see Document 00950 - FEDERALLY REQUIRED CONTRACT CLAUSES.

CHANGE IN BID DATE

The Bid Date for this Project has been changed from April 9, 2020 to April 15, 2020.
Date Date

The place for submittal remains the same.

CHANGES TO PROJECT MANUAL

INTRODUCTORY INFORMATION

1. Document 00010 – Table of Contents. Replace entire document.

BIDDING REQUIREMENTS

1. Document 00410A – Bid Form Part A. Replace entire document.

CONTRACTING REQUIREMENTS

1. Document 00950 – Federally Required Contract Clauses. Add entire document.
2. Document 00951 – Bidder/Contractor Pre-Award Certifications. Add entire document.
3. Document 00952 – Protest Procedures. Add entire document.

SPECIFICATIONS

1. Documents 01630 S – Product Substitution Supplement. Add entire document.

CLARIFICATIONS

1. Question: What is the bid bond amount for this project, 5%?
Answer: The bid bond is 10%.
2. Question: What are limits of the 4.5” sidewalk versus the 5” sidewalk? The proposed sections just show 5”
Answer: Citywest Blvd will be 5-inches thick, Briar Forest Dr. will be 4.5-inches thick, and Deerwood Dr. will be a combination of 4.5-inches and 5-inches thicknesses. Refer to Sheet No. 12 for exact limits of both thicknesses on Deerwood Dr. Generally speaking, if it is called a “concrete path” in the construction documents, it will be 5-inches thick, but if it is called a “sidewalk”, it will be 4.5-inches thick.
3. Refer to Civcast Questions/Answer section for additional posted questions and responses.

END OF ADDENDUM NO. 1

00910-2
Addendum No.1
02-01-2004



Mark Woodward
Firm: Lockwood, Andrews & Newnam, Inc.
Firm ID: 2614
Date: 03/30/2020

Document 00010

TABLE OF CONTENTS

NOTE: Capitalized Specification Sections are included in <https://houstonpermittingcenter.org/office-city-engineer/design-and-construction-standards#agency-links-1476> ; and are incorporated in Project Manuals by reference as if copied verbatim. Documents listed "for filing" are to be provided by Bidder and are not included in this Project Manual unless indicated for example only. The Document numbers and titles hold places for actual documents to be submitted by Contractor during Bid, post-bid, or construction phase of the Project. Specification Sections marked with an asterisk (*) are amended by a supplemental specification, printed on blue paper and placed in front of the Specification it amends. Documents in the 200, 300 and 400 series of Division 00, except for Document 00410B – Bid Form, Part B, are not part of the Contract.

<u>Doc.</u>	<u>Document Title</u>	<u>Doc. Date</u>
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00010	Table of Contents	02-07-2020
00015	List of Drawings	02-01-2004
BIDDING REQUIREMENTS		
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00200	Instructions to Bidders	01-01-2020
00210	Supplementary Instructions to Bidders	02-01-2017
00220	Request for Bid Information	06-11-2004
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00410	Bid Form, Parts A & B	02-07-2020
00430	Bidder's Bond (For filing; Example Form)	02-01-2004
00450	Bidder's Statement of SMWBE Status	03-09-2007
00452	Campaign Finance Form	12-15-2016
00453	Bidder's Statement of Residency	12-15-2016
00454	Affidavit of Non-interest	02-01-2004
00455	Ownership Information Form	12-23-2019
00457	Conflict of Interest Questionnaire	02-28-2006
00470	Bidder's MWSBE Participation Plan	01-20-2017
00471	Pre-Bid Good Faith Efforts	08-01-2015
00472	Bidder's MWSBE Goal Deviation Request	08-01-2015
POST-BID PROCEDURES		
00495	Post-bid Procedures	03-23-2017

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CONTRACTING REQUIREMENTS

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00500	Form of Business.....	02-01-2004
00501	Resolution of Contractor.....	02-01-2010
00520	Agreement.....	05-05-2017
00570	Contractor's Revised MWSBE Participation Plan.....	08-01-2013
00571	Record of Post-Award Good Faith Efforts	08-01-2013

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00600	List of Proposed Subcontractors and Suppliers.....	07-01-2013
00601	Drug Policy Compliance Agreement.....	02-01-2004
00602	Contractor's Drug Free Workplace Policy (For filing)	
00604	History of OSHA Actions and List of On-the-job Injuries.....	02-01-2004
00605	List of Safety Impact Positions	02-01-2004
00606	Contractor's Certification of No Safety Impact Positions in Performance of a City Contract	02-01-2004
00607	Certification Regarding Debarment, Suspension, and Other Responsibility Matters	02-01-2004
00610	Performance Bond.....	05-17-2005
00611	Statutory Payment Bond.....	05-17-2005
00612	One-year Maintenance Bond.....	05-17-2005
00613	One-year Surface Correction Bond	05-17-2005
00620	Affidavit of Insurance (with attached Certificates of Insurance)	02-01-2004
00622	Name and Qualifications of Proposed Superintendent (For filing)	
00624	Affidavit of Compliance with Affirmative Action Program.....	02-01-2004
00633	Certification by Proposed Material Suppliers, Lessors, and Professional Service Providers Regarding Equal Employment Opportunity	07-11-2016
00636	Certificate of Interested Parties	03-09-2016
00642	Monthly Subcontractor Payment Reporting Form.....	02-01-2010
00646	Payment Notification Explanation of Withholding	02-01-2010

GENERAL CONDITIONS

00700	General Conditions.....	01-01-2020
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SUPPLEMENTARY CONDITIONS

00800	Supplementary Conditions	01-01-2020
00805	Equal Employment Opportunity Program Requirements.....	03-01-2016
00808	Requirements for the City of Houston Program for Minority, Women and Small Business Enterprises (MWSBE), and Persons with Disabilities Business Enterprises (PDBE)	07-01-2016
00820	Wage Scale and Payroll Requirements for Engineering	

<u>Doc. No.</u>	<u>Document Title</u>	<u>Doc. Date</u>
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ADDENDA AND MODIFICATIONS		
00910	Addendum	02-01-2004
00911	Notice of Addendum	02-01-2004
00931	Request for Information	02-01-2004
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00950	Federally Required Contract Clauses	
00951	Bidder/Contractor Pre-Award Certifications	
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01145S	<i>Use of Premises</i>	05-07-2019
*01145	Use of Premises	01-01-2011
01255	Change Order Procedures	08-01-2003
01270S	<i>Measurement and Payment</i>	03-17-2020
*01270	Measurement and Payment	08-01-2003
01292	Schedule of Values	08-01-2003
01312	Coordination and Meetings	08-01-2003
01321	Construction Photographs	08-01-2003
01325	Construction Schedule	08-01-2003
01326	Construction Schedule (Bar Chart)	08-01-2003
01330	Submittal Procedures	08-01-2003
01340	Shop Drawings, Product Data, and Samples	08-01-2003
01351	Environmental Safety and Worker Protection	01-01-2011
01410	TPDES Requirements (with Attachments)	04-01-2018
01422	Reference Standards	08-01-2003
01450	Contractor's Quality Control	08-01-2003
01452	Inspection Services	08-01-2003
01454	Testing Laboratory Services	08-01-2003
01502	Mobilization	08-01-2008
01504	Temporary Facilities and Controls	01-01-2011
01554S	<i>Traffic Control and Street Signs</i>	03-17-2020
*01554	Traffic Control and Street Signs	07-01-2012
01555S	<i>Traffic Control and Regulation</i>	03-17-2020
*01555	Traffic Control and Regulation	07-01-2019
01562	Tree and Plant Protection	01-01-2011
01570	Storm Water Pollution Control	01-26-2012
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Doc. No.	Document Title	Doc. Date
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01578	Control of Ground and Surface Water	07-01-2017
01580	Project Identification Signs	08-01-2003
01581	Excavation in Public Way Permit Signs	08-01-2003
01610	Basic Product Requirements	01-01-2011
01630S	<i>Product Substitution Procedures</i>	03-26-2020
*01630	Product Substitution Procedures	08-01-2003
01725	Field Surveying.....	01-01-2011
01731	Cutting and Patching	01-01-2011
01732	Procedure for Water Valve Assistance (with Attachments)	08-01-2003
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*01740	Site Restoration	08-01-2003
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01785	Project Record Documents.....	08-01-2003

Division 2 through 16 specifications reference the 2019 Standard Specifications, unless otherwise noted. Supplemental specifications include Doc Date for reference.

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02082	PRECAST CONCRETE MANHOLES	
02083	FIBERGLASS MANHOLES	
02085	VALVE BOXES, METER BOXES, AND METER VAULTS	
02086	ADJUSTING MANHOLES, INLETS, AND VALVE BOXES TO GRADE	
02088	PRECAST POLYMER CONCRETE MANHOLE	
02090	FRAMES, GRATES, RINGS, AND COVERS	
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02136	WASTE MATERIAL HANDLING, TESTING AND DISPOSAL	
02201	SITE PREPARATION, GRADING, RESTORATION AND CLEAN UP FOR WATER STORAGE TANKS	
02221S	<i>Removing Existing Pavements and Structures</i>	09-12-2019
*02221	REMOVING EXISTING PAVEMENTS AND STRUCTURES	
02233	CLEARING AND GRUBBING	
02260	TRENCH SAFETY SYSTEM	
02315	ROADWAY EXCAVATION	
02316	EXCAVATION AND BACKFILL FOR STRUCTURES	
02317	EXCAVATION AND BACKFILL FOR UTILITIES	
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<u>Doc. No.</u>	<u>Document Title</u>	<u>Doc. Date</u>
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02501	DUCTILE IRON PIPE AND FITTINGS	
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02511	WATER LINES	
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02515	HYDROSTATIC TESTING OF PIPELINES	
02516	CUT, PLUG, AND ABANDONMENT OF WATER LINES	
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02633	PRECAST CONCRETE INLETS, HEADWALLS, AND WINGWALLS	
02751	CONCRETE PAVING	
02752	CONCRETE PAVEMENT JOINTS	
02753	CONCRETE PAVEMENT CURING	
02754	CONCRETE DRIVEWAYS	
02761	COLORING CONCRETE FOR MEDIANS AND SIDEWALKS	
02764	RAISED PAVEMENT MARKERS	
02765	TEMPORARY AND REMOVABLE REFLECTORIZED PAVEMENT MARKINGS	
02767	THERMOPLASTIC PAVEMENT MARKINGS	
02768	EPOXY PAVEMENT MARKINGS	
02771	CURB, CURB AND GUTTER, AND HEADERS	
02772	CONCRETE MEDIANS AND DIRECTIONAL ISLANDS	
02775	CONCRETE SIDEWALKS	
02911	TOPSOIL	
02912	TREE, PLANT, AND HARDSCAPE PROTECTION	
02915	TREE PLANTING	
02921	HYDROMULCH SEEDING	
02922	SODDING	

<u>Doc. No.</u>	<u>Document Title</u>	<u>Doc. Date</u>
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02951 PAVEMENT REPAIR AND RESTORATION

DIVISION 3 - CONCRETE

03315 CONCRETE FOR UTILITY CONSTRUCTION

DIVISION 4 - MORTAR

04061 MORTAR

04210 BRICK MASONRY FOR UTILITY CONSTRUCTION

DIVISION 5 - METALS

DIVISION 6 - WOOD AND PLASTICS

DIVISION 7 - THERMAL AND MOISTURE PROTECTION

DIVISION 8 - DOORS AND WINDOWS

DIVISION 9 - FINISHES

DIVISION 10 - SPECIALTIES

DIVISION 11 – EQUIPMENT

DIVISION 12 - FURNISHINGS

DIVISION 13 - SPECIAL CONSTRUCTION

DIVISION 14 - CONVEYING SYSTEMS

DIVISION 15 – MECHANICAL

DIVISION 16 – ELECTRICAL

16750 ACCESSIBLE PEDESTRIAN PUSH BUTTON STATION

APPENDICES

APPENDIX “A”

TEXAS DEPARTMENT OF TRANSPORTATION SPECIFICATIONS

ITEM 360 CONCRETE PAVEMENT 11-01-2014

ITEM 420 CONCRETE SUBSTRUCTURES 11-01-2014

ITEM 421 HYDRAULIC CEMENT CONCRETE 11-01-2014

ITEM 440 REINFORCEMENT FOR CONCRETE 11-01-2014

<u>Doc. No.</u>	<u>Document Title</u>	<u>Doc. Date</u>
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APPENDIX "C"

METRO DETAILS

Metro Bus Detail 9-inch Curb with Constrained ROW

Metro Bus Stop Concrete Details (MOD 1)

Foundation Details Type V (Cantilever)

END OF DOCUMENT

Document 00410A

BID FORM – PART A

To: **Westchase District**
C/O Lockwood, Andrews, and Newnam, Inc.
2925 Briar Park Drive, Suite 400
Houston, Texas 77042

Project: Deerwood Trail/Path from Westheimer Road to Terry Hershey Hike & Bike Trail

Project No.: WBS No. N-MD0450-0008-7

Bidder: _____

(Print or type full name of business entity, such as corporation, LLC, etc)

1.0 OFFER

- A. Total Bid Price:** Having examined the Project location and all matters referred to in Bid Documents for the Project, we, the undersigned, offer to enter into a Contract to perform the Work for the Total Bid Price shown on the signature page of this Document.
- B. Security Deposit:** Included with the Bid is a Security Deposit in the amount of 10 percent of the Total Bid Price subject to terms described in Document 00200 – Instructions to Bidders.
- C. Period for Bid Acceptance:** This offer is open to acceptance and is irrevocable for 90 days from Bid Date. That period may be extended by mutual written agreement of the City and Bidder.
- D. Addenda:** All Addenda have been received. Modifications to Bid Documents have been considered and all related costs are included in the Total Bid Price.
- E. Bid Supplements:** The following documents are attached:
- Security Deposit *(as defined in Document 00200 – Instructions to Bidders)*
 - Document 00450 – Bidder's Statement of MWSBE Status
 - Document 00454 – Affidavit of Non-interest
 - Document 00455 – Ownership Information Form
 - Document 00456 – Bidder's Certificate of Compliance with Buy American Program *(required for AIP funded project)*
 - Document 00457 – Conflicts of Interest Questionnaire (CIQ)
 - Document 00458 – Bidder's Certificate Regarding Foreign Trade Restriction *(required for AIP funded project)*
 - Document 00459 – Contractor's Statement Regarding Previous Contracts Subject to EEO *(required for AIP funded project)*
 - Document 00460 – Pay or Play Acknowledgement Form (POP 1-A)
 - Document 00470 – Bidder's MWSBE Participation Plan *(required unless no MWSBE participation goal is provided in Document 00800 (the "Goal"))*.
 - Document 00471 – Bidder's Record of Good Faith Efforts *(required if the goal in Bidder's Participation Plan–Document 00470 is lower than the Goal)*.
 - Document 00472 – Bidder's Goal Deviation Request *(required if the goal in Bidder's Participation Plan–Document 00470 is lower than the Goal)*.

Others as listed: Federal Requirement Sections 00950 and 00951

2.0 CONTRACT TIME

- A.** If offer is accepted, Contractor shall achieve Date of Substantial Completion within **150** days after Date of Commencement of the Work, subject to adjustments of Contract Time as provided in the Contract.

FEDERALLY REQUIRED CONTRACT CLAUSES

These federally required contract clauses are in accordance with FTA Circular 4220.1F, Third Party Contracting Guidance. The Bidder certifies to abide by the clauses below as part of this procurement. The Bidder must also complete the forms included in the Bidder/Contractor Pre-Award Certifications.

1. FLY AMERICA

- a. The Bidder/Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their Bidders/Contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Bidder/Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.
- b. The Bidder/Contractor also agrees to include any applicable requirements in each subcontract involving international air transportation financed in whole or in part with Federal assistance provided by FTA.

2. BUY AMERICA

- a. The Bidder/Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.
- b. A Bidder/Contractor must submit to the FTA recipient the appropriate Buy America certification (**See Bidder/Contractor Pre-Award Certifications**) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Responses, bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.
- c. With the implementation of the Fixing America’s Surface Transportation (FAST) Act, new requirements for domestic content are phased in based on the date of delivery of the rolling stock. The increased domestic content percentage requirement for rolling stock for:

- i. FY16 & FY17 is more than 60% domestic content;
 - ii. FY18 & FY19 is more than 65% domestic content; and
 - iii. FY20 & beyond is more than 70% domestic content.
- d. For rolling stock purchases for which the average cost of the vehicle is more than \$300,000, the FAST Act allows the cost of steel or iron produced in the U.S. and used in the rolling stock frames or car shells to be included in the domestic content calculation, regardless of whether the frame or car shell is produced in the U.S.
- e. FTA does not require the inclusion of these requirements in subcontracts.

3. CHARTER BUS and SCHOOL BUS REQUIREMENTS – Does not apply to this Contract.

4. CARGO PREFERENCE REQUIREMENTS

- a. The Bidder/Contractor agrees:
- i. To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; and
 - ii. To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Owner (through the Bidder/Contractor in the case of a subcontractor's bill-of-lading.).
- b. The Bidder/Contractor also agrees to include any applicable requirements in each subcontract involving international transportation by ocean vessel financed in whole or in part with Federal assistance provided by FTA.

5. SEISMIC SAFETY REQUIREMENTS

- a. The Bidder/Contractor agrees that any new building or addition only to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation.
- b. The Bidder/Contractor also agrees to ensure that all work performed under this contract including work on new buildings or additions only performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

6. ENERGY CONSERVATION

- a. As authorized by the State of Texas, The Texas State Energy Conservation Office (SECO) has adopted the most recent edition of the International Energy Conservation Code (IECC) without amendment for new buildings or additions only. The Bidder/Contractor shall design the facility in accordance with 2015 IECC.
- b. The Bidder/Contractor also agrees to include any applicable requirements in each subcontract involving construction of commercial buildings financed in whole or in part with Federal assistance provided by FTA.

7. CLEAN WATER

- a. The Bidder/Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Bidder/Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. The Bidder/Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8. BUS TESTING – Does not apply to this Contract.

9. PRE-AWARD and POST DELIVERY AUDIT REQUIREMENTS – Does not apply to this Contract.

10. LOBBYING

- a. Bidders/Contractors who apply for an award of \$100,000 or more shall file the Certification Regarding Lobbying, required by 49 CFR Part 20, New Restrictions on Lobbying, with the Owner. Each subcontractor shall file the Certification Regarding Lobbying with the Bidder/Contractor that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- b. The Bidder/Contractor and subcontractors shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from subcontractors to Bidder/Contractor to the Owner. The Bidder/Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
- c. The certification regarding Lobbying to be completed by the Bidder/Contractor and subcontractor(s) is provided herein (**See Bidder/Contractor Pre-Award Certifications**) under Certifications and Forms Section.

11. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this contract:

- a. The Owner is an FTA Recipient in accordance with 49 C.F.R. 18.36(i). The Bidder/Contractor agrees to provide the Owner, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Bidder/Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- b. The Bidder/Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Bidder/Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Bidder/Contractor agrees to maintain same until the Owner, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 C.F.R. 18.39(i)(11).
- d. FTA does not require the inclusion of these requirements in subcontracts.

12. FEDERAL CHANGES

- a. The Bidder/Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Owner and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Bidder/Contractor's failure to so comply shall constitute a material breach of this contract.
- b. The Bidder/Contractor also agrees to include any applicable requirements in each subcontract involving a federal change financed in whole or in part with Federal assistance provided by FTA.

13. BONDING REQUIREMENTS

- a. Please see Document 00430 for Bonding Requirements.

14. CLEAN AIR

- a. The Bidder/Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Bidder/Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. The Bidder/Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. RECYCLED PRODUCTS

- a. If the Bidder/Contractor procures \$10,000 or more of one of the Environmental Protection Agency designated items in a fiscal year or has procured \$10,000 or more of such items in the previous fiscal year using Federal funds, the Bidder/Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247, including:
 - i. Paper and paper products.
 - 1. Paper and paper products, excluding building and construction paper grades.
 - ii. Construction products
 - 1. Cement and concrete, including concrete products such as pipe and block containing:
 - a. Coal fly ash;
 - b. Ground granulated blast furnace slag (GGBF);
 - c. Cenospheres; or
 - d. Silica fume from silicon and ferrosilicon metal production.
 - 2. Consolidated latex paint used for covering graffiti; and reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceilings, and trim; gutter boards; and concrete, stucco, masonry, wood, and metal surfaces.
 - 3. Railroad grade crossing surfaces made from cement and concrete containing fly ash, recovered rubber, recovered steel, recovered wood, or recovered plastic.
 - 4. Modular threshold ramps containing recovered steel, rubber, or aluminum.
 - 5. Nonpressure pipe containing recovered steel, plastic, or cement.
- b. The Bidder/Contractor also agrees to include these requirements in each subcontract if the subcontractor procures \$10,000 or more of one of the Environmental Protection Agency designated items in a fiscal year or has procured \$10,000 or more of such items in the previous fiscal year using Federal funds.

16. DAVIS-BACON and COPELAND ANTI-KICKBACK ACTS

- a. (1) **Minimum wages**
 - i. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual

relationship which may be alleged to exist between the Bidder/Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Bidder/Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. (ii)

- 1. (A)** The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - a.** Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - b.** The classification is utilized in the area by the construction industry; and
 - c.** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - d.** With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- 2. (B)** If the Bidder/Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate),

a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

3. (C) In the event the Bidder/Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 4. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- iii. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Bidder/Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - iv. (iv) If the Bidder/Contractor does not make payments to a trustee or other third person, the Bidder/Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Bidder/Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Bidder/Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
 - v. (v)
 1. (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- a. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - b. The classification is utilized in the area by the construction industry; and
 - c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
2. (B) If Bidder/Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 3. (C) In the event the Bidder/Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- vi. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- b. (2) **Withholding** – The Owner shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from Bidder/Contractor under this contract or any other Federal contract with the same prime Bidder/Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Bidder/Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by Bidder/Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the

construction or development of the project), all or part of the wages required by the contract, the Owner may, after written notice to the Bidder/Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

c. (3) Payrolls and basic records

i. (i) Payrolls and basic records relating thereto shall be maintained by the Bidder/Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Bidder/Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Bidder/Contractor employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. (ii)

1. (A) The Bidder/Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Owner for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Bidder/Contractor is responsible for the submission of copies of payrolls by all subcontractors.
2. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Bidder/Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- a. That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
 - b. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - c. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
3. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
 4. (D) The falsification of any of the above certifications may subject the Bidder/Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- iii. (iii) The Bidder/Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Bidder/Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Bidder/Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- d. (4) Apprentices and trainees**
- i. (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such

an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Bidder/Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Bidder/Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Bidder/Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Bidder/Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- ii. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an

apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Bidder/Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- iii. (iii) Equal employment opportunity - The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- e. (5) **Compliance with Copeland Act requirements** - The Bidder/Contractor shall comply with the requirements of 29 CFR part 3, Copeland Anti-Kickback Act, which are incorporated by reference in this contract.
- f. (6) **Subcontracts** - The Bidder/Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Bidder/Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- g. (7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Bidder/Contractor and a subcontractor as provided in 29 CFR 5.12.
- h. (8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- i. (9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Bidder/Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- j. (10) **Certification of eligibility**
 - i. (i) By entering into this contract, the Bidder/Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the

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Bidder/Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- ii.** (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- iii.** (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

THE CURRENT HARRIS COUNTY, TEXAS WAGE RATE DETERMINATIONS FROM THE DEPARTMENT OF LABOR HAVE BEEN INSERTED ON THE FOLLOWING PAGES.

Deerwood Trail/Path from Westheimer Rd to Terry Hershey Trail
WBS No. N-MD0450-0008-7

General Decision Number: TX20200038 01/03/2020

Superseded General Decision Number: TX20190038

State: Texas

Construction Type: Highway

Counties: Austin, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, San Jacinto and Waller Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum

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wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020

* SUTX2011-013 08/10/2011

	Rates	Fringes
CEMENT MASON/CONCRETE		
FINISHER (Paving and Structures).....		
	\$ 12.98	
ELECTRICIAN.....		
	\$ 27.11	
FORM BUILDER/FORM SETTER		
Paving & Curb.....		
	\$ 12.34	
Structures.....		
	\$ 12.23	
LABORER		
Asphalt Raker.....		
	\$ 12.36	
Flagger.....		
	\$ 10.33	
Laborer, Common.....		
	\$ 11.02	
Laborer, Utility.....		
	\$ 11.73	
Pipelayer.....		
	\$ 12.12	
Work Zone Barricade		

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Servicer.....	\$ 11.67
PAINTER (Structures).....	\$ 18.62
POWER EQUIPMENT OPERATOR:	
Asphalt Distributor.....	\$ 14.06
Asphalt Paving Machine.....	\$ 14.32
Broom or Sweeper.....	\$ 12.68
Concrete Pavement Finishing Machine.....	\$ 13.07
Concrete Paving, Curing, Float, Texturing Machine....	\$ 11.71
Concrete Saw.....	\$ 13.99
Crane, Hydraulic 80 Tons or less.....	\$ 13.86
Crane, Lattice boom 80 tons or less.....	\$ 14.97
Crane, Lattice boom over 80 Tons.....	\$ 15.80
Crawler Tractor.....	\$ 13.68
Excavator, 50,000 pounds or less.....	\$ 12.71
Excavator, Over 50,000 pounds.....	\$ 14.53
Foundation Drill, Crawler Mounted.....	\$ 17.43
Foundation Drill, Truck Mounted.....	\$ 15.89
Front End Loader 3 CY or Less.....	\$ 13.32
Front End Loader, Over 3 CY.	\$ 13.17
Loader/Backhoe.....	\$ 14.29
Mechanic.....	\$ 16.96
Milling Machine.....	\$ 13.53
Motor Grader, Fine Grade....	\$ 15.69
Motor Grader, Rough.....	\$ 14.23
Off Road Hauler.....	\$ 14.60

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Pavement Marking Machine....\$ 11.18
Piledriver.....\$ 14.95
Roller, Asphalt.....\$ 11.95
Roller, Other.....\$ 11.57
Scraper.....\$ 13.47
Spreader Box.....\$ 13.58

Servicer.....\$ 13.97

Steel Worker

Reinforcing Steel.....\$ 15.15
Structural Steel Welder.....\$ 12.85
Structural Steel.....\$ 14.39

TRUCK DRIVER

Low Boy Float.....\$ 16.03
Single Axle.....\$ 11.46
Single or Tandem Axle Dump..\$ 11.48
Tandem Axle Tractor w/Semi
Trailer.....\$ 12.27

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is

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like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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)).

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,

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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

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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.

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

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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

17. CONTRACT WORK HOURS and SAFETY STANDARDS ACT

- a. Overtime requirements** - No Bidder/Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (a) of this section the Bidder/Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such the Bidder/Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- c. Withholding for unpaid wages and liquidated damages** - The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Bidder/Contractor or subcontractor under any such contract or any other Federal contract with the same prime Bidder/Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Bidder/Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Bidder/Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d.** The Bidder/Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Bidder/Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

18. RESERVED

19. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

- a.** The Owner and the Bidder/Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Owner, the Bidder/Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

- b. The Bidder/Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD and FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- a. The Bidder/Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Bidder/Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Bidder/Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Bidder/Contractor to the extent the Federal Government deems appropriate.
- b. The Bidder/Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Bidder/Contractor, to the extent the Federal Government deems appropriate.
- c. The Bidder/Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. TERMINATION

The Owner’s termination requirements come from the attached City of Houston’s General Conditions (**Attachment A**).

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

- a. This contract is a covered transaction for purposes of 49 C.F.R. Part 29. As such, the Bidder/Contractor is required to verify that none of the Bidder/Contractor, its principals, as defined at 49 C.F.R. 29.995, or affiliates, as defined at 49 C.F.R. 29.905, are excluded or disqualified as defined at 49 C.F.R. 29.940 and 29.945.
- b. The Bidder/Contractor is required to comply with 49 C.F.R. 29, Subpart C and must include the requirement to comply with 49 C.F.R. 29, Subpart C in any lower tier covered transaction it enters into.

- c. The certification (**See Bidder/Contractor Pre-Award Certifications**) is a material representation of fact relied upon by the Owner. If it is later determined that the Bidder/Contractor knowingly rendered an erroneous certification, in addition to remedies available to the Owner, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder/Contractor agrees to comply with the requirements of 49 C.F.R. 29, Subpart C and Executive Order 12549 while this offer is valid and throughout the period of any contract that may arise from this offer.
- d. The Bidder/Contractor also agrees to include these requirements in each subcontract exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

23. PRIVACY ACT – Does not apply to this Contract.

24. CIVIL RIGHTS REQUIREMENTS

The following requirements apply to the underlying contract:

- a. **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Bidder/Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Bidder/Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- b. **Equal Employment Opportunity** - The following requirements apply to the underlying contract:
 - i. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Bidder/Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Bidder/Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition,

the Bidder/Contractor agrees to comply with any implementing requirements FTA may issue.

- ii. **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Bidder/Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Bidder/Contractor agrees to comply with any implementing requirements FTA may issue.
 - iii. **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Bidder/Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Bidder/Contractor agrees to comply with any implementing requirements FTA may issue.
- c. The Bidder/Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

25. BREACHES AND DISPUTE RESOLUTION

The Owner's breach and dispute resolution requirements come from the attached City of Houston's General Conditions (**Attachment B**).

26. PATENT AND DISPUTE RESOLUTION – Does not apply to this Contract.

27. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS – Does not apply to this Contract.

28. DISADVANTAGED BUSINESS ENTERPRISES

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The agency's overall goal for DBE participation is 4.0%. **A SEPARATE CONTRACT GOAL OF 10% HAS BEEN ESTABLISHED FOR THIS PROCUREMENT. THE BIDDER/CONTRACTOR SHALL MAKE A GOOD FAITH EFFORT TO ACHIEVE THIS GOAL ON THE PROJECT. FOR INFORMATION REGARDING GOOD FAITH EFFORT, PLEASE SEE ATTACHMENT C.**
- b. The Bidder/Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Bidder/Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Bidder/Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate.

- c. Bidders are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 C.F.R. 26.53 (**See Bidder/Contractor Pre-Award Certifications**). Award of this contract is conditioned on submission of the following concurrent with and accompanying an initial proposal:
 - i. The names and addresses of subcontractors that will participate in the contract;
 - ii. A description of the work that each subcontractor will perform;
 - iii. Whether the subcontractors are a DBE, non-DBE, or a Small Business Enterprise (SBE);
 - iv. The ethnic code, as described in the form;
 - v. The age of the firm;
 - vi. The annual gross receipts from the firm;
 - vii. The dollar amount of the participation of each DBE firm participating; and
 - viii. Written confirmation from the DBE subcontractor that it is participating in the contract as provided in the commitment made under (8) (**See Bidder/Contractor Pre-Award Certifications**).
- d. The Bidder/Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the Owner. The Bidder/Contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the timeframe stated in this paragraph may occur only for good cause, as determined by the Owner, and following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors and shall be included in the contract between the Bidder/Contractor and any and all subcontractors.
- e. The Bidder/Contractor must promptly notify the Owner, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Bidder/Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Owner.
- f. The Bidder/Contractor shall report DBE participation on a monthly basis on the Contractor Payment Report Form (**See Bidder/Contractor Pre-Award Certifications**).
- g. The Owner encourages the Bidder/Contractor on DOT-assisted contract to make use of financial institution owned and controlled by socially and economically disadvantaged

individuals. The Federal Reserve Statistical Release maintains a list of Minority-Owned Banks (<http://www.federalreserve.gov/releases/mob/>).

29. RESERVED

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

- a. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Bidder/Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the Owner requests which would cause the Owner to be in violation of the FTA terms and conditions.
- b. The Bidder/Contractor also agrees to include any applicable requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

31. DRUG AND ALCOHOL TESTING – Does not apply to this Contract.

32. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY

- a. ADA Accessibility ensures that all individuals regardless of disability are not excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- b. The Bidder/Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities.
- c. The Bidder/Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable.
- d. In addition, the Bidder/Contractor agrees to comply with applicable implementing Federal regulations any later amendments thereto, and agrees to follow applicable Federal directives except to the extent FTA approves otherwise in writing
- e. The Bidder/Contractor and all of its subcontractors shall adhere to any applicable ADA Accessibility requirements from the following:

- i.** 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance, U.S. DOT regulation
- ii.** 49 CFR Part 37 - Transportation Services for Individuals with Disabilities (ADA), U.S. DOT regulation
- iii.** 49 CFR Part 38 and 36 C.F.R. Part 1192 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles, Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulation
- iv.** 28 C.F.R. Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services, U.S. DOJ regulation
- v.** 28 C.F.R. Part 36 – Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, U.S. DOJ regulation
- vi.** 41 C.F.R. Subpart 101-19 – Accommodations for the Physically Handicapped, U.S. General Services Administration (U.S. GSA) regulation"
- vii.** 29 C.F.R. Part 1630 – Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, U.S. EEOC
- viii.** 47 C.F.R. Part 64, Subpart F – Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled, U.S. Federal Communications Commission regulation
- ix.** 36 C.F.R. Part 1194 – Electronic and Information Technology Accessibility Standards, U.S. ATBCB regulation
- x.** 49 C.F.R. Part 609 – Transportation for Elderly and Handicapped Persons, FTA regulation
- xi.** Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

33. VETERAN'S PREFERENCE

- a.** The Owner shall ensure that contractors working on a capital project funded using federal assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of Title 5) who have the requisite skills and abilities to perform the construction work required under the contract. No requirement exists that would give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

ATTACHMENT A – TERMINATION REQUIREMENTS

From the City of Houston – Conditions of the Contract, Document 00700 – General Conditions, Published July 1, 2016

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CITY FOR CAUSE

14.1.1 Each of the following acts or omissions of Contractor or occurrences shall constitute an "Event of Default" under the Contract:

- 14.1.1.1 Contractor refuses or fails to supply enough properly skilled workers or proper Products;
- 14.1.1.2 Contractor disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction;
- 14.1.1.3 Contractor is guilty of material breach of any duty or obligation of Contractor under the Contract, including, but not limited to, failure to submit certified payrolls electronically;
- 14.1.1.4 Contractor has had any other contract with the City terminated for cause at any time subsequent to the effective date of the Contract as set out in the Agreement; or
- 14.1.1.5 Contractor fails to utilize Ultra Low Sulfur Diesel Fuel, as required in Paragraph 3.9.1.1.

14.1.2 If an Event of Default occurs, City Engineer may, at his option and without prejudice to any other rights or remedies which the City may have, deliver a written notice to Contractor and Surety describing the Event of Default and giving the Contractor 10 days to cure the Event of Default. If after the cure period, Contractor has failed or refused to cure the Event of Default, then City Engineer may deliver a second written notice to Contractor giving notice of the termination of the Contract or of the termination of Contractor's performance under the Contract ("Notice of Termination"). If City Engineer issues a Notice of Termination, then City Engineer may, subject to any prior rights of Surety and any other rights of the City under the Contract or at law:

- 14.1.2.1 request that Surety complete the Work; or
- 14.1.2.2 take possession of the site and all materials, equipment, tools, and construction equipment and machinery on the site owned by Contractor; and
- 14.1.2.3 finish the Work by whatever reasonable method City Engineer may deem expedient.

14.1.3 After Contractor's receipt of a Notice of Termination, and except as otherwise directed in writing by City Engineer, Contractor shall:

- 14.1.3.1 stop the Work on the date and to the extent specified in the Notice of Termination;
- 14.1.3.2 place no further orders or subcontracts for Products or services;
- 14.1.3.3 terminate all orders and subcontracts to the extent that they relate to performance of work terminated;
- 14.1.3.4 assign to the City, in the manner, at the times, and to the extent directed by City Engineer, all rights, title, and interest of Contractor, under the terminated supply orders and subcontracts. The City may settle or pay claims arising out of termination of the orders and subcontracts;
- 14.1.3.5 settle all outstanding liabilities and all claims arising out of the termination of supply orders and subcontracts with approval of City Engineer;
- 14.1.3.6 take action as may be necessary, or as City Engineer may direct, for protection and preservation of property related to the Work that is in possession of Contractor, and in which the City has or may acquire an interest; and
- 14.1.3.7 secure the Work in a safe state before leaving the site, providing any necessary safety measures, shoring, or other devices.

14.1.4 If the City terminates the Contract or terminates Contractor's performance under the Contract for any one or more of the reasons stated in Paragraph 14.1.1, Contractor may not receive any further payment until the Work is complete, subject to Paragraph 14.1.5.

14.1.5 If the unpaid balance of Contract Price exceeds the costs of finishing the Work, including liquidated damages and other amounts due under the Contract, the balance will be paid to Contractor. If the costs of

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finishing the Work exceed the unpaid balance, Contractor shall, within 10 days of receipt of written notice setting out the amount of the excess costs, pay the difference to the City. The amount to be paid to Contractor or the City will be certified by City Engineer in writing, and this obligation for payment shall survive termination of the Contract or termination of Contractor's performance under the Contract. Termination of the Contractor for cause shall not relieve the Surety from its obligation to complete the project.

14.2 *TERMINATION BY THE CITY FOR CONVENIENCE*

14.2.1 City Engineer may, without cause and without prejudice to other rights or remedies of the City, give Contractor and Surety a Notice of Termination with a seven days written notice.

14.2.2 After receipt of the Notice of Termination, and except as otherwise approved by City Engineer, Contractor shall conform to requirements of Paragraph 14.1.3.

14.2.3 After receipt of the Notice of Termination, Contractor shall submit to the City its termination Claim, in forms required by City Engineer. The Claim will be submitted to the City promptly, but no later than six months from the effective date of termination, unless one or more extensions are granted by City Engineer in writing. If Contractor fails to submit its termination Claim within the time allowed, in accordance with Paragraph 14.2.4, City Engineer will determine, on the basis of available information, the amount, if any, due to Contractor because of termination, and City Engineer's determination is final and binding on the Parties. The City will then pay to Contractor the amount so determined.

14.2.4 City Engineer will determine, on the basis of information available to City Engineer, the amount due, if any, to Contractor for the termination as follows:

14.2.4.1 Contract Price for all work performed in accordance with the Contract up to the date of termination determined in the manner prescribed for monthly payments in Article 9, except no retainage is withheld by the City either for payment determined by percentage of completion or for materials and equipment delivered to the site, in storage or in transit.

14.2.4.2 Reasonable termination expenses, including costs for settling and paying Subcontractor and Supplier claims arising out of termination of the Work, reasonable cost of preservation and protection of the City's property after termination, if required, and the cost of Claim preparation. Termination expenses do not include field or central office overhead, salaries of employees of Contractor, or litigation costs, including attorneys' fees.

No amount is allowed for anticipated profit or central office overhead on uncompleted work, or any cost or lost profit for other business of Contractor alleged to be damaged by the termination.

14.2.5 Contractor shall promptly remove from the site any construction equipment, tools, and temporary facilities, except the temporary facilities which City Engineer may wish to purchase and retain.

14.2.6 Contractor shall cooperate with City Engineer during the transition period.

14.2.7 The City will take possession of the Work and materials delivered to the site, in storage, or in transit, as of date or dates specified in the Notice of Termination, and is responsible for maintenance, utilities, security, and insurance, as stated in Notice of Termination.

14.3 *SUSPENSION BY THE CITY FOR CONVENIENCE*

14.3.1 City Engineer may, without cause, after giving Contractor and Surety 24-hour prior written notice, order Contractor to suspend, delay, or interrupt the Work in whole or in part for a period of time as City Engineer may determine.

14.3.2 An adjustment will be made in Contract Time equivalent to the time of suspension.

Deerwood Trail/Path from Westheimer Rd to Terry Hershey Trail
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14.3.3 Adjustment will be made to Contract Price for increases in the cost of performance of the Work, including profit on increased cost of performance caused by suspension, delay, or interruption of the Work in accordance with Paragraph 7.3. No adjustment will be made to the extent that:

- 14.3.3.1 performance was, or would have been, suspended, delayed, or interrupted by another cause for which Contractor is responsible; or
- 14.3.3.2 adjustment is made or denied under another provision of the Contract.

14.4 *TERMINATION BY CONTRACTOR*

14.4.1 Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of Contractor, directly related to one of these events:

- 14.4.1.1 issuance of an order of a court or other public authority having jurisdiction;
- 14.4.1.2 act of government, such as a declaration of national emergency which makes material unavailable; or
- 14.4.1.3 if repeated suspensions, delays, or interruptions by the City as described in Paragraph 14.3 constitute, in the aggregate, more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less;

No termination will be effective for the above reasons if Contractor delivers written notice to City Engineer describing the reason for termination, giving the proposed termination date, and granting the City a reasonable opportunity to respond and cure any City default before termination is effective.

14.4.2 If the Contract is terminated pursuant to this Paragraph 14.4, Contractor shall comply with the requirements of Paragraphs 14.2.2 through 14.2.7.

ATTACHMENT B – BREACHES AND DISPUTES REQUIREMENT

From the City of Houston – Conditions of the Contract, Document 00700 – General Conditions, Published July 1, 2016

4.3 CLAIMS AND DISPUTES

4.3.1 Documentation by Project Manager: Contractor shall submit Claims, including those alleging an error or omission by Project Manager or Design Consultant, to Project Manager for documentation and recommendation to City Engineer.

4.3.2 Decision of City Engineer: Upon submission of Claim by Project Manager or Contractor, City Engineer will resolve Claims in accordance with Section 4.4.

4.3.3 Time Limits on Claims: Claims by Contractor must be made within 90 days after occurrence of event giving rise to the Claim.

4.3.4 Continuing the Contract Performance: Pending final resolution of a Claim including referral to non-binding mediation, unless otherwise agreed in writing, Contractor shall proceed diligently with the performance of the Contract and the City will continue to make payments in accordance with the Contract.

4.3.4.1 Pending final resolution of a Claim including referral to non-binding mediation, Contractor is responsible for safety and protection of physical properties and conditions at site.

4.3.5 Claims for Concealed or Unknown Conditions: Concealed or unknown physical conditions include utility lines, other man made structures, storage facilities, Pollutants and Pollutant Facilities, and the like, but do not include conditions arising from Contractor operations, or failure of Contractor to properly protect and safeguard subsurface facilities. Concealed conditions also include naturally-occurring soil conditions outside the range of soil conditions identified through geotechnical investigations, but do not include conditions arising from groundwater, rain, or flood.

4.3.5.1 If conditions are encountered at the site which are Underground Facilities or otherwise concealed or unknown conditions which differ materially from:

4.3.5.1.1 those indicated by the Contract; or

4.3.5.1.2 conditions which Contractor could have discovered through site inspection, geotechnical testing, or otherwise;

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then Contractor will give written notice to City Engineer no later than five days after Contractor's first observation of the condition and before condition is disturbed. Contractor's failure to provide notice constitutes a waiver of a Claim.

4.3.5.2 City Engineer will promptly investigate concealed or unknown conditions. If City Engineer determines that conditions at the site are not materially different and that no change in Contract Price or Contract Time is justified, City Engineer will notify Contractor in writing, stating reasons. If City Engineer determines the conditions differ materially and cause increase or decrease in Contractor's cost or time required for performance of part of the Work, City Engineer will recommend an adjustment in Contract Price or Contract Time, or both, as provided in Article 7. Opposition by a Party to the City Engineer's determination must be made within 21 days after City Engineer has given notice of the decision. If the Parties cannot agree on adjustment to Contract Price or Contract Time, adjustment is subject to further proceedings pursuant to Section 4.4.

4.3.6 Claims for Additional Cost: If Contractor wishes to make a Claim for increase in Contract Price, Contractor shall give written notice before proceeding with work for which Contractor intends to submit a Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

4.3.6.1 Contractor may file a Claim in accordance with Section 4.4 if Contractor believes it has incurred additional costs, for the following reasons:

- 4.3.6.1.1 written interpretation of City Engineer;
- 4.3.6.1.2 order by City Engineer to stop the Work when Contractor is not at fault;
- 4.3.6.1.3 suspension of the Work by City Engineer;
- 4.3.6.1.4 termination of the Contract by City Engineer; or
- 4.3.6.1.5 The City's non-compliance with another provision of the Contract.

4.3.6.2 No increase in Contract Price is allowed for delays or hindrances to the Work, except for direct and unavoidable extra costs to Contractor caused by failure of the City to provide information and services, or to make land and materials available, when required of the City under the Contract. Any increase claimed is subject to the provisions of Section 4.4 and Article 7.

4.3.6.3 The City is not liable for Claims for delay when Date of Substantial Completion occurs prior to expiration of Contract Time.

4.3.7 Claims for Additional Time: If Contractor wishes to make a Claim for an increase in Contract Time, Contractor shall give written notice as provided in Section 8.2. In case of continuing delay, only one Claim is necessary.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 City Engineer will review Claims and take one or more of the following preliminary actions within 30 days of receipt of Claim:

4.4.1.1 submit a suggested time to meet and discuss the Claim with City Engineer;

4.4.1.2 reject Claim, in whole or in part, stating reasons for rejection;

4.4.1.3 recommend approval of the Claim by the other Party;

4.4.1.4 suggest a compromise; or

4.4.1.5 take other actions as City Engineer deems appropriate to resolve the Claim.

4.4.2 City Engineer may request additional supporting data from claimant. Party making Claim shall, within 10 days after receipt of City Engineer's request, submit additional supporting data requested by City Engineer.

4.4.3 At any time prior to rendering a written decision regarding a Claim, City Engineer may refer Claim to non-binding mediation. If Claim is resolved, City Engineer will prepare and obtain all appropriate documentation. If Claim is not resolved, City Engineer will take receipt of Claim and begin a new review under Section 4.4.

4.4.4 If Claim is not referred to or settled in non-binding mediation, City Engineer may conduct a hearing and will render a written decision, including findings of fact, within 75 days of receipt of Claim, or a time mutually agreed upon by the Parties in writing. City Engineer may notify Surety and request Surety's assistance in resolving Claim. City Engineer's decision is final and binding on the Parties.

ATTACHMENT C – GUIDANCE CONCERNING GOOD FAITH EFFORTS

- I. When, as a recipient, you establish a contract goal on a DOT- assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - a. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate,

breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- c. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - i. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
 - ii. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- d. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- e. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- f. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

- g. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

- V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

Document 00951

BIDDER/CONTRACTOR PRE-AWARD CERTIFICATIONS

This checklist will be used to ensure that all required procurement certifications listed within have been read, initialed, and signed by the Bidder/Contractor BEFORE the bid or proposal is submitted. All certifications listed below follow this checklist.

Bidder/Contractor's Initials:

- | | |
|--|------------|
| A. Buy America Certification | _____ |
| B. Lobbying Certification | _____ |
| C. Suspension and Debarment Certification | _____ |
| D. Bidder/Contractor Certification | _____ |
| E. DBE Subcontractor Certification | _____ |
| F. Contractor Payment Report Form | <u>N/A</u> |
| G. Delinquent State Business Tax Certification | _____ |
| H. Senate Bill 252 Certification | <u>N/A</u> |
| I. House Bill 89 Verification | _____ |

I HEREBY ATTEST THAT THE PREVIOUS EXHIBIT TITLED, *FEDERALLY REQUIRED CONTRACT CLAUSES*, WAS READ AND MY INITIALS ABOVE INDICATE THAT EACH ITEM WAS PROPERLY PREPARED AND EXECUTED.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

BUY AMERICA CERTIFICATION FORM

**Certification requirement for procurement of steel, iron, or manufactured products OR
bus, other rolling stock, or associated equipment.**

NOTE: Only one of the following Certifications should be signed, not both.

Certificate of Compliance

The Bidder/Contractor hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations in 49 C.F.R. Part 661.11.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

Certificate of Non-Compliance

The Bidder/Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended, and regulations in 49 C.F.R. 661.7.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

LOBBYING CERTIFICATION FORM

To be completed by the prime contractor and all subcontractors.

The Bidder/Contractor certifies that to the best of his or her knowledge and belief, that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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The Bidder/Contractor/Subcontractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder/Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

SUSPENSION AND DEBARMENT CERTIFICATION FORM

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
PRIMARY COVERED TRANSACTIONS**

To be completed by the prime contractor and all subcontractors.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE)

The prospective primary Bidder/Contractor certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the prospective primary Bidder/Contractor is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this proposal, the Bidder/Contractor is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Bidder/Contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Owner's determination whether to enter into this transaction. However, failure of the Bidder/Contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the Owner determined to enter into this transaction. If it is later determined that the Bidder/Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Owner may terminate this transaction for cause or default.
3. The Bidder/Contractor shall provide immediate written notice to the Owner to which this proposal is submitted if at any time the Bidder/Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "bid," "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Owner to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
5. The Bidder/Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a subcontractor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Owner entering into this transaction.
6. The Bidder/Contractor further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the Owner entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Bidder/Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 6 of these instructions, if a Bidder/Contractor in a covered transaction knowingly enters into a lower tier covered transaction with a subcontractor who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Owner may terminate this transaction for cause or default.
9. The Bidder/Contractor also agrees to include these requirements in each subcontract, or a lower tier covered transaction, exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

BIDDER/CONTRACTOR CERTIFICATION

Instructions: The **prime** Bidder/Contractor shall complete this form by listing 1) Names of **ALL** proposed subcontractors, whether or not the subcontractor is a DBE or SBE. 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Status as a DBE or non-DBE, 5) Ethnic Code of firm, 6) Gender code of owner, 7) Age of the firm, 8) Annual gross receipts of the firm, and 9) % or \$ amount of Total Subcontract. Those contractors which are listed on this form as DBEs must have current certification as a DBE with a participating TUCP certifying agency. The DBE certification must be complete by the time the proposals are submitted. Additionally, those (sub)contractors which are listed on this form as DBEs must complete **DBE SUBCONTRACTOR CERTIFICATION**, agreeing to the information here.

BIDDER/CONTRACTOR: _____
PROJECT NAME: _____

ETHNIC CODES

A) Black American B) Hispanic American C) Native American D) Sub-continental Asian American E) Asian-Pacific American F) Non-Minority Women G) Other

GENDER CODES

A) Male

B) Female

C) Choose Not to Disclose

1) Name of subcontractor	2) Address, Telephone # of DBE Firm (Including name of contact person)	3) Description of Work, Services Provided	4) DBE, SBE or non-DBE	5) Ethnic Code	6) Gender Code	7) Age of Firm	8) Annual Gross Receipts	9) DBE % or \$ amount of Total Contract

Deerwood Trail/Path from Westheimer Rd to Terry Hershey Trail
WBS No. N-MD0450-0008-7

The undersigned will enter into a formal agreement with DBE contractors for work listed in this schedule upon execution of a contract with the Owner. The Contractor agrees to the terms of this schedule by signing below and submitting the **DBE SUBCONTRACTOR CERTIFICATION**, as completed by the DBE subcontractor(s).

SIGNATURE

DATE

DBE SUBCONTRACTOR CERTIFICATION

NOTE: In accordance with 49 CFR (Code of Federal Regulations) Part 26 and Board policy, DBE firms participating in the DBE Program must have "current" certification status with a TUCP Certifying Agency by the due date established for this RFP.

1. TO: (Bidder/Contractor): _____
2. The undersigned is either currently certified under the Texas Unified Certification Program (TUCP) as a DBE or will be at the time this solicitation is due.
3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both) _____

_____ and at the following price \$ _____ and/or _____% of the total contract amount (should be the same \$ or % found on **BIDDER/CONTRACTOR CERTIFICATION**).
4. The DBE subcontractor should complete this section only if the DBE is subcontracting any portion of its subcontract.

With respect to the proposed subcontract described above, the undersigned DBE anticipates that _____% of the dollar value of this subcontract will be sublet and/or awarded to other contractors. Any and all DBE subcontractors a DBE subcontractor uses must be listed on Form 1 and must also be DBE certified.

DATE: _____ DBE FIRM: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

DATE: _____ BIDDER/
CONTRACTOR: _____

SIGNATURE: _____

PRINT NAME: _____

PHONE NUMBER: _____

**ATTACH COPY OF SUBCONTRACTOR'S TEXAS UNIFIED CERTIFICATION
PROGRAM CERTIFICATE**

CONTRACTOR PAYMENT REPORT FORM

This form is to be included with each pay application until final payment of the Contract has been made. This form has been included for reference only.

CONTRACTOR PAYMENT REPORT FORM							
<p>Instructions: Contractors are required to complete and submit this report, as specified in the contract or as requested, until final payment of the contract has been made. Failure to comply with the DBE provisions may result in contract termination, or the suspension or debarment of the contractor from doing business with the Owner in the future in accordance with the procedures set forth in the DBE Program. This report must be submitted with each invoice. Instructions for completing this report can be found on the following page.</p>							
1. Contract Number, if applicable	2. Invoice Number	3. Reporting Period From: To:		4. Contractor's Business Name	5. Contact Person	6. Address	
7. Telephone Number	8. Date of Contract Award	9. Schedule Date of Completion	10. Original Contract Amount	11. Current Contract Modifications	12. Total Amount Received to Date	13. Total Amount Owed	
			\$	\$	\$	\$	
14. Committed DBE %	15. Actual DBE Participation to date	16. Actual DBE % to Date					
	\$	#VALUE!					
17	18	19	20	21	22	23	24
Name of DBE Subcontractor	Description of Work	Amount of payments made during current invoice period	Date of payments made during current invoice period	Subcontract Dollars	Amount paid to date	Percent Paid to Date	Amount of this invoice allocated to DBE subcontractor
<i>(Add rows to the table, as needed, to complete this section)</i>							
By completing this form, the Contractor acknowledges the Owner's prompt payment policy, which requires the Contractor to pay all subcontractors within 30 days of receiving payment from the Owner.							
Signature		Date Signed		Name and Title of Individual Completing Report			

Deerwood Trail/Path from Westheimer Rd to Terry Hershey Trail
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DELINQUENT STATE BUSINESS TAX CERTIFICATION

All Bidders shall certify that Bidder is not delinquent in a tax owed the state under Chapter 171, Tax Code, pursuant to the Texas Business Corporation Act, Texas Statutes, Article 2.45.

DATE: _____

SIGNATURE: _____

NAME / TITLE: _____

BIDDER/
CONTRACTOR: _____

SENATE BILL 252 CERTIFICATION

On this day, I, **Irma Sanchez**, the **Vice President of Projects** for **Westchase District**, pursuant to Chapter 2252, Section 2252.152 of the Texas Government Code, certify that I did review the website list prepared, maintained, and made available to the Westchase District by the Comptroller of the State of Texas of companies known to have contracts with or provide supplies or services to Iran, Sudan or any foreign terrorist organization. I have ascertained that the below-named company is not contained on said list of companies that do business with Iran, Sudan or any Foreign Terrorist Organization.

RESPONDENT FILL OUT THE BELOW SECTION:

Company Name

RFP or Vendor number

CERTIFICATION CHECK PERFORMED BY:

(signature)

Irma Sanchez, Westchase District

Date

HOUSE BILL 89 VERIFICATION

I, _____ (Person name), the undersigned representative of (Company or Business Name) _____ (hereinafter referred to as Company) **being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:**

- a) Does not boycott Israel currently; and
- b) Will not boycott Israel during the term of the contract the above-named Company, business or individual with the Westchase District.

Pursuant to Section 2270.001, Texas Government Code:

- 1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
- 2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

DATE

SIGNATURE OF COMPANY REPRESENTATIVE

STATE OF _____

§ COUNTY OF _____

On this day, BEFORE ME, the undersigned, personally appeared _____, the _____ of Company, and personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual executed the instrument for purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2020.

[SEAL]

NOTARY PUBLIC in and for the State of Texas

Document 00952

PROTEST PROCEDURES

Any interested party who is aggrieved in connection with the solicitation, evaluation, or award of an Agreement may file a protest with the Westchase District Project Manager, herein after, Manager, and appeal any adverse decision to the General Manager. Such protest must be in writing and submitted to the Manager as follows:

Pre-Bid / Pre-Proposal Protests: Protests pertaining to the terms, conditions or proposed form of procurement must be received by the Manager within five (5) business days prior to the date established for the opening of bids or receipt of responses. Untimely, or late protests, will not be considered, unless the Manager concludes that the issue(s) raised by the protest involves fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system. Submit all protests to:

PHYSICAL/MAILING ADDRESS

Westchase District
10370 Richmond Avenue, Suite 1350
Houston, Texas 77042-4278

Post-Award Protests: Protests concerning award decisions, including bid evaluations, must be received by the Manager within five (5) business days after award has been made and recognized by the Board. Untimely, or late protests, will not be considered, unless the Manager concludes that the issue(s) raised by the protest involves fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system.

Interested Parties: For the purposes of this procedure, “interested parties” shall be defined as follows:

For Pre-Bid / Pre-Proposal Protests concerning the terms, conditions or form of a proposed procurement, any prospective Respondent whose direct economic interest would be affected by the award, or failure to award an Agreement.

For Post-Award Protests concerning award decisions, only those actual Respondents, who have submitted a response to this solicitation and who, if their complaint is deemed by the District to be meritorious, would be eligible for selection as the successful Respondent for award of an Agreement.

All formal protests shall be signed, notarized and reference the following:

- Name, address and telephone number of the interested party.
- Solicitation number and title.
- Specific statutory or regulatory provision(s) that the action under protest is alleged to have violated.
- Specific description of each act alleged to have violated the statutory or regulatory provision(s) identified above.
- Precise statement of facts.

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- Identification of the issue(s) to be resolved.
- Argument and authorities in support of the protest.

The Manager shall have the authority, prior to any appeal to the General Manager, to settle any dispute and resolve the protest. The Manager may solicit written responses regarding the protest from other interested parties. If the protest is not resolved by mutual agreement, the Manager will issue a written determination on the protest.

If the Manager determines that no violation of rules or statutes has occurred, he shall so inform the protesting party, and at his discretion, other interested parties by letter which sets forth the reasons for the determination.

If the Manager determines that a violation of the rules or statutes has occurred and an Agreement has not yet been awarded, he shall so inform the protesting party, and at his discretion, other interested parties by letter which sets forth the reasons for the determination and the appropriate remedial action.

If the Manager determines that a violation of the rules or statutes has occurred and an Agreement has been awarded, he shall so inform the protesting party, and at his discretion, other interested parties by letter which sets forth the reasons for the determination, which may include ordering of the Agreement void.

If the protest is not resolved by mutual agreement, the Manager will issue a written determination on the protest.

Appeals: The Manager's determination on a protest may be appealed to the Attorney. An appeal to the Attorney must be received no later than ten (10) business days after the date of the written determination issued by the Manager, and be addressed as stated above of this procedure except, Attn: Jeanne MacDonald, and sent via certified mail. The appeal shall be limited to a review of the determination made by the Manager.

The General Manager and Attorney/Legal Counsel for the District will review the protest, the Manager's determination, any responses from interested parties, and the appeal, and prepare a written response to the protesting party.

The General Manager's response shall be the final administrative action taken by the District.

Any protest submitted must follow these procedures or it will be returned without action.

Section 01630S

PRODUCT SUBSTITUTION PROCEDURES

The following supplements modify Specification Section 01630 – Product Substitution Procedures Standard Specification and Details. Where a portion of the Specification or Detail is modified or deleted by this Supplementary Specification, the unaltered portions of the Specification shall remain in effect.

1.03 SELECTION OPTIONS: Delete paragraph 1.03.A and replace with the following:

- A. Pre-approved Products: Construction products of certain manufacturers or Suppliers designated in Specifications as “pre-approved.” The City maintains a list of pre-approved products. Pre-approved Products for this Project are designated as pre-approved in Specifications.

Delete Section 1.05 and replace with the following:

1.05 WESTCHASE MANAGEMENT REVIEW

- A. Use alternate Products only when approved in writing by Project Manager. Project Manager’s determination regarding acceptance of proposed alternate Product is final.
- B. Alternate Products shall be accepted if Products are judged by Project Manager to be equivalent to specified Product or to offer substantial benefit to the Westchase Management District.
- C. The Westchase Management District retains the right to accept any Product deemed advantageous to the project, and similarly, to reject any product deemed not beneficial to Westchase Management District.

END OF SUPPLEMENT