



STANDARD TERMS AND CONDITIONS
Gregg County, Texas

Awarded vendor certifies and agrees to the following:

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

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

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

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

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

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

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

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

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

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

General Requirements applicable to all policies:

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

Commercial General Liability

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

Automobile Liability

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

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

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

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

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

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

Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Worker's Compensation Commission, or a coverage agreement (TWCC-81), TWCC-83, or TWCC-84), showing statutory worker's compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

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

- The Contractor shall provide coverage, based on the proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all employees of the Contractor providing services on the project, for the duration of the project.
- The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file providing services on the project, and certificates of coverage showing coverage for all person; and
- (2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (3) The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

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

The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

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

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreement, that meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (4) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

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

By signing a contract with Gregg County, or providing, or causing to be provided a certificate of coverage, the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or, in the case of a self-insured, with the commission's Division of Self-Insurance regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

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

BONDING REQUIREMENTS

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

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

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

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