



P. O. BOX 1458 - KINGSVILLE, TEXAS 78364

Addendum No. 1

(CITY OF KINGSVILLE RFQ NO. 25-08)
REQUEST FOR QUALIFICATIONS FOR ENGINEERING
2024-2025 TWDB – EDAP

This addendum serves to provide corrections and clarifications to the Request for Qualifications (RFQ) 25-08: 2024-2025 TWDB - EDAP. The following revisions have been made:

- I. **CORRECTION OF TERMINOLOGY** – Throughout the document, various terminology updates have been made for accuracy and consistency. All references to "Request for Proposal (RFP)" have been corrected to "Request for Qualifications (RFQ)." Additionally, new terms and wording have been included where necessary to ensure clarity and alignment with the intent of the RFQ. The changes were made to the following sheets: 3, 9, 25 and 30.
- II. **CORRECTION OF YEARS** – Any incorrect year references have been updated to reflect "2024-2025" where applicable. The changes were made to the following sheets: 11 and 16.
- III. **GRAMMATICAL AND PUNCTUATION CORRECTIONS** – Minor typographical, grammatical, and punctuation errors throughout the document have been corrected for clarity and accuracy. The changes were made to the following sheets: 4, 5, 7, 27, 28, 29, 31, 32 and 33.
- IV. Questions concerning this Addendum No. 1 should be addressed to City Engineer, Rutilio P. Mora, Jr., P.E. via email to rmora@cityofkingsville.com.

A signed copy of this Addendum No. 1 must accompany each proposal submission. In doing so, the Proposer acknowledges receipt of this Addendum No. 1, and agrees if selected as the successful Proposer, to be bound by the terms as amended. All terms of RFQ No. 25-08 which are not amended hereby, remain in full force and effect.



Rutilio P. Mora Jr. P.E., City Engineer

3/31/2025

Date

Consultant

Date

Enclosures:
Request for Statement of Qualifications

Attachments

- A. Engineering Services Rating Sheet
- B. Insurance Certification
- C. Child Support Statement for Negotiated Contracts and Grants
- D. Civil Rights Compliance
- E. System Award Management
- F. Anti-Collusion Affidavit
- G. Form CIQ - Conflict of Interest Questionnaire
- H. Certification Regarding Lobbying
- I. Disclosure of Lobbying Activities
- J. Form 1295 - Certificate of Interested Parties
- K. Mandatory Federal and State Contract Clauses

**REQUEST FOR QUALIFICATIONS (RFQ) FOR ENGINEERING SERVICES RFQ
25-08-TWDB-EDAP**

The City of Kingsville is seeking to enter into an engineering services contract with an engineer/engineering firm to assist the City in the design of first time waste water connections including a lift station, gravity mains, force main, manholes, demo septic tanks, service lines, and related appurtenances, if funded by the Texas Water Development Board (“TWDB”) through the Economically Distressed Areas Program (“EDAP”) Program, and to assist the City in the application for such funding. The following outlines the request for sealed statements of qualifications for such engineering services.

**I.
SCOPE OF WORK**

A. Services Required. The engineer/engineering firm(s) (“Engineer” or “Provider” or “Contractor” or “Respondent”) selected by the City of Kingsville will provide the following engineering and related services to the City for the wastewater project(s), if funded by the TWDB EDAP Grant Program:

1. Phase 1. Perform and provide all engineering services that are required for the preliminary and detailed design of the Project(s), which generally includes, but is not limited to, the complete design and full permitting of the Project, and specifically the following:

a. Environmental Permitting: Provide all engineering design services that are reasonably required to assist the City of Kingsville as an environmental consultant in the City’s applications for all environmental permits that are required for construction and implementation of the Project, including, but not

limited to any mitigation plan required for the Project, and coordination with all applicable permitting agencies.

b. Preliminary and Final Design: Complete the preliminary and final Project design, including:

- the design of all project features needed for project construction and implementation.
- Design of necessary utility relocation requirements and coordination with utility owners.
- Identification of final construction limits, including proposed real estate requirements and environmentally sensitive areas that should be avoided during construction.
- All Wastewater modeling that may be required in support of Project design.
- Easement Acquisitions.

c. Prepare Plans, Specifications, and Contract Documents, including:

- Document project layout/staging areas.
- General and special construction notes.
- “Issued for Bid” project plans, including alignments, profiles, cross-sections, and construction details.
- Applicable project specific technical specifications.
- Design of necessary utility relocation requirements and coordination with utility owners.
- Construction contracting documents, including detailed bid documents.
- Detailed construction estimates as required to evaluate reasonableness of construction bids.

d. Phase 1 Deliverables: Create and provide to the City of Kingsville, or assist the City in the creation of all deliverables required by the TWDB, including, but not limited to the following:

- Narrative scope of work for Phase 1.
- Final cost estimate for Phase 1.
- Benefit Cost Analysis (BCA) file based on the study with supporting documentation (in coordination with the City of Kingsville Grant Administrator).
- 30%, 60% and 100% designs, with cost estimates, modeling, calculations, and permits.
- Complete set of signed and sealed Engineering Plans.

- Wastewater Calculations in accordance with TWDB deliverable requirements.
- Environmental Assessment.
- Permitting under the Clean Water Act with United States Core of Engineers (USACE).
- Approval of TCEQ Permits.
- Any other actions, responses or documentation that the TWDB may require from the City of Kingsville associated with the above-referenced grant award.

2. Phase 2: Perform and provide all engineering and related services reasonably required or requested by the City of Kingsville for construction, and full and complete implementation of the Project, including, but not limited to:

- a. Construction project management.
 - Review and respond to contractor submittals.
 - Respond to contractor requests for information (RFIs).
 - Provide engineered modifications, as necessary, to address discovery of items and changed field conditions during the construction period.
- b. Construction project observation at a minimum frequency of twice per week during active construction periods and inspection of critical elements as needed to ensure contractor is not delayed at key points of construction.
- c. Review all change order requests from the contractor and provide recommendations to the City of Kingsville for action and/or response.
- d. Review contractor pay requests and recommend payment based on acceptable construction progression.
- e. Provide bi-weekly (every 2 weeks) construction progress reports to the City of Kingsville.
- f. Construction project close-out.
- g. Provide final “record” drawings based on contractor submittals.
- h. Prepare, for execution by the City of Kingsville, a Certificate of Completion within 30 days of final inspection and acceptance of construction.
- i. All closeout documents.

B. Personnel and Equipment Requirements

EVALUATION CRITERIA

- A. **Scoring:** The Statement of Qualifications received will be evaluated and ranked according to criteria and using a scoring system as reflected in the attached rating sheet (*See, Attachment A*).
- B. **Factors:** The City of Kingsville will review and evaluate each Respondent’s qualifications, and the most qualified Respondent(s) will be selected, subject to negotiation of fair and reasonable compensation.

IV.
SUBMISSION REQUIREMENTS

- A. **Statement of Qualifications (“SOQ” or “SOQs”):** Each Respondent shall submit a SOQ demonstrating competence and expertise in the areas of practice outlined in this solicitation. SOQs shall be limited to not more than **twenty (20) pages**, exclusive of resumes, tabs and required attachments. The SOQ shall include:
 - 1) Any information that the Respondent deems appropriate in support of its submittal;
 - 2) Respondent’s company profile;
 - 3) A list of past local governmental clients, as well as resumes of all engineers/architects/surveyors that will or may be assigned to this project should the Respondent receive an engineering services contract award; and
 - 4) A list with a minimum of five (5) references.
- B. **Insurance:** Each Respondent must affirmatively state that the Engineer, if selected by the City of Kingsville, is capable of obtaining, and shall obtain insurance in the following amounts:

I.	Commercial General Liability Limits (Underlying Coverage):	
	Each Occurrence	\$ 1,000,000
	Fire Damage to Rented Premises	\$ 300,000
	Medical Expenses	\$ 10,000
	Personal & Adv. Injury	\$ 1,000,000
	General Aggregate	\$ 2,000,000
	Products-Comp/Ops Aggregate	\$ 2,000,000
II.	Auto Liability Limits (Underlying Coverage):	
	Combined Single Limits for Owned, Hired & Non-Owned	\$ 1,000,000
III.	Umbrella Liability Limits for Commercial General Liability (I, above) and Auto Liability (II, above):	
	Each Occurrence	\$ 2,000,000

V.

DISADVANTAGED BUSINESSES

- A. Disadvantaged Businesses Encouraged To Participate:** Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate in this RFQ.
- B. Affirmative Steps Required:** If the awarded vendor is a prime contractor and may use subcontractors, the following affirmative steps are required of the prime contractor:
- 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
 - 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
 - 6) Minority Business Enterprises, Small Business Enterprises, Women Business Enterprises, and labor surplus area firms are encouraged to submit proposals.
- C. Disadvantaged Business Enterprise Program:** Any contract derived from this RFQ is subject to the Environmental Protection Agency's (EPA) Disadvantaged Business Enterprise (DBE) Program, which includes EPA-approved fair share goals toward procurement of Minority and Women-owned Business Enterprise (M/WBE) businesses. EPA rules require that applicants and prime contractors make a good faith effort to award a fair share of contracts, subcontracts, and procurements to M/WBEs through demonstration of the six affirmative steps. For more details of the DBE Program and the current, applicable fair share goals, please visit www.twdb.texas.gov/DBE.

Attachment A Engineering Services Scoring Sheet

Engineer:	
Evaluator:	
TWDB EDAP	Date: / / 2025

EXPERIENCE: Rate the Engineer for experience in the following areas:

Factor	Max Pts.	Score
Has previously designed wastewater improvement projects that are funded, in whole or in part, by state or federal agencies or departments.	10	
Has designed first time connection wastewater projects within coastal areas in South Texas region and is familiar with the local topography, climate, environmental conditions, and other factors that can impact the project.	40	
Extent of experience in project construction management.	10	
Total Score:	60	

WORK PERFORMANCE:

Factor	Max Pts.	Score
Past projects completed on schedule without requesting time extensions	10	
Manages projects within budgetary constraints	5	
Work is high quality with minimal errors and omissions	10	
Total Score:	25	

CAPACITY TO PERFORM:

Factor	Max Pts.	Score
Staff level/Experience of Staff	5	
Adequacy of resources, including ability to attend in-person meetings with limited notice, provide agenda and meeting minutes	5	
Professional liability insurance is in force	5	
Total Score:	15	

TOTAL SCORE:

Factor	Max Pts.	Score
Experience	60	
Work performance	25	
Capacity to perform	15	
Total Score:	100	

Attachment K

MANDATORY FEDERAL AND STATE CONTRACT CLAUSES

I. Contract Clauses Mandated By The State Of Texas

Contract Clauses Mandated by The State Of Texas. The State of Texas mandates the following clauses and must be included in any Agreement pertaining to work or services funded in whole or in part by an agency of the State of Texas. Accordingly, the Parties agree as follows:

- A. Antitrust Affirmation:** The Contractor affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Agreement, neither the Contractor nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, TEX. BUS. & COMM. CODE, Chapter 15; (2) in connection with this Agreement, neither the Contractor nor any representative of the Contractor has violated any federal antitrust law; and (3) neither the Contractor nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Agreement to a competitor of the Contractor or any other company, corporation, firm, partnership, or individual engaged in the same line of business as the Contractor. TEX. GOV'T CODE §2155.005.
- B. Assignment:** The Contractor shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from the City of Kingsville and/or TWDB. Any attempted assignment in violation of this provision is void and without effect. TEX. GOV'T CODE §2262.056(d)(1).
- C. Buy Texas Affirmation:** In accordance with Section 2155.4441 of the Texas Government Code, the Contractor agrees that during the performance of a contract for services, it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside the State of Texas. TEX. GOV'T CODE §2155.4441.
- D. Child Support Obligation:** Under Section 231.006 of the Texas Family Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated, and payment may be withheld if this certification is inaccurate. TEX. FAM. CODE §§231.006 and 231.302.
- E. Contracting Information Responsibilities:** In accordance with Section 552.372 of the Texas Government Code, the Contractor agrees to (1) preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to the City of Kingsville /TWDB for the duration of the Agreement, (2) promptly provide to the City of Kingsville /TWDB any contracting information related to the Agreement that is in the custody or possession of the Contractor on request of the City of Kingsville /TWDB, and (3) on termination or

- K. Disaster Recovery Plan:** Upon request of the City of Kingsville/TWDB, the Contractor shall provide the descriptions of its business continuity and disaster recovery plans. TEX, GOV'T CODE §441.190; 13 TAC §6.94(a)(9).
- L. Disclosure of Prior State Employment:** In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, the Contractor certifies that it does not employ an individual who has been employed by the City of Kingsville/TWDB or another agency of the State of Texas at any time during the two years preceding the submission of the response to the solicitation made the basis of this Agreement or, in the alternative, the Contractor has disclosed in its response to the solicitation made the basis of this Agreement the following: (i) the nature of the previous employment with the City of Kingsville/TWDB or another agency of the State of Texas; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination. TEX. GOV'T CODE §2254.033.
- M. Dispute Resolution (General):** For all agreements other than agreements for Engineering and Architectural services, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the contract. However, this provision does not apply to Agreements to render professional engineering, architectural, or construction services. TEX, GOV'T CODE §2260.001 *et seq.*
- N. Dispute Resolution (Engineering, Architectural or Construction Services):** Subject to Texas Government Code, Section 2260.002, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and set forth below in subsections (a)-(d) shall be used by the Parties to attempt to resolve all disputes arising under this contract. In accordance with the Texas Civil Practice and Remedies Code, Section 114.005, the Parties agree claims encompassed by Texas Government Code, Section 2260.002(3) and Texas Civil Practice and Remedies Code Section 114.002 shall be governed by the dispute resolution process set forth below in subsections (a)-(d).
- a. Notwithstanding Texas Government Code, Chapter 2260.002(3) and Chapter 114.012 and any other statute or applicable law, if the Contractor's claim for breach of contract cannot be resolved by the Parties in the ordinary course of business, the Contractor may make a claim against the City of Kingsville for breach of contract; and the City of Kingsville may assert a counterclaim against the Contractor as is contemplated by Texas Government Code, Chapter 2260, Subchapter B. In such event, the Contractor must provide written notice to the City of Kingsville of a claim for breach of the contract not later than the 180th day after the date of the event giving rise to the claim. The notice must state with particularity: (1) the nature of the alleged breach, (2) the amount the Contractor seeks as damages, and (3) the legal theory of recovery.

- b. The chief administrative officer, or if designated in the contract, another officer of the City of Kingsville, shall examine the claim and any counterclaim and negotiate with the Contractor in an effort to resolve them. The negotiation must begin no later than the 120th day after the date the claim is received, as is contemplated by Texas Government Code, Chapter 2260, Section 2260.052.
- c. If the negotiation under paragraph (b) above results in the resolution of some disputed issues by agreement or in a settlement, the Parties shall reduce the agreement or settlement to writing, and each Party shall sign the agreement or settlement. A partial settlement or resolution of a claim does not waive a Party's rights under this contract as to the parts of the claim that are not resolved.
- d. If a claim is not entirely resolved under paragraph (b) above, on or before the 270th day after the date the claim is filed with the City of Kingsville unless the Parties agree in writing to an extension of time, the Parties may agree to mediate a claim made under this dispute resolution procedure. This dispute resolution procedure is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by the City of Kingsville if the Parties are unable to resolve their disputes as described in this section.
- e. Nothing in the Agreement shall be construed as a waiver of the State of Texas' or the City of Kingsville sovereign immunity. This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the City of Kingsville, the State of Texas, or any agency of the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the City of Kingsville, the State of Texas, or any agency of the State of Texas under this Agreement or under any applicable statute, rule or regulation of the State of Texas or the United States of America shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The City of Kingsville does not waive any privileges, rights, defenses, or immunities available to the city's by entering into this Agreement or by its conduct or by the conduct of any representative of the City of Kingsville prior to or subsequent to entering into this Agreement.
- f. Compliance with the dispute resolution process provided for in Texas Government Code, Chapter 2260, subchapter B and incorporated by reference in subsection (a)-(d) above is a condition precedent to the Contractor:
 - 1. filing suit pursuant to Chapter 114 of the Civil Practices and Remedies Code; or

2. initiating a contested case hearing pursuant to Subchapter C of Chapter 2260 of the Texas Government Code.

TEX. CIV. PRAC. & REM. CODE §144.001 *et seq.*

- O. Energy Company Boycotts:** The Contractor represents and warrants that (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Agreement. If circumstances relevant to this provision change during the course of the Agreement, the Contractor shall promptly notify the City of Kingsville. TEX. GOV'T CODE §2271.002.
- P. Entities That Boycott Israel:** The Contractor represents and warrants that (1) it does not, and shall not for the duration of the Agreement, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Agreement. If circumstances relevant to this provision change during the course of the Agreement, the Contractor shall promptly notify the City of Kingsville. TEX. GOV'T CODE §2271.002.
- Q. E-Verify Program:** The Contractor certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of (1) all persons employed by the Contractor to perform duties within Texas during the term of the Agreement and (2) all persons, including subcontractors, assigned by the Contractor to perform work pursuant to the contract within the United States of America. EXECUTIVE ORDER NO. RP-80; TEX. ATT'Y GEN. OP. NO. KP-70 (2016).
- R. Excess Obligations Prohibited:** The Agreement is subject to termination or cancellation, without penalty to the City of Kingsville, either in whole or in part, subject to the availability of state funds. TEX CONST ART III § 49a; TEX CONST ART VIII § 6; General Appropriations Act, Senate Bill 1, 87th R.S. at Art IX, § 6.03.
- S. Excluded Parties:** The Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control. EXECUTIVE ORDER NO. 13224.
- T. Executive Head of a State Agency Affirmation:** In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, the Contractor certifies that it is not (1) the executive head of the City of Kingsville /TWDB, (2) a person who at any time during the four years before the date of the Agreement was the executive head of the City of Kingsville /TWDB, or (3) a person who employs a current or former executive head of the City of Kingsville /TWDB. TEX. GOV'T CODE §669.003.

- U. **False Statements:** The Contractor represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a response to the underlying solicitation with a false statement or material misrepresentations made during the performance of a contract is a material breach of this Agreement and may void the submitted response to the underlying procurement solicitation as well as this Agreement. TEX. GOV'T CODE §2155.077(a)(2).

- V. **Financial Participation Prohibited Affirmation:** Pursuant to Section 2155.004(a) of the Texas Government Code, the Contractor certifies that neither the Contractor nor any person or entity represented by the Contractor has received compensation from the City of Kingsville /TWDB to participate in the preparation of the specifications or solicitation on which this Agreement is based. Under Section 2155.004(b) of the Texas Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to be a party to the specified Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate. TEX. GOV'T CODE §2155.004.

- W. **Firearms Entities and Trade Associations Discrimination:** The Contractor verifies that: (1) it does not, and will not for the duration of the Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Agreement. If circumstances relevant to this provision change during the Agreement, the Contractor shall promptly notify the City of Kingsville/TWDB. TEX. GOV'T CODE §2274.001 *et seq.*

- X. **Foreign Terrorist Organizations:** The Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code. TEX. GOV'T CODE §2252.152.

- Y. **Former Agency Employees:** In accordance with Section 2252.901 of the Texas Government Code, the Contractor represents and warrants that for professional services contracts as described by Chapter 2254 of the Texas Government Code, if a former employee of the City of Kingsville /TWDB was employed by the Contractor within one (1) year of the employee's leaving the City of Kingsville/TWDB, then such employee will not perform services on projects with the Contractor that the employee worked on while employed by the City of Kingsville /TWDB. TEX. GOV'T CODE §2252.901.

- Z. **Governing Law and Venue:** The contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Kleberg County, Texas unless the specific venue is

otherwise identified in a statute that directly names or otherwise identifies its applicability to the contracting Agency. TEX. GOV'T CODE §2155.0012.

AA. Human Trafficking Provision: Under Section 2155.0061 of the Texas Government Code, the Contractor certifies that the individual or business entity named in this Agreement is not ineligible to enter into this Agreement and acknowledges that this Agreement may be terminated, and payment withheld if this certification is inaccurate. TEX. GOV'T CODE 2155.0061.

AB. Indemnification (Engineering Services): NOTWITHSTANDING ANY OTHER PROVISION APPEARING IN THIS AGREEMENT, THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF KINGSVILLE\ TWDB, AS WELL AS THE STATE OF TEXAS, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO RESPONDENT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO CONTRACTOR, OR ANY OTHER ENTITY OVER WHICH THE CONTRACTOR EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE CITY OF KINGSVILLE AS WELL AS LEGAL COUNSEL FOR TWDB AND/OR THE STATE OF TEXAS AS THE CASE MAY BE WHEN STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND THE CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE CITY OF KINGSVILLE, LEGAL COUNSEL FOR TWDB, THE OFFICE OF THE TEXAS ATTORNEY GENERAL. THE CONTRACTOR AND THE CITY OF KINGSVILLE, LEGAL COUNSEL FOR TWDB, AND THE OFFICE OF THE TEXAS ATTORNEY GENERAL AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. ART. VIII, § 6, TEXAS CONSTITUTION; TEX. GOV'T CODE §2254.0031.

AC. No Conflicts of Interest: The Contractor represents and warrants that the provision of goods and services or other performance under the Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. TEX. GOV'T CODE §§2252.908, 2252.032, and 2261.252(b).

AD. Prior Disaster Relief Contract Violation: Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Contractor certifies that the individual or

business entity named in this Agreement is not ineligible to be a party to this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

AE. Texas Public Information Act: The Contractor understands that the City of Kingsville /TWDB will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material concerning the underlying solicitation and/or this Agreement may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, the Contractor is required to make any information created or exchanged with the City of Kingsville /TWDB or the State of Texas pursuant to the Agreement and not otherwise excepted from disclosure under the Texas Public Information Act available in a format that is accessible by the public at no additional charge to the State. TEX. GOV'T CODE §552.001 *et seq.*; TEX. GOV'T CODE §2252.907.

AE. Signatory Authority: By executing this Agreement, the Contractor represents and warrants that the individual executing this Agreement, as well as any ancillary documents made part of this Agreement, is authorized to sign such documents on behalf of the Contractor and to bind the Contractor under this Agreement that may be based on the Contractor's response to the underlying solicitation. TEX. GOV'T CODE 2155.0012.

AF. Standard of Care for Engineers: Notwithstanding any other provision in this Agreement, pursuant to Section 2254.0031 of the Texas Government Code, which incorporates by reference Section 271.904(d) of the Texas Local Government Code, Respondent shall perform services (1) with professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license, and (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer. TEX. GOV'T CODE §2254.301 and TEX. GOV'T CODE §271.904(a)-(e) and (g).

AG. State Auditor's Right to Audit: Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any Agreement or indirectly through a subcontract under the Agreement. The acceptance of funds by the Contractor or any other entity or person directly under the Agreement or indirectly through a subcontract under the Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Contractor or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. The Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Agreement and the

requirement to cooperate is included in any subcontract it awards. TEX. GOV'T CODE §2262.154.

AL. Suspension and Debarment: The Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration of the United States. TEX. GOV'T CODE §2155.077.

27. Contract Clauses Mandated By The United States Government: The Contractor acknowledges its full and complete understanding that the Work that it provides pursuant to this Agreement will be funded in whole or in part by the Texas Water Development Board ("TWDB") and that notwithstanding any other provisions set forth in this Agreement, the following provisions govern the responsibilities of the Parties, and the Contractor shall comply with all the following provisions:

A. Equal Employment Opportunity: During the performance of this Agreement,

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.