



**JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6**  
***Karen J. Stewart, MBA, CTCD Chief Business Officer***

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6550 Walden Rd., Beaumont, Texas 77707 Phone: 409-842-1818 Fax: 409-842-2729

**Legal Notice**  
**Advertisement for Invitation for Bids**  
February 8, 2022

Notice is hereby given that sealed bids will be accepted by Jefferson County Drainage District No. 6 for a (IFB 22-002/KJS) McLean St. Drainage Improvements with Boring Under Union Pacific Railroad. Specifications for this project may be obtained from the Jefferson County Drainage District No. 6 webpage <https://dd6.org/departments/purchasing/notices-for-bid/>.

A Mandatory Pre-Bid Conference will be held on Tuesday February 22, 2022, at 10:00 AM CST. The conference will be held at the District Main Facilities located at 6550 Walden Road, Beaumont, Texas 77707. A site visit shall follow immediately after the meeting.

The District shall require the bidder to furnish a bid security in the amount of (5%) of the total contract cost. The bid bond must be executed with a surety company authorized to do business in the State of Texas. Within ten (10) days after the date of the signing of a contract, the bidder shall furnish a performance bond to the District for the full amount of the contract, if the contract exceeds one hundred thousand dollars (\$100,000). If the contract is for one hundred thousand dollars (\$100,000) or less, the District may provide that no money be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation of the District.

Bidders shall forward an original and three (3) copies of their bid to the address shown below. District does not accept bids submitted electronically. Late bids will be rejected as non-responsive. Administrative bids will be publicly opened and read aloud in the Jefferson County Drainage District No. 6 boardroom at the time and date below. Bidders are invited to attend the administrative sealed bid opening.

**All Bids shall be submitted to the District Purchasing Department in a sealed envelope marked:**

<b>BID NAME:</b>	<b>McLean St. Drainage Improvements with Boring Under Union Pacific Railroad</b>
<b>BID NUMBER:</b>	<b>IFB 22-002/KJS</b>
<b>DUE DATE/TIME:</b>	<b>2:00 PM, Thursday, March 3, 2022</b>
<b>MAIL OR DELIVER TO:</b>	<b>Jefferson County Drainage District No. 6 6550 Walden Rd. Beaumont, Texas 77707</b>

We look forward to your active participation in this solicitation.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen J. Stewart", is written over a circular stamp that matches the Jefferson County Drainage District No. 6 logo.

Karen J. Stewart, MBA, CTCD  
Business Manager: Purchasing Department  
Jefferson County Drainage District No. 6

**IFB 22-002/KJS**  
**McLean St. Drainage Improvements with**  
**Boring Under Union Pacific Railroad**  
**Bids due: 2:00PM CT, Thursday, March 3, 2022**

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## Instructions to Bidders

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### 1. Bid Submission

Bids must be submitted in complete original form by mail or messenger to the following

Address: Jefferson County Drainage District No. 6  
Purchasing Department  
6550 Walden Rd.  
Beaumont, TX 77707

Bids will be accepted at the above address until the time and date specified herein, and immediately after will be publicly opened and read aloud.

All bids shall be tightly sealed in an opaque envelope and plainly marked with the Bid Number, Bid Name, Bid Due Date, and the Bidder's Name and Address; and shall be addressed to the Purchasing Department.

Late bids will not be accepted and will be returned unopened to the bidder.

All bids submitted in response to this invitation shall become the property of Jefferson County Drainage District No. 6 and will be a matter of public record available for review.

Bidder is responsible for submitting:

- One (1) original bid copy to include a completed copy of this specifications packet, in its entirety.
- Two (2) numbered bid copies to include at a minimum all pages requiring completion and/or marked with instructions to be returned with bid submission and any other documentation requested within these specifications.

Additionally, Bidder must monitor the Jefferson County Drainage District No. 6 Website (below) to see if addenda or additional instructions have been posted. Failure to return all required forms could result in a response being declared as non-responsive.

<https://www.dd6.org/purchasing/bid-specs/bids>

### 2. Bid Submissions during Time of Inclement Weather, Disaster, or Emergency

In case of inclement weather or any other unforeseen event causing the District to close for business on the date of a bid/proposal/statement of qualifications submission deadline, the bid closing will automatically be postponed until the next business day that the District offices are open to the public. Should inclement weather conditions or any other unforeseen event cause delays in courier service operations, The District may issue an addendum to all known vendors interested in the project to extend the deadline. It will be the responsibility of the vendor to notify the District of their interest in the project, should these conditions impact their ability to submit a bid/proposal/statement of qualifications submission before the stated deadline. The District reserves the right to make the final judgement call to extend any deadline.

Should an emergency or unanticipated event interrupt normal District processes and bid submissions cannot be received by Jefferson County Drainage District No. 6 Purchasing Department's office by the exact time specified in the IFB and urgent District requirements preclude amendment to the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first business day on which normal District processes resume.

### 3. Preparation of Bids

The bid shall be legibly printed in ink or typed. The District requests that bid submissions NOT be bound by staples, spirals, or glued spines.

If a unit price or extension already entered is to be altered, it shall be crossed out and initialed in ink by the bidder.

The bid shall be legally signed and shall include the complete physical address of the bidder.

Jefferson County Drainage District No. 6 is exempt from Federal and State Sales Taxes, and such taxes shall not be included in bid prices.

It is the responsibility of each bidder (of a construction contract) before submitting a bid, to visit the site to become familiar with local conditions that may affect cost, progress, or performance of the work; consider federal, state, and local laws and regulations that may affect cost, progress, or performance of the Work; and notify the District of any and all conflicts.

### 4. Signatures

All bids, notifications, claims, and statements must be signed by an individual authorized to bind the bidder. The individual signing certifies, under penalty of perjury, that he or she has the legal authorization to bind the bidder.

### 5. District Holidays 2022:

January 18	Monday	Martin Luther King, Jr. Day
February 21	Monday	President's Day
April 15	Friday	Good Friday
May 30	Monday	Memorial Day
July 4	Monday	Independence Day
September 5	Monday	Labor Day
November 11	Friday	Veterans Day
November 24 & 25	Thursday-Friday	Thanksgiving
December 23 & 26	Friday & Monday	Christmas
January 2, 2023	Monday	New Year's

### 6. Rejection

Submission of additional terms, conditions or Contracts with the bid document are grounds for deeming a bid non-responsive and may result in bid rejection. The District reserves the right to reject any and all bids and to waive any informalities and minor irregularities or defects in bids.

### 7. Emergency/Declared Disaster Requirements

In the event of an emergency or if Jefferson County Drainage District No. 6 is declared a disaster area, by the County, State, or Federal Government, this Acceptance of Offer may be subjected to unusual usage. Contractor shall service The District, during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing as specified in this Acceptance of Offer shall apply to serving the District's needs regardless of the circumstances. If Contractor is unable to supply the services under the terms of the Acceptance of Offer, then Contractor shall provide proof of such disruption and a copy of the invoice from



Contractor's supplier(s). Additional profit margin as a result of supplying services during an emergency or declared disaster shall not be permitted. In the event that additional equipment, supplies, and materials are required during the declared disaster, additional shipping, handling and drayage fees may apply.

## **8. Interpretation of Addenda**

No oral interpretations will be made to any bidder. Each request for an interpretation shall be made in writing to the District no less than three (3) days prior to the bid opening. Each interpretation will be in the form of an Addendum to the Specification Documents. Additionally, vendors are responsible for monitoring the Jefferson County Drainage District No. 6 Website [www.dd6.org](http://www.dd6.org) to see if addenda or additional instructions have been posted. Failure to return all required forms could result in a response being declared as non-responsive. All such addenda shall become part of the Specification Documents and all bidders shall be bound by such addenda, whether or not received by the bidders.

## **9. Changes and Addenda to Bid Documents**

Each change or addendum issued in relation to this IFB document will be on file in the Purchasing Department. All such changes or addenda shall become part of the contract and all bidders shall be bound by such addenda. Information on all changes or addenda issued will be available in the Purchasing Department.

## **10. Award**

The bid will be awarded to the responsible, responsive bidder(s) whose bid, conforming to the solicitation, will be most advantageous to Jefferson County Drainage District No. 6 – price and other factors considered. Unless otherwise specified in this IFB, Jefferson County Drainage District No. 6 reserves the right to accept a bid in whole or in part, and to award by item or by group, whichever is deemed to be in the best interest of Jefferson County Drainage District No. 6. Any bidder who is in default to Jefferson County Drainage District No. 6 at the time of submittal of the bid shall have that bid rejected. Jefferson County Drainage District No. 6 reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial nonconformity in the offer, as determined by Jefferson County Drainage District No. 6, shall be deemed non-responsive and the offer rejected.

In evaluating bids, Jefferson County Drainage District No. 6 shall consider the qualifications of the bidders, and, where applicable, operating costs, delivery time, maintenance requirements, performance data, and guarantees of materials and equipment. In addition, Jefferson County Drainage District No. 6 may conduct such investigation as it deems necessary to assist in the evaluation of a bid and to establish the responsibility, qualifications, and financial ability of the bidders to fulfill the contract.

Jefferson County Drainage District No. 6 reserves the right to award this contract on the basis of **lowest and best bid** in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one Bidder, and/or to reject any or all bids. In the event the lowest dollar Bidder meeting specifications is not awarded a contract, Bidder may appear before the Board of Directors and present their case after officially notifying the Purchasing Department of Bidder's intent to appear.

## **11. Notice to Proceed/Purchase Orders**

- A. A purchase order(s) or written Notice to Proceed shall be generated by the District to the successful vendor. The purchase order number must appear on all itemized invoices and packing slips. The District will not be held responsible for any work orders placed and/or performed without a valid current purchase order number. Payment will be made for all services rendered and accepted by the contract administrator for which a valid invoice has been received.

- B. Prompt Payment. In accordance with the State of Texas Prompt Payment Act, Article 601f V.T.C.S., payment will be made after receipt and acceptance by the District of the merchandise ordered and of a valid invoice. The successful bidder is required to pay subcontractors within ten (10) days after the successful bidder receives payment from the District.

## **12. Contract**

Upon acceptance of the bid by the district, this entire bid specification document, including all sections, appendices, and forms, becomes a binding contract between the contractor and the district.

- A. This bid, when duly accepted by the District, shall constitute a contract equally binding between the successful bidder and the District. By submitting a bid, bidder acknowledges it has read the bid specification document, including all sections, appendices, and forms.

B. Changes in the Work

The District may make changes in the scope of work required to be performed by the Contractor under the Contract without relieving or releasing the Contractor from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise. Additionally, all such change orders must be approved by the District's Engineer prior to execution of same.

- a. Except for the purpose of affording protection against any emergency endangering health, life, or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless pursuant to a written order from the District authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

- b. Each change order shall include in its final form:

- A detailed description of the change in the work.
- The Contractor's proposal (if any) or a confirmed copy thereof.
- A definite statement as to the resulting change in the contract price and/or time.
- The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.
- The procedures as outlined in this Section for a unit price contract also apply in any lump sum contract.

C. Termination, Delays, and Liquidated Damages

- a. Right of the District to Terminate Contract. In the event that any of the provisions of this contract are violated by the Contractor, or by any of its sub-contractors, the District may serve written notice upon the Contractor and the Surety of its intention to terminate the contract. The notices shall contain the reasons for such intention to terminate the contract, and unless such violation or delay shall cease and satisfactory arrangement of correction be made within ten days, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event

of any such termination, the District shall immediately serve notice thereof upon the Surety and the Contractor. The Surety shall have the right to take over and perform the contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the District may take over the work and complete the project by bid/contract or by force account at the expense of the Contractor and his Surety shall be liable to the District for any excess cost incurred. In such event the District may take possession of, and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary, therefore.

- b. Liquidated Damages for Delays. If the work is not completed within the number of working days stipulated in the applicable bid for Lump Sum Contract provided, the Contractor shall pay to the District as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of \$1000.00 Dollars for each calendar day of delay, until the work is completed. The Contractor and his sureties shall be liable to the District for the amount thereof.

c. Excusable Delays

- The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to: Any acts of the District, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency;
- Any acts of the District;
- Causes not reasonably foreseeable or discussed in the pre-bid meeting by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the District, fires, floods, epidemics, quarantine, restrictions, strikes, and freight embargoes.
- Provided, however, that the Contractor promptly notifies the District within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the District shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract, the delay is properly excusable, the District shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

D. Disputes

- a. All disputes arising under this Contract or its interpretation except those disputes covered by FEDERAL LABOR STANDARDS PROVISIONS whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall, within ten (10) days of commencement of the dispute, be presented by the Contractor to the District for decision. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of its commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt of the District.
- b. The Contractor shall submit in detail its claim and its proof thereof.

- c. If the Contractor does not agree with any decision of the District, it shall in no case allow the dispute to delay the work but shall notify the District promptly that it is proceeding with the work under protest.
- E. Conflict of Interest.
  - a. Employees of the District are not permitted to maintain financial interest in, or receive payment, directly or indirectly, borrow from, lend to, invest in, or engage in any substantial financial transaction with any individual, organization, supplier, or subcontractor who does business with the District without disclosure.
  - b. When conflict of interest is discovered, it shall be grounds for termination of contract.
- F. Injuries or Damages Resulting from Negligence - Successful bidder shall defend, indemnify and save harmless Jefferson County Drainage District No. 6 and all its officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful bidder, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with related attorneys' fees and court costs, which may be obtained against Jefferson County Drainage District No. 6 growing out of such injury or damages.
- G. Warranty- The successful bidder shall warrant that all materials utilized in the performance of this contract shall conform to the proposed specifications and/or all warranties as stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title.
- H. Uniform Commercial Code- The successful bidder and the District agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code, subject to and enforceable according to the laws of the State of Texas.
- I. Venue- This Contract will be governed and construed according to the laws of the State of Texas. This Contract is performable in the County of Jefferson, Texas. In the event of litigation under this Contract, the prevailing party shall be entitled to an award of attorneys' fees and costs.
- J. Sale, Assignment, or Transfer of Contract- The successful bidder shall not sell, assign, transfer or convey this contract, in whole or in part, without the prior written consent of Jefferson County Drainage District No. 6.
- K. Silence of Specifications- The apparent silence of these specifications as to any 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.

### **13. Execution of Contract/Performance and Payment Bonds**

- A. Performance and Payment Bonds requires all prime contractors which enter into a formal contract in excess of \$25,000 with the State, any department, board, agency, municipality, county, school district, or any division or subdivision thereof, to obtain a Payment Bond in the amount of the contract before commencing with work and a performance bond for public works contracts in excess of \$100,000.
- B. The failure of the successful bidder to execute the contract and supply the required bonds within ten (10) days after the prescribed forms are presented for signature, or within such extended period as the District may grant, shall constitute a default and

the District may, at its option, either award the contract to the next lowest responsible bidder, or re-advertise for bids. In either case, the District may charge against the bidder the difference between the amount of the bid and the amount for which a contract is subsequently executed, irrespective of whether this difference exceeds the amount of the bid bond. If a more favorable bid is received through re-advertisement, the defaulting bidder shall have no claim against the District for a refund.

- C. When activity occurs within the resulting Contract that increases the amount of the Contract by \$5,000 or more, pursuant to a District Board Approved Change Order, a recorded bond rider shall be provided before the additional work can proceed. All premiums shall be paid by the successful bidder.

#### **14. Non-Discrimination**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the 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 District deems appropriate.

#### **15. Equal Employment Opportunity**

Attention is called to the requirements for ensuring that Contractor's employees and applicants for employment are not discriminated against because of their race, color, creed, sex, gender, or national origin.

#### **16. Fiscal Funding**

A multi-year contract (if requested by the specifications) continuing as a result of an extension option must include fiscal funding out. If, for any reason, funds are not appropriated to continue the contract, said contract shall become null and void.

#### **17. Bid Results**

Bid results are not provided in response to telephone inquiries. A preliminary tabulation of bids received will be posted on the District's website [www.dd6.org](http://www.dd6.org) as soon as possible following bid opening. A final tabulation will be posted following bid award and will also be available for review in the Purchasing Department.

#### **18. Specifications**

Unless otherwise stated by the bidder, the bid will be considered as being in accordance with Jefferson County Drainage District No. 6's applicable standard specifications, and any special specifications outlined in the bid document. All goods shall be new unless otherwise so stated in the bid. Any unsolicited alternate bid, or any changes, insertions, or omissions to the terms and conditions, specifications, or any other requirements of the bid, may be considered non-responsive.

#### **19. Brand Reference**

References to a particular trade name, manufacturer's catalogue, or model number are made for descriptive purposes to guide the bidder in interpreting the requirements of Jefferson County Drainage District No. 6 and should not be construed as excluding bids on other types of materials, equipment, and supplies. However, the bidder, if awarded a contract, will be required to furnish the particular item referred to in the specifications or description unless departure or substitution is clearly noted and described in the bid. Bidders may submit bids on alternates but must attach two (2) copies of manufacturer specifications for any alternate at the time of the bid. Further the bidder must demonstrate that the alternate proposed has a sufficient operating track record to show the equipment will perform per the specified brand.

The acceptance of a bidder's alternate rests solely with the District.

**20. Substitute Or Equal Items**

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Technical Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Technical Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor if acceptable to the District, application for such acceptance will not be considered until after the Effective Date of the Agreement.

**21. Delivery**

Bids shall include all charges for delivery, packing, crating, containers, etc. unless otherwise stated by the bidder in writing on the included Bid Form, prices bid will be considered as being based on F.O.B. destination/delivered freight included.

**22. Currency**

Prices calculated by the bidder shall be stated in U.S. dollars.

**23. Pricing**

Prices shall be stated in units of quantity specified in the bid documents. In case of discrepancy in computing the amount of the bid, the unit price shall govern. LUMP SUM OR COST PLUS IS NOT ALLOWED.

**24. Notice to Proceed/Purchase Order**

The successful bidder may not commence work under this contract until authorized to do so by the Purchasing Department.

**25. Certification**

Upon submission of a bid to the District the bidder certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The bidder has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to any public servant in connection with the submitted offer.
- C. The bidder hereby certifies that the individual signing the bid is an authorized agent for the bidder and has the authority to bind the bidder to the contract.

**26. State Auditor Clause**

By executing this bid, the bidder, if awarded a contract, accepts the authority of the State Auditor's Office, under direction of the legislative audit committee, to conduct audits and investigations in connection with any and all state funds received pursuant to a contract. The successful bidder or any of its subcontractors shall comply with and cooperate in any such investigation or audit. The successful bidder agrees to provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The successful bidder also agrees to include a provision in any subcontract related to this bid that requires the subcontractor to submit to audits and investigation by the State Auditor's Office in connection with any and all state funds received pursuant to the bid and or contract, if an award is made to the bidder.

**27. Financial Records**

The successful bidder and its subcontracted parties shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the State, or Jefferson County Drainage District

No. 6. Accounting by successful bidder and its subcontracted parties shall be in a manner consistent with generally accepted accounting principles.

**28. No Debt Against the State**

Any contract issued as a result of this bid is in contract and shall not be construed as creating any debt by or on behalf of the State of Texas, and all obligations of the State of Texas are subject to the availability of funds. The validity or construction of any Contract resulting from this bid, as well as the rights and duties of the parties herein under, shall be governed by the laws of the State of Texas, in Jefferson County.

**29. Historically Under-Utilized Business and Minority-Women Business Enterprise Participation**

It is the desire of Jefferson County Drainage District No. 6 to increase the participation of Historically Under-utilized Business (HUB) including Minority (MBE) and women owned (WBE) businesses in its contracting and procurement programs. While the District does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms.

# General Conditions of Bidding and Terms of Contract

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By execution of this document, the vendor accepts all general and special conditions of the contract as outlined below and, in the specifications, and plans.

## 1. Bidding

### A. Bids

All bids must be submitted on the bid form furnished in this package.

### B. Authorized Signatures

The bid must be executed personally by the vendor, duly authorized partner of the partnership, or duly authorized officer of the corporation. If executed by an agent, a power of attorney or other evidence of authority to act on behalf of the vendor shall accompany the bid to become a valid bid.

### C. Late Bids

Bids must be in the Jefferson County Drainage District No. 6 Purchasing Department before or at the specified time and date bids are due. Bids received after the submission deadline shall be rejected as non-responsive and returned unopened.

### D. Withdrawal of Bids Prior to Bid Opening

A bid may be withdrawn before the opening date by submitting a written request to the Purchasing Department. If time allows, the bidder may submit a new bid. Bidder assumes full responsibility for submitting a new bid before or at the specified time and date bids are due. Jefferson County Drainage District No. 6 reserves the right to withdraw a request for bids before the opening date.

### E. Withdrawal of Bids After Bid Opening

Bids are an irrevocable offer and may not be withdrawn or cancelled within 90 days following opening date and time designated for the receipt of bids unless otherwise stated in the bid and/or specifications.

### F. Bid Amounts

Bids shall show net prices, extensions where applicable and net total. In case of conflict between unit price and extension, the unit price will govern. Any ambiguity in the bid as a result of omission, error, unintelligible or illegible wording shall be interpreted in the favor of Jefferson County Drainage District No. 6.

### G. Exceptions and/or Substitutions

All bids meeting the intent of the specifications and plans will be considered for award. Vendors taking exception to the specifications and plans, or offering substitutions, shall state these exceptions separately on vendor letterhead and sign it.

If bid is made on an article other than the one specified, which a bidder considers comparable, the name and grade of said article must be specified in the bid and sufficient specifications and descriptive data must accompany same to permit thorough evaluation. The absence of stated exceptions and/or substitutions shall indicate that the vendor has not taken any exceptions to the specifications and shall be responsible to perform in strict accordance with the specifications. As a matter of practice, Jefferson County Drainage District No. 6 rejects exception(s) and /or substitutions as non-responsive but reserves the right to accept any and/or all of the exception(s) and/or substitution(s) deemed to be in the best interest of Jefferson County Drainage District No. 6.



**H. Alternates**

The Invitation for Bid and/or specifications may expressly allow bidder to submit an alternate bid. Presence of such an offer shall not be considered an indication of non-responsiveness.

**I. Descriptions**

Unless otherwise specified, any reference to make, manufacturer and/or model used in the bid specifications is merely descriptive and not restrictive, and is used only to indicate type, style, or quality of material desired.

**J. Bid Alterations**

Bids cannot be altered or amended after submission deadline. Any interlineations, alterations, or erasures made before opening time must be initialed by the signer of the bid, guaranteeing authenticity.

**K. Tax Exempt Status**

Jefferson County Drainage District No. 6 is exempt from federal excise tax and state sales tax. Unless the bid form or specifications specifically indicate otherwise, the bid price must be net, exclusive of above-mentioned taxes and will be so construed. Therefore, the bid price shall not include taxes.

**L. Quantities**

The quantities of work or material stated in unit price items of the bid are supplied only to give an indication of the general scope of work; the District does not expressly or by implication agree that the actual amount of work or material will correspond therewith, and reserves the right after award to increase or decrease the quantity of any unit price item of the scope of work by an amount up to and including 20 percent of any Bid Item, without a change in the unit price, and shall include the right to delete any Bid Item in its entirety, or to add additional Bid Items up to and including an aggregate total amount not to exceed 25 percent of the Contract Price, without authorized Change Order to the Contract.

**M. Bid Award**

Award of contract shall be made to the most responsible, responsive bidder, whose offer is determined to be the best value, taking into consideration the relative importance of price. Jefferson County Drainage District No. 6 reserves the right to be the sole judge as to whether items bid will serve the purpose intended. Jefferson County Drainage District No. 6 reserves the right to accept or reject in part or in whole any bid submitted, and to waive any technicalities or informalities for the best interest of the District. Jefferson County Drainage District No. 6 reserves the right to award based upon individual line items, sections or total bid

All materials, equipment and/or parts that will become a portion of the completed work, including items not specifically stated herein but, necessary to render the service(s) complete and operational per the specifications, are to be included in the bid price. Vendor may be required to furnish evidence that the service, as bid, will meet or exceed these requirements.

**N. General Bid Bond/Surety Requirements**

Failure to furnish bid bond/surety, if requested, will result in bid being declared non-responsive. Non-responsive bids will not be considered for award.

Within 14 working days after award of the contract, the District will return all bid bonds accompanying each of the bids that are not considered in making the award. All other Bid securities will be held until the Contract has been finally executed.

**O. General Insurance Requirements**

Failure to furnish Affidavit of Insurance, if required in these specifications, will result in bid being declared non-responsive. Non-responsive bids will not be considered for award.

**P. Waiver of Subrogation**

Bidder and bidder's insurance carrier waive any and all rights whatsoever with regard to subrogation against Jefferson County Drainage District No. 6 as an indirect party to any suit arising out of personal or property damages resulting from bidder's performance under this contract.

**Q. Responsiveness**

A responsive bid shall substantially conform to the requirements of this Invitation to Bid and/or specifications contained herein. Bidders who substitute any other terms, conditions, specifications and/or requirements or who qualify their bids in such a manner as to nullify or limit their liability to the contracting entity shall have their bids deemed non-responsive. Also, bids containing any clause that would limit contracting authority shall be considered non-responsive. Examples of non-responsive bids include but shall not be limited to: a) bids that fail to conform to required delivery schedules as set forth in the bid request; b) bids with prices qualified in such a manner that the bid price cannot be determined, such as with vague wording that may include "price in effect at the time of delivery," and c) bids made contingent upon award of other bids currently under consideration.

**R. Responsible Standing of Bidder**

To be considered for award, bidder must at least: have the ability to obtain adequate financial resources, be able to comply with required or proposed delivery/completion schedule, have a satisfactory record of performance; have a satisfactory record of integrity and ethics, and be otherwise qualified and eligible to receive award.

**S. Confidential/ Proprietary Data**

If any material in the bid submission is considered by Bidder to be confidential or proprietary information (including manufacturing and/or design processes exclusive to the Bidder), Bidder must clearly mark the applicable pages of bid submission to indicate each claim of confidentiality. Additionally, Bidder must include a statement on company letterhead identifying all Bid Submission section(s) and page(s) that have been marked as confidential. The District will protect from public disclosure such portions of a bid, unless directed otherwise by legal authority, including existing open records acts. Merely making a blanket claim that the entire bid submission is protected from disclosure because it contains some proprietary information is not acceptable and will make the entire bid submission subject to release under the Texas Public Information Act.

**T. Bid Reproduction**

By submitting a bid, Bidder agrees to reproduction by the District, without cost or liability, of any copyrighted portions of Bidder's bid submission or other information submitted by Bidder.

**2. Performance**

**A. Design, Strength, and Quality**

Design, strength, and quality of materials and workmanship must conform to the highest standards of manufacturing and engineering practices. The apparent silence of specifications and/or plans as to any detailed description concerning any point

shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications and/or plans shall be made on the basis of this statement.

**B. Age and Manufacture**

All tangible goods being bid must be new and unused, unless otherwise specified, in first-class condition, of current manufacture, and furnished ready to use. All items not specifically mentioned that are required for a complete unit shall be furnished.

**C. Delivery Location**

All deliveries will be made to the address(es) specified on the purchase order during normal working hours of 7:00 a.m. to 4:00 p.m., Monday through Thursday, and 7:00 a.m. to 3:30 p.m. Friday unless otherwise authorized by the Purchasing Department or designee.

**D. Delivery Schedule**

Delivery time may be an important consideration in the evaluation of best value. The maximum number of days necessary for delivery after receipt of order (A.R.O.) shall be stated in the space, if provided, on the bid form.

**E. Delivery Charges**

All delivery and freight charges, free on board (F.O.B.) destination shown on Jefferson County Drainage District No. 6 purchase order, as necessary to perform contract are to be included in the bid price.

**F. Installation Charges**

All charges for assembly, installation and set-up shall be included in the bid price. Unless otherwise stated, assembly, installation and set-up will be required.

**G. Operating Instructions and Training**

Clear and concise operating instructions and descriptive literature will be provided in English, if requested. On-site detailed training in the safe and efficient use and general maintenance of item(s) purchased shall be provided as needed at the request of Jefferson County Drainage District No. 6. Instructions and training shall be at no additional cost to The District.

**H. Storage**

Bidder agrees to provide storage of custom ordered materials, if requested, for up to thirty (30) calendar days.

**I. Compliance with Federal, State, County, and Local Laws**

Bids must comply with all federal, state, county and local laws, including, but not limited to, all applicable standard safety, emission, and noise control requirements. Any vehicles or equipment shall contain all standard safety, emission, and noise control requirements required for the types and sizes of equipment at the time of their manufacture. The contractor agrees, during the performance of work or service, to comply with all applicable codes and ordinances of Jefferson County Drainage District No. 6 or the State of Texas as they may apply, as these laws may now read, or as they may hereafter be changed or amended.

**J. OSHA**

The bidder will certify all equipment complies with all regulations and conditions stipulated under the Williams-Steiger Occupational Safety and Health Act of 1971, as amended. The successful bidder will further certify that all items furnished under this

project will conform and comply with federal and State of Texas OSHA standards. The successful bidder will agree to indemnify and hold harmless Jefferson County Drainage District No. 6 for any and all damages that may be assessed against the District.

**K. Patents and Copyrights**

The successful vendor agrees to protect the District from claims involving infringements of patents and/or copyrights.

**L. Samples, Demonstrations and Testing**

At Jefferson County Drainage District No. 6's request and direction, bidder shall provide product samples and/or testing of items bid to ensure compliance with specifications. Samples, demonstrations and/or testing may be requested at any point prior to or following bid award. Samples, demonstrations and/or testing may be requested upon delivery and/or any point during the term of resulting contract. All samples (including return thereof), demonstrations, and/or testing shall be at the expense of the bidder/vendor.

**M. Acceptability**

All articles enumerated in the bid shall be subject to inspection by an officer designated for that purpose by Jefferson County Drainage District No. 6. If found inferior to the quality called for, or not equal in value to the specifications, deficient in workmanship or otherwise, this fact shall be certified to the Purchasing Department, who shall have the right to reject the whole or any part of the same. Items and/or work determined to be contrary to specifications must be replaced at the vendor's expense. Inferior items not retrieved by the vendor within thirty (30) calendar days or an otherwise agreed upon time, shall become the property of The District. If disposal of such items warrants an expense, an amount equal to the disposal expense will be deducted from amounts payable to the vendor.

**N. Maintenance**

Maintenance required for equipment bid should be available within the District by a manufacturer authorized maintenance facility. Cost for this service shall be shown on the bid sheet as requested or on a separate sheet, as required. If Jefferson County Drainage District No. 6 opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**O. Material Safety Data Sheets**

Under the "Hazardous Communications Act," commonly known as the "Texas Right to Know Act," a bidder must provide the user department, with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the bidder to furnish this documentation will be cause to reject any bid applying thereto.

**P. Evaluation**

Evaluation shall be used as a determinant as to which services are the most efficient and/or most economical for The District. It shall be based on all factors having a bearing on price and performance of the items in the user environment. All bids are subject to tabulation by the Jefferson County Drainage District No. 6 Purchasing Department and recommendation to Jefferson County Drainage District No. 6 Board of Directors. Compliance with all bid requirements and needs of the using department are considered in evaluating bids. Pricing is not the only criteria for making a recommendation. The Jefferson County Drainage District No. 6 Purchasing

Department reserves to right to contact any bidder, at any time, to clarify, verify or requirement information with regard to this bid.

### **3. Purchase Orders and Payment**

#### **A. Purchase Orders**

A purchase order(s) shall be generated by the Jefferson County Drainage District No. 6 Purchasing Department to the successful vendor. The purchase order number must appear on all itemized invoices and packing slips. The District will not be held responsible for any work orders placed and/or performed without a valid current purchase order number. Payment will be made for all services rendered and accepted by the contract administrator for which a valid invoice has been received.

#### **B. Invoices**

All invoices shall reference the Purchase Order number. Invoices shall reference the bid item number or a detailed description for each item invoiced. If an item purchased and itemized on the invoice does not correspond to an item in any of the categories awarded to the vendor, invoice shall reference the item as "N/C" to indicate that it is a non-contract item. This requirement is to assist The District in verifying contract pricing on all invoices. Payment will be made under terms of net thirty (30) days unless otherwise agreed upon by Contractor and the purchasing department.

#### **C. Prompt Payment**

In accordance with the State of Texas Prompt Payment Act, Article 601f V.T.C.S., payment will be made after receipt and acceptance by The District of the merchandise ordered and of a valid invoice. Successful bidder(s) is required to pay subcontractors within ten (10) days after the successful bidder receives payment from The District.

### **4. Contract**

#### **A. Contract Definition**

The General Conditions of Bidding and Terms of Contract, Specifications, Plans, Bidding Forms, Addenda, and any other documents made a part of this bid shall constitute the complete bid. This bid, when duly accepted by Jefferson County Drainage District No. 6, shall constitute a contract equally binding between the successful bidder and Jefferson County Drainage District No. 6.

#### **B. Change Order**

No different or additional terms will become part of this contract with the exception of a change order. No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing and at the discretion and approval of Jefferson County Drainage District No. 6. No change order will be binding unless signed by an authorized representative of The District and the vendor.

#### **C. Termination**

##### **Termination for Cause**

District may terminate the contract, by providing vendor seven (7) days' notice if the vendor:

- a. Repeatedly fails to supply necessary equipment, material, or properly skilled workers under this contract;
- b. Breaches any obligations under this contract;
- c. Disregards applicable laws, statutes ordinances, codes, rules and regulations;

- d. Intentionally damages District's assets;
- e. Repeatedly fails to perform its duties for the District; or
- f. Becomes insolvent or files an action for bankruptcy.

#### **Termination for Convenience**

District may terminate the contract, by providing bidder thirty (30) days' notice, in whole or, from time to time, in part if the District determines that a termination is in the District's best interest without cause.

#### **Termination Activities**

Upon receipt of written notice from the District of such termination, the bidder shall:

- a. Cease operations as directed by the District in the notice;
- b. Take actions necessary, or that the District may direct, for the protection and preservation of the Work; and
- c. Except for Work directed to be performed prior to the effective date of termination stated in the notice, perform no further Work.

#### **Termination Damages**

In the event of a Termination, the District reserves the right to award canceled contracts to the next lowest responsive bidder.

In the event of a Termination for Cause, the District reserves all its remedies in law or equity.

In the event of a Termination for Convenience, bidder will be entitled to reimbursement for work and materials actually performed and supplied, as mutually agreed upon by District and bidder. Bidder shall not be entitled to recover for unearned or anticipated work.

#### **D. Conflict of Interest**

Employees of the District are not permitted to maintain financial interest in, or receive payment, directly or indirectly, borrow from, lend to, invest in, or engage in any substantial financial transaction with any individual, organization, supplier, or subcontractor who does business with the District without disclosure. When conflict of interest is discovered, it shall be grounds for termination of contract.

#### **E. Injuries or Damages Resulting from Negligence**

Successful vendor shall defend, indemnify and save harmless Jefferson County Drainage District No. 6 and all its officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful vendor, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful vendor shall pay any judgment with cost which may be obtained against Jefferson County Drainage District No. 6 growing out of such injury or damages.

#### **F. Interest by Public Officials**

No public official shall have interest in this contract, in accordance with Texas Local Government Code.

**G. Warranty**

In addition to any warranty implied by fact or law, Contractor warrants that the Goods will conform strictly to their description, drawings, specifications and approved samples, if any, will be new and free from all defects in material and workmanship and all defects due to design (other than the District's design) and will meet or exceed all performance criteria set forth in these specifications. Contractor further guarantees and warrants that Contractor has good title, free and clear of all liens, claims, security interests or encumbrances to all Goods furnished in the specifications. If these specifications include the performance of services by Contractor, Contractor warrants that such services shall be performed in accordance with the terms of the specifications and in a good and workmanlike manner. The District shall have the right to inspect and test any Goods before acceptance if such inspection and test are made within a reasonable time or as provided in the specifications. Contractor shall pay the cost of inspecting and testing of rejected Goods and all transportation charges thereon. Upon request of the District, Contractor, at its sole expense, shall, at District's sole option, repair, or replace all or any part of any Goods covered by these specifications which, in the District's opinion, proves, (a) within the earlier of one (1) year from the date the Goods are placed in operation or within eighteen (18) months

from date of delivery, or (b) such longer period as may be specified, to be defective in design, materials or workmanship or otherwise not in conformance with the requirements of the specifications. Time is of the essence in modifying, replacing or repairing non-conforming items. If an Item is defective in design, materials or workmanship or otherwise not in conformance with the requirements of the specifications, then Contractor shall be responsible under this warranty, at its expense, for all costs associated with removal, reinstallation, and, if necessary, transportation to and from Contractor's plant or other place of repair. If these specifications involve the performance of services, then, upon request of the District, Contractor, at its sole expense, shall re-perform the services covered by these specifications which prove, within one (1) year from the date the services are rendered, to fail to conform to the foregoing warranty. Alternatively, the District may require Contractor to refund the purchase price of the non-conforming Goods.

**H. Uniform Commercial Code**

The successful vendor and Jefferson County Drainage District No. 6 agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.

**I. Venue**

This contract will be governed and construed according to the laws of the State of Texas. This contract is performable in The District of Jefferson, Texas.

**J. Sale, Assignment, or Transfer of Contract**

The successful vendor shall not sell, assign, transfer or convey this contract, in whole or in part, without the prior written consent of Jefferson County Drainage District No. 6.

**K. Silence of Specifications**

The apparent silence of these specifications as to any 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.

## 5. FEMA REQUIRED CONTRACT PROVISIONS

2 CFR 200.326 Contract provisions. The Non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

### All Contracts

THRESHOLD	PROVISION	CITATION
>\$150,000 (Simplified Acquisition Threshold)	Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.	2 CFR 200 APPENDIX II (A)
>\$10,000	All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.	2 CFR 200 APPENDIX II (B)
None	Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.	2 CFR 200 APPENDIX II (F)
None	Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	2 CFR 200 APPENDIX II (H)
None	Records of non-Federal entities. FEMA, Inspectors General, the Comptroller General of the United States, the Texas Division of Emergency Management (TDEM), Texas Water Development Board (TWDB), and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.	2 CFR 200.336



None	<p>Financial records, supporting documents, statistical records, and all other non- Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:</p> <p>(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.</p> <p>(b) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.</p> <p>(c) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.</p> <p>(d) Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.</p> <p>(e) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).</p> <p>(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.</p> <p>(2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.</p>	2 CFR 200.333
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None	<p>Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.</p> <p>(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.</p> <p>(b) Affirmative steps must include:</p> <p>(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;</p> <p>(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;</p> <p>(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;</p> <p>Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;</p> <p>(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; and</p> <p>(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.</p>	2 CFR 200.321
None	Firm shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.	DHS Standard Terms and Conditions
Option Contract Language for contracts awarded prior to Grant Award	The contract award is contingent upon the receipt of HMGP/BRIC/FMA funds. If no such funds are awarded, the contract shall terminate.	Optional

EO Clause for Construction Contracts > \$10K including administration & Surveying contracts associated with construction contracts

THRESHOLD	PROVISION	CITATION
>\$10,000	<p>Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”</p> <p>41 CFR 60-1.4 Equal opportunity clause.</p> <p>(b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:</p> <p>The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:</p> <p>During the performance of this contract, the contractor agrees as follows:</p> <p>(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:</p> <p>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.</p> <p>(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, sexual orientation, gender identity, or national origin.</p>	<p>41 CFR §60-1.4(b) and 2 CFR 200 APPENDIX II (C)</p>

	<p>(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.</p> <p>(4) The contractor will send to each labor union or representative of workers with which he 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.</p> <p>(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.</p> <p>(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.</p> <p>(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.</p> <p>(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:</p> <p>Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.</p>	
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	<p>The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.</p> <p>The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.</p> <p>(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.</p> <p>(d) Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.</p> <p>(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.</p> <p>(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.</p> <p>[80 FR 54975, Sept. 11, 2015]</p>	
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THRESHOLD	PROVISION	CITATION
>\$2,000	<p><i>Compliance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5) and with the Copeland “Anti-Kickback” Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3):</i></p> <p>Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.</p>	<p>2 CFR 200 APPENDIX II (D) *Note: PA and HMGP do not require these clauses</p>
>\$100,000	<p>Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.</p>	<p>2 CFR 200 APPENDIX II (E)</p>

>\$150,000	Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	2 CFR 200 APPENDIX II (G)
>\$100,000	Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above 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. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I) and 24 CFR §570.303
>\$100,000	A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.	2 CFR 200 APPENDIX II (J)
>\$100,000	Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.	42 U.S.C. 6201

## Special Requirements/Instructions

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The following requirements and instructions supersede General Requirements where applicable.

### 1. Bid Requirement

Each bidder shall ensure that required parts of the bid are completed with accuracy and submitted as per the requirements within this specifications packet, including any addenda.

Bidder is responsible for submitting one (1) *original* bid to include a completed copy of this specifications packet in its entirety; and three (3) numbered bid *copies* to include at a minimum all pages requiring completion and/or marked with instructions to be returned with bid submission and any other documentation requested within these specifications.

All bids shall be tightly sealed in an opaque envelope or box and plainly marked "SEALED BID." The outside of the envelope or box shall also include: Bid Number, Bid Name, Bid Due Date, Bidder's Name and Address; and shall be addressed to the Purchasing Department.

The District shall not be responsible for any effort or cost expended in the preparation of a response to this IFB. All protests should be coordinated through the Purchasing Office prior to award recommendation to the District Board of Directors.

### 2. Vendor Registration: SAM (System for Award Management)

Vendors doing business with the District are required to be registered with The System for Award Management (SAM), with an "active" status. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/Fed Reg, ORCA, and EPLS. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>

**Vendors must Provide a printed copy of your current active SAM Status including your UIN (Unique Identification number) with your BID.**

### 3. Submission of FORM 1295 (Texas Ethics Commission)

In accordance with House Bill 1295 (passed January 1, 2016), Vendors entering into contracts and professional contracts with the District will be required to complete a Certificate of Interested Parties (FORM 1295), unless contract is considered exempt as described below.

In 2017, the Texas legislature amended the law to require Form 1295 to include an "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The unsworn declaration, including the date of birth and address of the signatory, replaces the notary requirement that applied to contracts entered into before January 1, 2018. The TEC filing application does not capture the date of birth or street address of the signatory and it will not appear on forms that are filed using the TEC filing application.

Changes to the law requiring certain businesses to file a Form 1295 are in effect for contracts entered into or amended on or after January 1, 2018. The changes exempt businesses from filing a Form 1295 for certain types of contracts and replace the need for a completed Form 1295 to be notarized. Instead, the person filing a 1295 needs to complete an "unsworn declaration."



FORM 1295 Exemptions: What type of contracts are exempt from the Form 1295 filing requirement under the amended law? The amended law adds to the list of types of contract exempt from the Form 1295 filing requirement. A completed Form 1295 is not required for:

- A. sponsored research contract of an institution of higher education
- B. an interagency contract of a state agency or an institution of higher education
- C. contract related to health and human services if: the value of the contract cannot be determined at the time the contract is executed; and o any qualified vendor is eligible for the contract
- D. a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity
- E. a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code
- F. a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code

**When submitting a bid or proposal to the District vendors will be required to submit both:**

- A. Submit a FORM 1295 online via the Texas Ethics Commission website link below. Vendors must enter the required information on Form 1295 and print a copy of the completed form. The form will include a certification of filing that will contain a unique certification number.
- B. Submit a FORM 1295 hard copy (completed & signed by an Authorized Agent of the Awarded Vendor), to the Jefferson County Drainage District No. 6 Purchasing Department. FORM 1295, Completion Instructions, and Login Instructions are available at: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

#### **4. Multiple Vendor Award**

Jefferson County Drainage District No. 6 reserves the right to award this contract to more than one vendor at The District's discretion.

#### **5. Delivery**

If delivery is required, all items must be packaged so as to be protected from damage during shipping and handling. Any item(s) damaged in shipping must be replaced in kind, or repaired, by the contractor, at the discretion of, and at no additional charge to, Jefferson County Drainage District No. 6.

#### **6. Payment**

Jefferson County Drainage District No. 6 will pay original invoices that clearly itemize the goods and/or services provided as to quantity, part number, description, price, applicable discount (if any), labor charges showing time differential, and delivery, installation, and set-up costs, if applicable and if previously agreed to. Only charges as stated on the Bid Form(s) submitted as a part of the bid will be considered.

Invoices must indicate Jefferson County Drainage District No. 6 as applicable, the address to which the product(s) were delivered and/or service(s) were performed, and the applicable purchase order number. Invoices will be matched to delivery tickets prior to payment; therefore, all delivery tickets should have an accurate description of the product(s) and/or service(s).

**Invoices shall be submitted to:** Jefferson County Drainage District No. 6.

Attention: Accounts Payable

6550 Walden Rd.,

Beaumont, TX 77707.

**7. Usage Reports**

Jefferson County Drainage District No. 6 reserves the right to request, and receive at no additional cost, up to Two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this IFB. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by Jefferson County Drainage District No. 6, description of each item purchased, including manufacturer, quantity of each item purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**8. Indemnification/ Hold Harmless**

**Contractor agrees to RELEASE, DEFEND, INDEMNIFY, and HOLD HARMLESS District its officers, directors, employees, and agents, from and against any and all claims, losses and expenses, including, without limitation, all costs, demands, damages, suits, judgments, fines, penalties, liabilities, debts, attorneys' fees, and causes of action of whatsoever nature or character, and further including, without limitation, any and all claims, losses and expenses for property damage, pollution, bodily injury, illness, disease, death, or loss of services, wages, consortium or society (the foregoing being herein individually and collectively referred to as "Claims, Losses and Expenses") directly or indirectly arising out of or related to bodily injury, illness, disease or death of, or damage to property of, Contractor, or its subcontractors, or its or their employees, in any way directly or indirectly, arising out of, or related to, the performance or subject matter of this Contract or the ingress, egress, loading, or unloading of cargo or personnel, or any presence on any premises (whether land, building, vehicle, platform, aircraft, vessel or otherwise) owned, operated, chartered, leased, used, controlled or hired by District or Contractor or its subcontractors, and expressly including any sole or concurrent negligence, fault or strict liability (of whatever nature or character, preexisting conditions, and/or premises defects) of District or any other person or entity. The indemnity obligations set forth in this Section shall include any medical, compensation or other benefits paid by District in connection with employees of Contractor (or its subcontractors, if any) and shall apply even if the employee is determined to be the statutory or borrowed employee of District.**

**9. General Insurance Requirements- (Please See the Attached as Exhibit C in the Pipeline Crossing Agreement for Additional Insurance Requirements for this project.)**

Railroad Protective Liability Insurance may be obtained from any insurance company or Union Pacific has also worked with a national broker, Marsh USA to make this insurance available at [www.uprr.marsh.com](http://www.uprr.marsh.com)

**A. Commercial General Liability Limits:**

Each Occurrence	\$1,000,000
Fire Damage to Rented Premises	\$ 100,000
Medical Expenses	\$ 5,000
Personal & Adv. Injury	\$1,000,000
General Aggregate	\$2,000,000
Products-Comp/Ops Aggregate	\$2,000,000

**B. Auto Liability Limits:**

Combined Single Limits for	\$1,000,000
Owned, Hired & Non-Owned	

**C. Umbrella Liability Limits:**

Each Occurrence	\$1,000,000
Aggregate	\$1,000,000

**D. Worker's Compensation Limits:**

Workers' Compensation	Statutory
Employer's Liability	\$ 500,000/500,000/500,000

Prior to commencement of work, Vendor shall furnish ACORD 25 (2010/05) certificates verifying coverage and limits outlined above and other provision set forth below. Such insurance shall be provided by carriers rated by AM Best & Company and deemed acceptable by the District.

Certificates shall document Waiver of Subrogation provisions in favor of the District on Commercial General Liability, Auto Liability, Umbrella Liability, and Workers Compensation policies.

Certificates shall document Additional Insured provisions in favor of the District on Commercial General Liability, Auto Liability, and Umbrella Liability policies.

Companies furnishing Temporary Personnel shall amend their Workers Compensation policy to include Alternate Employer Endorsement (Texas -- WC 000301) naming Jefferson County Drainage District No. 6.

Certificates shall document reasonable cancellation provisions to protect the interests of the District.

Coverage and Limits set forth above are minimum requirements and may be adjusted by the District to include higher limits and other coverage such as Professional Liability, Pollution Liability, USL&H, Jones Act, and Protection & Indemnity.

## **10. Workers' Compensation Insurance**

### **A. Definitions:**

- a. Certificate of coverage ("Certificate") – A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage contract, DWC-81, DWC-82, DWC-83, or DWC-84 showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
  - b. 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 District.
  - c. Persons providing services on the project ("subcontractor") in article 406.096 – Includes all persons or entities performing all or part of the services under the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractor, leasing companies, motor carriers, District-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" includes, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- B. The Contractor shall provide coverage, based on proper reporting of classification code and payroll amounts and filing any coverage contracts, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the District prior to being awarded the contract – refer to Section 10.2 above.
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the District showing that coverage has been extended.
- E. The Contractor shall obtain from each person providing services on a project, and provide to the District:
- a. A certificate of coverage, prior to that person beginning work on the project, so the District will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - b. No later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate ends during the duration of the project.
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- G. The Contractor shall notify the District in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

- H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
  - a. Provide coverage, based on reporting of classification codes and payroll amounts and filing of any coverage contracts, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all its employees providing services on the project, for the duration of the project.
  - b. 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.
  - c. Provide the Contractor, prior to the end of 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.
  - d. Obtain from each person with whom it contracts, and provide to the Contractor:
  - e. A certificate of coverage, prior to the other person beginning work on the project; and
  - f. the coverage period, if the coverage period shown on the current certificate of a new certificate of coverage showing extension of coverage, prior to the end of coverage ends during the duration of the project.
  - g. Retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter.
  - h. Notify the District in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  - i. Contractually require each person with whom it contracts to perform with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the District that all employees of the contractor who will provide services of 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 contracts will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the District to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the District.

## SUPPLEMENTARY GENERAL CONDITIONS

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### 1. **Contract Commencement**

The Contract Time will commence on the day indicated in the Notice to Proceed

### 2. **Starting the Project**

The Contractor shall start to perform the work on or after the date when the Contract Time commences but in no event shall any work be done at the site prior to the date on which the Contract Time commences.

### 3. **Before Starting Construction**

- A. Before undertaking each part of the work, the Contractor shall carefully study and compare the Specification Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The Contractor shall promptly report in writing to the District any conflict, error or discrepancy which the Contractor may discover and shall obtain a written interpretation or clarification from the District before proceeding with any work affected thereby.
- B. The Contractor shall submit to the Engineer for review those documents called for in the specifications package.
- C. When the Contractor delivers its executed Agreement to the District, the Contractor shall also deliver certificates (and other evidence of insurance requested by the District) which the Contractor is required to purchase and maintain in accordance with the requirements of the Specification Documents.

### 4. **Preconstruction Conference**

A preconstruction conference attended by the Contractor, the Engineer, and others as appropriate will be held to discuss the Project in accordance with the applicable procedures specified in the General Requirements.

### 5. **Finalizing Schedules**

At least seven (7) working days before preparation of the first Progress Payment Schedule, a conference will be held and attended by the Contractor, the Engineer, and others as appropriate to finalize the schedule(s) submitted.

### 6. **Amending and Supplementing Contract**

The Contract may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by Change Order.

### 7. **Reuse of Documents**

Neither the Contractor, nor any Subcontractor or Supplier, nor any other person or organization performing or furnishing any of the Work under a direct or indirect contract with the District shall have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of the Engineer; and they shall not reuse any of them on extensions of the Project or any other project without written consent of the District and the Engineer and specific written verification or adaptation by the Engineer.

## **8. Availability of Lands; Physical Conditions; Reference Points**

### **A. Availability of Lands:**

The District shall furnish, as indicated in the Specification Documents, the lands upon which the Project is to be performed, rights of way and easements for access thereto, and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the District, unless otherwise stated. Nothing contained in these Specifications shall be interpreted as giving the Contractor exclusive occupancy of the lands or rights of way provided. The Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment; provided, that the Contractor shall not enter upon nor use any property not under the control of the District until a written temporary construction easement agreement has been executed by the Contractor and the property owner, and a copy of said easement agreement furnished to the Engineer prior to said use; and, neither the District nor the Engineer shall be liable for any claims or damages resulting from Contractor's unauthorized trespass or use of any such properties.

### **B. Physical Conditions:**

### **C. Explorations and Reports:** Reference is made to "Physical Conditions" of the Supplementary General Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by the Engineer in the preparation this document. The Contractor may rely upon the accuracy of the factual data contained in such reports, however, the interpretation of such factual data, including any interpolation or extrapolation thereof, together with nonfactual data, interpretations, and opinions contained in such reports or the completeness thereof is the responsibility of the Contractor.

- a. Existing structures: Reference is made to the Article entitled "Physical Conditions" of the Supplementary General Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Utilities) which are at or contiguous to the site that has been utilized by the Engineer in the preparation of this document. The Contractor may rely upon the accuracy of the factual data contained in such drawings; however, the interpretation of such factual data, including any interpolation or extrapolation thereof, together with nonfactual data, interpretations, and opinions contained in such drawings or the completeness thereof is the responsibility of the Contractor.

### **D. Differing Site Conditions:**

- a. The Contractor shall notify the Engineer in writing of the following unforeseen conditions, hereinafter called differing site conditions, promptly upon their discovery (but in no event later than 14 working days) and before they are disturbed:

Subsurface or latent physical conditions at the site of the project differing materially from those indicated, and; unknown physical conditions at the site of the project of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided.

- b. The Engineer will review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise the District in writing of the Engineer's findings and conclusions.

- c. If the District concludes that because of newly discovered conditions a change in the Specification Documents is required, a Change Order will be issued to reflect and document the consequences of the difference.
  - d. In each such case, an increase or decrease in the Contract Price or an extension or reduction of the contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such difference.
  - e. The Contractor's failure to give notice of differing site conditions within fourteen (14) working days of discovery or before they are disturbed shall constitute a waiver of all claims in connection therewith, whether direct, consequential, or inconsequential in nature.
  - f. Nothing herein shall be deemed to require the District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.
- E. Physical Conditions - Underground Utilities:
- a. Shown or Indicated: The information shown or indicated in the Specification Documents with respect to existing, underground utilities at or contiguous to the site is based on information and data furnished to the District or the Engineer by the owners of such underground utilities or by others. Unless it is expressly provided the District and the Engineer shall not be responsible for the accuracy or completeness of any such information or data, and the Contractor shall have full responsibility for reviewing and checking all such information and data, for locating all underground utilities shown or indicated in the Specification Documents, for coordination of the work with the owners of such underground utilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the work, the cost of which will be considered as having been included in the Contract Price.
  - b. Not Shown or Indicated: If an underground utility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Specification Documents and which the Contractor could not reasonably have been expected to be aware of, the Contractor shall identify the owner of such underground utility and give written notice thereof to that owner and shall notify the Engineer.
- F. Reference Points:
- a. The Engineer will provide one benchmark, near or on the site of the work, and will provide 2 points near or on the site to establish a base line for use by the Contractor for alignment control. Unless otherwise specified the Contractor shall furnish all other lines, grades, and benchmarks required for proper execution of the work.
  - b. The Contractor shall be responsible for laying out the work (unless otherwise specified) and shall preserve all benchmarks, stakes, and other survey marks, and in case of their removal or destruction by its own employees or by its subcontractor's employees, the Contractor shall be responsible for the accurate replacement of such reference points by professionally qualified personnel at no additional cost to the District.



## **2. The Contractor's Responsibilities**

### **A. Supervision and Superintendence:**

- a. The Contractor shall supervise and direct the entire project competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Specification Documents. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but the Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Specification Documents. The Contractor shall be responsible to see that the finished work complies accurately with the Specification Documents.
- b. The Contractor shall designate in writing and keep on the project at all times during its process a competent, resident, technically qualified, English-speaking superintendent, acceptable to the District, who shall not be replaced without written notice to the District except under extraordinary circumstances. The superintendent shall be the contractor's representative at the site and shall have authority to act on behalf of the Contractor in all matters. All communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor shall issue all its communication to the District through the District Representative.
- c. The sole activity and responsibility of the Contractor's Superintendent shall be the full-time superintendence of the work. The Superintendent shall not engage in any activity which detracts in any way from his ability to devote his complete attention to superintendence of the work nor from the mobility required to personally oversee all physical areas of work activity within the project. The Superintendent shall be present at the site of the work at all times while work is in progress. Failure to observe these requirements shall be considered as suspension of the work by the Contractor until such time as such Supervisor or Superintendent is again present at the site and/or able to devote full attention to superintendence of the project.
- d. Each Subcontractor shall, before starting construction, designate in writing one person who shall have authority to act on behalf of the Subcontractor and who shall be present at the work site at all times while the Subcontractor's work is in progress. Failure to observe this requirement shall be considered as suspension of the work by the Subcontractor until such time as the designated person is present at the site of the work.

### **B. Labor, Materials, and Equipment**

- a. The Contractor shall provide competent, suitably qualified personnel to survey and lay out the work and perform construction as required by the Specification Documents. The Contractor shall maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Specification Documents, all Work at the site shall be performed during regular working hours, and the Contractor will not permit overtime work or the performance of work on Saturday, Sunday, or any legal holiday without the District's written consent given after prior written notice and approval by the Engineer. If the Contractor performs any work after regular working hours, or on

Saturday, Sunday, or any legal holiday, it shall pay the District any additional cost incurred by the District as a result of such work.

- b. The Contractor shall receive no additional compensation for overtime work, i.e., work in excess of eight (8) hours in any one calendar day or forty (40) hours in anyone (1) calendar week, even though such overtime work may be required under emergency conditions and may be ordered by the District Representative in writing. Additional compensation will be paid to the Contractor for overtime work only in the event that extra work is ordered by the Engineer, and the Change Order specifically authorizes the use of overtime work and then only to such extent as overtime wages are regularly being paid by the Contractor for overtime work of a similar nature in the same locality.
- c. All costs of inspection and testing performed during overtime work by the Contractor which is allowed solely for the convenience of the Contractor shall be borne by the Contractor. The District shall have the authority to deduct the cost of all such inspection and testing from any partial payments otherwise due the Contractor.
- d. The Contractor shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities, and incidentals necessary for the furnishing, performance, testing, start up, and completion of the work.
- e. All materials and equipment shall be of good quality and new, except as otherwise provided in the Specification Documents. If required by the District, the Contractor shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable supplier; but no provision of any such instructions will be effective to assign to the District, nor any of the District's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility .

C. Adjusting Progress Schedule

The Contractor shall submit any adjustments in the progress schedule to the District Representative for acceptance.

D. Substitutes or "or-Equal" Items:

The contractor shall submit proposed substitutes or "or equal" items.

E. Concerning Subcontractors, Suppliers, and Other:

- a. The Contractor shall be fully responsible to the District and for the acts and omissions of its subcontractors and their employees to the same extent as the Contractor is responsible for the acts and omissions of its own employees. Nothing contained in this Article shall create any contractual relationship between the District or the Engineer and any subcontractor, nor shall it relieve the Contractor of any liability or obligation under the prime Contract.
- b. The Divisions and Sections of the Specifications and identifications of any drawings shall not control the Contractor in dividing the work among subcontractors or suppliers or in delineating the work to be performed by any specific trade.

F. Permits, License Fees, and Royalties:

- a. Unless otherwise provided in the Supplementary General Conditions, the Contractor shall obtain and pay for all construction permits and licenses from the agencies having jurisdiction, including the furnishing of insurance and bonds if required by such agencies. The enforcement of such requirements under this Contract shall not be made the basis of claims for additional compensation. The District shall assist the Contractor, when necessary, in obtaining such permits and licenses. The Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. The Contractor shall pay all charges of utility Districts for connections to the work, and the District shall pay all charges of such utility Districts for connections to the work.
- b. The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the work or the incorporation in the work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. The Contractor shall indemnify and hold harmless the District from and against all claims, damages, losses, and expenses (including attorney's fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, product, or device, and shall defend all such claims in connection with any alleged infringement of such rights.

G. Laws and Regulations:

The Contractor shall observe and comply with all federal, state, and local laws, ordinances, codes, orders, and regulations which in any manner affect those engaged or employed on the Work, the materials used in the work, or the conduct of the workers or employees. If any discrepancy or inconsistency should be discovered in this Contract in relation to any such law, ordinance, code, order, or regulation, the Contractor shall report the same in writing to the District Representative. The Contractor shall indemnify, defend, and hold harmless the District, the Engineer, and their officers, agents, and employees against all claims or liability arising from violation of any such law, ordinance, code, order, or regulation, whether by Contractor or its employees or subcontractors. Any particular law or regulation specified or referred to elsewhere in the Specification Documents shall not in any way limit the obligation of the Contractor to comply with all other provisions of federal, state, and local laws and regulations. Where an individual state act on occupational safety and health standards has been approved by federal authority, then the provisions of said state act shall control.

H. Use of Premises:

The Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to (1) the Project site, (2) the land and areas identified in and permitted by the Specification Documents, and (3) the other land and areas permitted by Laws and Regulations, rights of way, permits and easements. The Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against the District by any such owner or occupant because of the performance of the Work, the

Contractor shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. The Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold the District harmless from and against all claims, damages, losses, and expenses (including, but not limited to, fees of architects, engineers, attorneys, and other professionals and court and arbitration costs) arising directly, indirectly, or consequently out of any action, legal, or equitable brought by any such other party against the District to the extent based on a claim arising out of the Contractor's performance of the Work.

I. Safety and Protection:

- a. The Contractor shall be sole responsible for the safety of himself, his employees and other persons, as well as for the protection of the safety of the improvements being erected and the property of himself or any other person, as a result of his operations hereunder. Engineering construction drawings and specifications as well as any additional information concerning the work to be performed passing from or through the District shall not be interpreted as requiring or allowing Contractor to deviate from the plans and specifications, the intent of such drawings, specifications and any other such instructions being to define with particularity the agreement of the parties as to the work the Contractor is to perform. Contractor shall be fully and completely liable, at his own expense, for design, construction, installation and use, or non-use, of all items and methods incident to performance of the contract, and for all loss, damage or injury incident thereto, either to person or property, including, without limitation, the adequacy of all temporary supports, shoring, bracing, scaffolding, machinery or equipment, safety precautions or devices and similar items or devices used by him during construction.
- b. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the project. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to the following:
  - i. All employees on the project and other persons and organizations who may be affected thereby;
  - ii. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
  - iii. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.
- c. The Contractor shall comply with all applicable Laws and Regulations (whether referred to herein or not) of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- d. The Contractor shall designate a responsible representative at the site whose duty and responsibility shall be the prevention of accidents. This person shall be the Contractor's superintendent or project manager unless otherwise designated in writing by the Contractor to the District.

J. Shop Drawings and Samples:

- a. After checking and verifying all field measurements and after complying with applicable procedures, the Contractor shall submit to the Engineer for review all Shop Drawings in accordance with the accepted schedule of Shop Drawing submittals.
- b. The Contractor shall also submit to the Engineer for review all samples in accordance with the accepted schedule of sample submittals.
- c. Before submittal of each shop drawing or sample, the Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each shop drawing or sample with other shop drawings and samples and with the requirements of the Specification Documents.
- d. The Engineer's review and approval of shop drawings or samples shall not relieve the Contractor from responsibility for any variation from the requirements of the Specification Documents unless the Contractor has in writing called the Engineer's attention to each such variation at the time of submission and the Engineer has given written approval of each such variation; nor will any approval by the Engineer relieve the Contractor from responsibility for errors or omissions in the shop drawings or from responsibility for having complied with the provisions the specifications documents.
- e. Where a shop drawing or sample is required by the Specifications Documents, any related Work performed prior to the Engineer's review and approval of the pertinent submission will be the sole expense and responsibility of the Contractor.

K. Continuing the Work:

The Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the District. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Contractor and the District may otherwise agree in writing.

L. Contractor's Daily Reports:

The Contractor shall complete a daily report indicating manpower, major equipment, subcontractors, etc., involved in the performance of the work. The daily report shall be completed on forms prepared by the Contractor and acceptable to the District and shall be submitted to the District Representative at the conclusion of each workday.

M. Assignment of Contract:

The Contractor shall not assign, sublet, sell, transfer, or otherwise dispose of the Contract or any portion thereof or its right, title, or interest therein, or obligations there-under, without written consent of the District, except as imposed by law. If the Contractor violates this provision, the Contract may be terminated at the option of the District. In such event, the District shall be relieved of all liability and obligations to the Contractor and to its assignee or transferee, growing out of such termination.

### **3. Other Work**

#### **A. Related Work at Site:**

- a. The District may perform other work related to the Project at the site by the District's own forces, have other work performed by utility owners, or let other direct contracts therefor which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Specification Documents, written notice thereof will be given to the Contractor prior to starting any such other work.
- b. The Contractor shall afford each utility owner and other contractor who is a party to such a direct contract (or the District, if the District is performing the additional work with the District's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate the Work with theirs. The Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. The Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the Engineer and the others whose work will be affected.
- c. If any part of the Contractor's Work depends, for proper execution or results, upon the work of any such other contractor or utility owner (or the District), the Contractor shall inspect and promptly report to the Engineer in writing any delays, defects, or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. The Contractor's failure to so report will constitute an acceptance of the other work as fit and proper for integration with the Contractor's Work except for latent or non-apparent defects and deficiencies in the other work.

#### **B. Coordination:**

If the District contracts with others for the performance of other work on the project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided. Neither the District nor the Engineer shall have any authority or responsibility in respect of such coordination.

### **4. District May Stop the Work**

If the Work is defective, or the Contractor fails to perform the Work in such a way that the completed Work will conform to the Specification Documents, the District may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the District to stop the Work shall not give rise to any duty on the part of the District to exercise this right for the benefit of the Contractor or any other party.

### **5. Correction or Removal of Defective Work**

If required by the District, the Contractor shall promptly either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the District, the Contractor shall remove it from the site and replace it with non-defective Work. The Contractor shall bear all direct, indirect, and consequential costs of such correction or removal, including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, made necessary thereby.

**6. One Year Correction Period:**

If within one year after the date of Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Specification Documents, any Work is found to be defective, the Contractor shall promptly, without cost to the District and in accordance with the District's written instructions, either correct such defective Work, or, if it has been rejected by District, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, District may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement, including but not limited to fees and charges of architects, engineers, attorneys and other professionals, shall be paid by the Contractor. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if provided in the Specification Documents.

**7. Acceptance of Defective Work**

If, instead of requiring correction or removal and replacement of defective Work, the District prefers to accept the Work, the District may do so. The Contractor shall bear all direct, indirect, and consequential costs attributable to the District's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Specification Documents with respect to the Work; and the District shall be entitled to an appropriate decrease in the Contract Price.

**8. Payments To the Contractor and Completion**

**A. Schedule of Values (Lump-Sum Price Breakdown):**

The schedule of values or lump-sum price breakdown shall serve as the basis for progress payments and will be incorporated into a Progress Payment Schedule Form prepared by the Engineer.

**B. Unit Price Bid Schedule:**

Progress payments of unit priced work will be based upon the number of units completed.

**C. Progress Payments:**

- a. Unless otherwise prescribed by law, on or before the 5th calendar day of each month, the Engineer shall prepare and submit to the District for review a Progress Payment Schedule covering measured portions of the Work completed as of the last calendar day of the preceding month, as reported in the inspector's daily reports with such supporting documentation.
- b. The Net Payment due to the Contractor shall be the Contractor's Total Earnings to date from which will be deducted the amount of retainage; the total amount of all previous payments made to the Contractor; any liquidated damages as may become due, and; any special deductions in the Contract Price.

**D. Contractor's Warranty of Title:**

The Contractor warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the Project or not, will pass to the District no later than the time of final payment free and clear of all liens.

E. Review of Progress Payment Schedule:

- a. The District will review the Progress Payment Schedule and either accepts it for payment, or within seven (7) working days, return it to the Engineer, noting in writing the exceptions taken to the Schedule as submitted. In the latter case, the Engineer shall make the corrections required and resubmit the Schedule to the District for processing.
- b. The District may refuse to make payment of the full amount recommended by the Engineer because claims have been made against the District on account of the Contractor's performance of the work, or Liens have been filed in connection with the work, or there are other items entitling the District to a credit against the amount recommended, but the District must give the Engineer written notice within seven (7) days of receipt of the Engineer's recommended Progress Payment Schedule (with a copy to the Contractor) stating the reasons for such action.

F. Beneficial Use or Occupancy and Partial Utilization:

- a. Partial Utilization: The District shall have the right to utilize or place into service any item of equipment or other usable portion of the work prior to completion of the work. Whenever the District plans to exercise said right, the Contractor will be notified in writing by the District fourteen (14) days in advance, identifying the specific portion or portions of the work to be so utilized or otherwise placed into service.
- b. It shall be understood by the Contractor that until such written notification is issued, all responsibility for care and maintenance of all items or portions of the work to be partially utilized shall be borne by the Contractor. Upon issuance of said written notice of partial utilization, the District will accept responsibility for the protection and maintenance of all such items or portions of the work described in the written notice.
- c. Beneficial Use or Occupancy: The District shall have the right, at its option and convenience, to occupy or otherwise make use of all or any part of the project premises at any time prior to substantial completion, fourteen (14) days in advance written notice to the Contractor. Beneficial occupancy or use shall be subject to the following conditions:
  - i. The District shall use its best efforts to prevent occupancy from interfering with the conduct of the Contractor's remaining work;
  - ii. The Contractor shall not be required to repair damage to the premises if the same was caused by, or pursuant to, the District's occupancy or use;
  - iii. One-year correction period for those portions of the premises occupied and equipment used by the District shall start as of the date of actual occupancy or use;
  - iv. Occupancy or use shall not constitute acceptance by the District either of the completed work or any portion thereof, nor will it relieve the Contractor from full responsibility for correcting defective work or materials found before completion and acceptance of all the work .
  - v. Occupancy or use shall not be deemed to be the equivalent of filing a Notice of Substantial Completion/Notice of Completion or a Cessation of Labor;
  - vi. There shall be no added cost to the District due to pre-completion occupancy or use.



G. Substantial Completion:

When the Contractor considers the Work ready for its intended use, the Contractor shall notify the District and the Engineer in writing that the Work is substantially complete and request that the Engineer schedule a Final Inspection. Within a reasonable time thereafter, the District, the Contractor, and the Engineer shall inspect the Work to determine the status of completion. If the District does not consider the Work to be substantially complete, it will request that the Engineer so notify the Contractor in writing, stating the reasons therefore. If the District considers the Work substantially complete, with only minor items of corrective work remaining, it will instruct the Engineer to prepare and deliver to the District for its execution and recordation six (6) copies of the Notice of Substantial Completion/Notice of Completion, signed by the Engineer and Contractor. As applicable, there shall be attached to the Notice a list of items (punch list) to be completed or corrected before the Final Progress Payment will be made. Upon execution and recordation of the Notice by the District, which shall fix the date of Substantial Completion, the District will furnish the Contractor with two (2) copies of the executed Notice with punch list attached as applicable. The Contractor shall immediately upon receipt of the executed Notice and attached punch list, begin such corrective work as is required by the District and indicated on the punch list. All corrective work must be completed by the Contractor to the satisfaction of the District within thirty (30) working days following the date of Substantial Completion. If, at the expiration of the 30-day correction period, outstanding items of corrective work remain, the District may, at its option, accept the work or, in response to extraordinary conditions and at the written request of the Contractor, grant one (1) thirty (30) calendar day extension of time for completion of all outstanding punch list items. If, at the expiration of the 30-day extension period or if at the expiration of the original 30-day corrective work period an additional extension is not granted by the District and the District accepts the Work with items of corrective work outstanding, the Engineer is directed to deduct up to two (2) times the value of such outstanding items of work from the Final Progress Payment Schedule and the Contractor does hereby waive any and all claims to all monies withheld by the District to cover up to two (2) times the value of all uncorrected or incomplete items of the Work. The Engineer shall be the sole and final judge of the value of uncorrected and/or incomplete items of the work.

H. Final Progress Payment:

The Final Progress Payment shall comprise all billable items or the Work including billable items of corrective work completed through the end of the Final Progress Payment Period. The Final Progress Payment shall be based on the Final Progress Payment Schedule prepared by the Engineer and shall be calculated as follows: Final Progress Payment due shall equal the sum value of completed items of the Work plus the value of completed Change Order Work less 5% retainage, less Liquidated Damages (as applicable), less Special Reductions (as applicable), less an amount up to two (2) times the value of outstanding items of corrective work (as applicable) and less all previous payments.

I. Acceptance by District and Final Payment:

At such time that the Contractor has completed all items of corrective work or, upon expiration of the corrective work period(s), the Contractor shall deliver to the Engineer all documentation called for in these Specification Documents together with complete and legally effective releases or waivers (satisfactory to the District) of all claims arising out of or filed in connection with the Work by any vendor, supplier, rental agency, subcontractor or others having directly or indirectly supplied goods,

services materials and/or equipment utilized for or incorporated in the construction of the Work. Additionally, and concurrent with the above, the Contractor shall deliver to the Engineer, all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, record documents and other documents, all as required by these Specification Documents. If, on the basis of the Engineer's reports and recommendations and the District's examination of the documentation and waivers of claims submitted by the Contractor, the District is satisfied that the Work has been completed and that the Contractor's obligations under the requirements of these Specification Documents have been fulfilled, the District will, within 15 working days after acceptance of Work by the District's governing body, make Final Payment to the Contractor. The amount of the Final Payment shall be calculated as follows: The Value of all completed items of the Work plus the value of completed Change Order Work, less Liquidated Damages (as applicable), less Special Reductions (as applicable), less outstanding claims (as applicable), less up to two (2) times the value of outstanding items of corrective work (as applicable), less total amounts previously paid.

J. Contractor's Continuing Obligation:

The Contractor's obligation to perform and complete the Work in accordance with the Specification Documents shall be absolute. Neither recommendation of any Progress or Final Payment by the Engineer, nor the issuance of a Notice of Substantial Completion/Notice of Completion, nor any payment by the District to the Contractor under the Specification Documents, nor any use or occupancy of the Work or any part thereof by the District, nor any act of acceptance by the District nor any failure to do so, nor any review and approval of a Shop Drawing or sample submittal, will constitute an acceptance of work not in accordance with the Specification Documents or a release of the Contractor's obligation to perform the Work in accordance with the Specification Documents.

K. Final Payment Terminates Liability of the District:

The acceptance by the Contractor of the Final Payment shall be a release of the District and its agents from all claims of liability to the Contractor for anything done or furnished for, or relating to, the Work or for any act or neglect of the District or of any person relating to or affecting the Work, except demands made against the District for the remainder, herein; and excepting all pending, unresolved claims filed prior to the date of the Notice of Substantial Completion/Notice of Completion.

## Minimum Specifications

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The following requirements and specifications supersede General Requirements where applicable. Contact Karen J. Stewart, Chief Business Officer [kstewart@dd6.org](mailto:kstewart@dd6.org), 409-842-1818, regarding any questions or comments. Please reference bid number 22-002/KJS.

### 1. **Scope of Work**

The project will consist of dry bore and jack of 5-42"x150' steel 0.625-inch wall thickness pipe. Please see attached-(Jefferson County Drainage District No. 6 Plans for Basin & Ditch 202-E1E at UPRR)

The contractor will abide by the pipeline crossing agreement between the UPRR and DD6 (See Attached Pipeline Crossing Agreement). All costs in the agreement shall be born by the contractor except any fees for the permit.

The McLean Union Pacific Railroad project is located 385 feet south of Phelan Blvd along at UPRR at latitude 30° 41' 32" Longitude 94° 12' 28 is the location of the project.

### 2. **ATTACHMENTS**

- **Jefferson County Drainage District No. 6 Plans for Basin & Ditch 202-E1E at UPRR**
- **Pipeline Crossing Agreement between Union Pacific Railroad Company and Jefferson County Drainage District No. 6**
- **Union Pacific Railroad Guidelines for Track and Ground Monitoring**
- **Project and Billing Form- as it relates to Flaggers and Observer requirements**
- **Work Plan Form for UPRR**

## Bidder Information Form

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Instructions: Complete the form below. Please provide legible, accurate, and complete contact information. PLEASE PRINT.

**Bid Name & Number:** IFB 22-002/KJS, McLean St. Drainage Improvements with Boring Under Union Pacific Railroad

**Bidder's Company/Business Name:** \_\_\_\_\_

**Bidder's TAX ID Number:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Phone Number (with area code):** \_\_\_\_\_

**Alternate Phone Number if available (with area code):** \_\_\_\_\_

**Fax Number (with area code):** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Mailing Address (Please provide a physical address for bid bond return, if applicable):**

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

**Bidder Shall Return Completed Form with Offer.**

## OFFER TO CONTRACT

To Jefferson County Drainage District No. 6:

We hereby offer and agree to furnish the materials or service in compliance with all terms, conditions, specifications, and amendments in the Invitation for Bid and any written exceptions in the offer. We understand that the items in this Invitation for Bid, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract.

The undersigned hereby states, under penalty of perjury, that all information provided is true, accurate, and complete, and states that he/she has the authority to submit this bid, which will result in a binding contract if accepted by Jefferson County Drainage District No. 6.

We acknowledge receipt of the following amendment(s): \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

**I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder:**

For clarification of this offer, contact:

Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Signature of Person Authorized to Sign

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Printed Name

**Bidder Shall Return Completed Form with Offer**

**SAMPLE JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6**  
**STANDARD FORM OF CONTRACT**  
**FOR DISTRICT-CONTRACTOR PROJECTS**

STATE of TEXAS }  
JEFFERSON COUNTY }

THIS CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, A.D. 2022, by and between Jefferson County Drainage District No. 6 of the COUNTY of Jefferson in the STATE OF TEXAS, thereunto duly authorized so to do, Party of the First Part, hereinafter termed DISTRICT, and \_\_\_\_\_ of the City of \_\_\_\_\_ County of \_\_\_\_\_ in the State of Texas, Party of the Second Part, hereinafter termed CONTRACTOR.

**WITNESSETH:** That for and in consideration of the payments and contracts hereinafter mentioned, to be made and performed by the Party of the First Part (DISTRICT) and under the conditions expressed in the bond bearing even date herewith, the said Party of the Second Part (CONTRACTOR), hereby agrees with the said Party of the First Part (DISTRICT) to commence and complete the construction of certain improvements described as follow: and all extra work in connection therewith, under the terms as stated in the General Conditions of the Contract and at his (or their) own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the General Conditions of Bidding and Terms of Contract, Specifications, Plans, Bidding Forms, and any and all other documents made a part of this bid shall constitute the complete bid. Including any other drawings and printed or written explanatory matter thereof, and the Addenda therefore, as prepared by \_\_\_\_\_ (Project Engineer), herein entitled the ENGINEER, each of which has been identified by the CONTRACTOR and the ENGINEER, together with the CONTRACTOR'S written proposal, the General Conditions of the Contract, the Performance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract.

The CONTRACTOR hereby agrees to commence work within ten (10) calendar days after the date written notice to do so shall have been given to him, and to substantially complete within 60 consecutive calendar days after issuance of the "Notice to Proceed" and to be at Final Completion within \_\_\_\_ consecutive calendar days after the issuance of the "Notice to Proceed", subject to such extensions of time as are provided by the General and Special Conditions.

The DISTRICT agrees to pay the CONTRACTOR in current funds the price or prices shown in the bid, which forms a part of this contract, such payments to be subject to the General and Special Conditions of the contract.

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

Jefferson County Drainage District No. 6  
Party of the First Part (DISTRICT)

\_\_\_\_\_  
Party of the Second Part (CONTRACTOR)

By: \_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Print Name

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

## Bid Form

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<b>McLean St. Drainage Improvements with Boring Under Union Pacific Railroad</b>
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Lumps Sum Bid
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**Acknowledgment of Addenda (if any):**

Addendum 1 \_\_\_\_\_ Date Received \_\_\_\_\_

Addendum 2 \_\_\_\_\_ Date Received \_\_\_\_\_

Addendum 3 \_\_\_\_\_ Date Received \_\_\_\_\_

**Vendor Registration: SAM (System for Award Management)**

Vendors doing business with the District are required to be registered with The System for Award Management (SAM), with an "active" status. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/Fed Reg, ORCA, and EPLS. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>

**Vendors must Provide a printed copy of your current active SAM Status including your UIN (Unique Identification number) with your BID.**

**Bidder Shall Return Completed Form with Offer**

## Vendor References

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Please list at least three (3) companies or governmental agencies (preferably a municipality) where the same or similar products and/or services as contained in this specification package were recently provided.

<b>REFERENCE ONE</b>
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Government/Company Name: \_\_\_\_\_

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

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work: \_\_\_\_\_

<b>REFERENCE TWO</b>
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Government/Company Name: \_\_\_\_\_

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

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work: \_\_\_\_\_

<b>REFERENCE THREE</b>
------------------------

Government/Company Name: \_\_\_\_\_

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

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work: \_\_\_\_\_

**Bidder Shall Return Completed Form with Offer**



## Signature Page

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As permitted under Article 4413 (32c) V.A.C.S., other governmental entities may wish to participate under the same terms and conditions contained in this contract (i.e., piggyback). In the event any other entity participates, all purchase orders will be issued directly from and shipped directly to the entity requiring supplies/services. Jefferson County Drainage District No. 6 shall not be held responsible for any orders placed, deliveries made or payment for supplies/services ordered by another entity. Each entity reserves the right to determine their participation in this contract.

Would bidder be willing to allow other governmental entities to piggyback off this contract, if awarded, under the same terms and conditions? ..... Yes ☐ No ☐

This bid shall remain in effect for ninety (90) days from bid opening and shall be exclusive of federal excise and state and local sales tax (exempt).

The undersigned agrees, if this bid is accepted, to furnish any and all items upon which prices are offered, at the price and upon the terms and conditions contained in the Invitation for Bid, Conditions of Bidding, Terms of Contract, and Specifications and all other items made a part of the accepted contract.

The undersigned affirms that they are duly authorized to execute the contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other bidder or to any other person(s) engaged in this type of business prior to the official opening of this bid. And further, that neither the bidder nor their employees nor agents have been for the past six (6) months directly nor indirectly concerned in any pool or contract or combination to control the price of goods or services on, nor to influence any person to bid or not to bid thereon.

_____ Bidder (Entity Name)	_____ Signature
_____ Street & Mailing Address	_____ Print Name
_____ City, State & Zip	_____ Date Signed
_____ Telephone Number	_____ Fax Number
_____ E-mail Address	

**Bidder Shall Return Completed Form with Offer**

# Conflict of Interest Questionnaire

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b> <hr/> Date Received	
<div style="display: flex; justify-content: space-between;"> <div style="width: 65%;"> <p><b>1</b>   <b>Name of vendor who has a business relationship with local governmental entity.</b></p>    </div> <div style="width: 30%;"></div> </div>		
<p><b>2</b>   <input type="checkbox"/>   <b>Check this box if you are filing an update to a previously filed questionnaire.</b></p> <p style="margin-left: 40px;">(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b>   <b>Name of local government officer about whom the information in this section is being disclosed.</b></p> <p style="text-align: center; margin-top: 20px;">_____</p> <p style="text-align: center;">Name of Officer</p> <p style="margin-top: 10px;">This section (item 3 including subparts A, B, C, &amp; D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No </p> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No </p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No </p> <p>D. Describe each employment or business and family relationship with the local government officer named in this section.</p>  		
<p><b>4</b></p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%;"> <p>_____ Signature of vendor doing business with the governmental entity</p> </div> <div style="width: 35%;"> <p>_____ Date</p> </div> </div>		

Adopted 8/7/2015

**Bidder Shall Return Completed Form with Offer**

## Good Faith Effort (GFE) Determination Checklist

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***This information must be submitted with your bid.***

Bidder intends to utilize subcontractors/subconsultants in the fulfillment of this contract (if awarded). ☐ Yes ☐ No

**Instructions:** In order to determine if a “Good Faith Effort” was made in soliciting HUBs for subcontracting opportunities, the following checklist and supporting documentation shall be completed by the Prime Contractor/Consultant and returned with the Prime Contractor/ Consultant’s bid. This list contains the **minimum** efforts that should be put forth by the Prime Contractor/Consultant when attempting to achieve or exceed the goals of HUB Subcontractor participation. The Prime Contractor/Consultant may extend his/her efforts in soliciting HUB Subcontractor participation beyond what is listed below.

### **Did the Prime Contractor/Consultant . . .**

- |                              |                             |   |
|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 1. To the extent practical, and consistent with standard and prudent industry standards, divide the contract work into the smallest feasible portions, to allow for maximum HUB Subcontractor participation?  |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 2. <b>Notify</b> in writing a reasonable number of HUBs, allowing sufficient time for effective participation of the planned work to be subcontracted?  |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 3. <b>Provide</b> HUBs that were genuinely interested in bidding on a subcontractor, adequate information regarding the project (i.e., plans, specifications, scope of work, bonding and insurance requirements, and a point of contact within the Prime Contractor/Consultant’s organization)? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 4. <b>Negotiate</b> in good faith with interested HUBs, and not reject bids from HUBs that qualify as lowest and responsive bidders?  |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 5. <b>Document</b> reasons HUBs were rejected? Was a written rejection notice, including the reason for rejection, provided to the rejected HUBs?   |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 6. If Prime Contractor/Consultant has zero (0) HUB participation, <b>please explain the reasons why.</b>  |

**If “No” was selected, please explain and include any pertinent documentation with your bid.  
If necessary, please use a separate sheet to answer the above questions.**

---

Printed Name of Authorized Representative

---

Signature

---

Title

---

Date

**Bidder Shall Return Completed Form with Offer**

---

***This information must be submitted with your bid.***

**Instructions for Prime Contractor/Consultant:** Bidder shall submit this form with the bid; however, the information below may be submitted after contract award, but prior to beginning performance on the contract. Please submit one form for each HUB Subcontractor/Subconsultant with proper signatures, per the terms and conditions of your contract.

Contractor Name: \_\_\_\_\_ HUB: ☐ Yes ☐ No

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

Street	City	State	Zip

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Project Title & No.: \_\_\_\_\_

Prime Contract Amount: \$ \_\_\_\_\_

HUB Subcontractor Name: \_\_\_\_\_

HUB Status (Gender & Ethnicity): \_\_\_\_\_

Certifying Agency:    ☐ Tx. Bldg & Procurement Comm.    ☐ Jefferson County    ☐ Tx Unified Certification Prog.

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

Street	City	State	Zip
--------	------	-------	-----

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount:    \$ \_\_\_\_\_    Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

Printed Name of Contractor Representative	Signature of Representative	Date
Printed Name of HUB	Signature of Representative	Date

Pre-Approval for Subcontractor Substitutions must be obtained from the District Purchasing Department. The "HUB Subcontractor/Subconsultant Change Form" must be completed and faxed to 409-842-2729

Page 56 of 63

# Historically Underutilized Business (HUB) Subcontracting Participation Declaration Form

PAGE 1 OF 4

***This information must be submitted with your bid.***

Bidder intends to utilize subcontractors/subconsultants in the fulfillment of this contract (if awarded). ☐ Yes ☐ No

Prime Contractor: \_\_\_\_\_ HUB: ☐ Yes ☐ No

HUB Status (Gender & Ethnicity): \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Project Title & No.: \_\_\_\_\_ IFB/RFP No.: \_\_\_\_\_

Total Contract: \$ \_\_\_\_\_ Total HUB Subcontract(s): \$ \_\_\_\_\_

Construction HUB Goals: 12.8% MBE:: \_\_\_\_\_ % 12.6% WBE: \_\_\_\_\_ %

Sub-goals: 1.7 African-American, 9.7% Hispanic, 0.7% Native American, 0.8% Asian American.  
Use these goals as a guide to diversify.

## FOR HUB OFFICE USE ONLY:

Verification date HUB Program Office reviewed and verified HUB Sub information Date: \_\_\_\_\_ Initials: \_\_\_\_\_

## PART I. HUB SUBCONTRACTOR DISCLOSURE

HUB Subcontractor Name: \_\_\_\_\_

HUB Status (Gender & Ethnicity): \_\_\_\_\_

Certifying Agency: ☐ Texas Bldg & Procurement Comm. ☐ Texas Unified Certification Prog.

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

**Bidder Shall Return Completed Form with Offer**

# Historically Underutilized Business (HUB) Subcontracting Participation Declaration Form

PAGE 2 OF 4

## HUB SUBCONTRACTOR DISCLOSURE

### PART I: Continuation Sheet

(Duplicate as Needed)

HUB Subcontractor Name: \_\_\_\_\_

HUB Status (Gender & Ethnicity): \_\_\_\_\_

Certifying Agency: ☐ Tx. Bldg & Procurement Comm. ☐ Jefferson County ☐ Tx Unified Certification Prog.

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

HUB Subcontractor Name: \_\_\_\_\_

HUB Status (Gender & Ethnicity): \_\_\_\_\_

Certifying Agency: ☐ Tx. Bldg & Procurement Comm. ☐ Jefferson County ☐ Tx Unified Certification Prog.

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

**All HUB Subcontractor Participation may be verified with the  
HUB Subcontractor(s) listed on Part I.**

**Bidder Shall Return Completed Form with Offer**

## Historically Underutilized Business (HUB) Subcontracting Participation Declaration Form

PAGE 3 OF 4

### PART II: STATEMENT OF NON-COMPLIANCE FOR NOT MEETING HUB SUBCONTRACTING GOALS

**Please complete Good Faith Effort (GFE) Checklist and attach any supporting documentation.**

Our firm was unable to meet the HUB goals for this project for the following reasons:

- ☐ All subcontractors to be utilized are "Non-HUBs." (Complete Part III)
- ☐ HUBs were solicited but did not respond.
- ☐ HUBs solicited were not competitive.
- ☐ HUBs were unavailable for the following trade(s):
- ☐ Other: \_\_\_\_\_

Was the Jefferson County HUB Office contacted for assistance in locating HUBs? ☐ Yes ☐ No

### PART III: DISCLOSURE OF OTHER "NON-HUB" SUBCONTRACTS

The bidder shall use this area to provide a listing of all "Non-HUB" Subcontractors, including suppliers, that will perform under this project. A list of those "Non-HUB" Subcontractors the bidder selects, after bid submission, shall be provided to the Purchasing Office not later than five (5) calendar days after being notified that bidder is the apparent low bidder. A list of those "Non-HUB" Subcontractors that are selected after contract award must be provided **immediately** after their selection.

Subcontractor Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

**Bidder Shall Return Completed Form with Offer**

## Historically Underutilized Business (HUB) Subcontracting Participation Declaration Form

PAGE 4 OF 4

Subcontractor Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone (with area code): \_\_\_\_\_ Fax (with area code): \_\_\_\_\_

Proposed Subcontract Amount: \$ \_\_\_\_\_ Percentage of Prime Contract: \_\_\_\_\_ %

Description of Subcontract Work to be Performed: \_\_\_\_\_

I hereby certify that I have read the *HUB Program Instructions and Information*, truthfully completed all applicable parts of this form, and **attached any necessary support documentation as required**. I fully understand that intentionally falsifying information on this document may result in my not receiving a contract award or termination of any resulting contract.

Name (print or type): \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Contact person that will be in charge of invoicing for this project:

Name (print or type): \_\_\_\_\_

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

Date: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**Bidder Shall Return Completed Form with Offer**



## House Bill 89 Verification

---

I, \_\_\_\_\_, the undersigned representative of (company or business name) \_\_\_\_\_ (heretofore 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:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

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 ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or an limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business association that exist to make a profit.

\_\_\_\_\_  
Signature of Company Representative

\_\_\_\_\_  
Date

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared

\_\_\_\_\_, the above named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

Notary Seal

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Date

**Bidder Shall Return Completed Form with Offer**

## Senate Bill 252 Certification

---

On this day, I, Karen J. Stewart, Chief Business Officer for Jefferson County Drainage District No. 6 Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051, or Section 2253.253 and I have ascertained that the below named company is not contained on said listing of companies which do business with Iran, Sudan, or any Foreign Terrorist Organization.

---

Company Name

---

IFB/RFP/RFQ number

Certification check performed by:

---

Purchasing Representative

---

Date

**Bidder Shall Return Completed Form with Offer**

## Bid Affidavit

The undersigned certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all commodities upon which prices are extended at the price offered, and upon the conditions contained in the specifications and the Notice to Bidders.

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, a Notary Public in and for the State of \_\_\_\_\_,

on this day personally appeared \_\_\_\_\_, who  
(name)

after being by me duly sworn, did depose and say:

"I, \_\_\_\_\_ am a duly authorized officer of/agent  
(name)

for \_\_\_\_\_ and have been duly authorized to execute the  
(name of firm)

foregoing on behalf of the said \_\_\_\_\_.  
(name of firm)

I hereby certify that the foregoing bid has not been prepared in collusion with any other bidder or other person or persons engaged in the same line of business prior to the official opening of this bid. Further, I certify that the bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or contract or combination, to control the price of services/commodities bid on, or to influence any person or persons to bid or not to bid thereon."

Name and address of bidder: \_\_\_\_\_

Fax: \_\_\_\_\_ Telephone# \_\_\_\_\_

by: \_\_\_\_\_ Title: \_\_\_\_\_  
(print name)

Signature: \_\_\_\_\_

SUBSCRIBED AND SWORN to before me by the above-named \_\_\_\_\_ on

this the \_\_\_\_\_ day of \_\_\_\_\_, 2022\_\_.

\_\_\_\_\_  
Notary Public in and for  
the State of \_\_\_\_\_

**Bidder Shall Return Completed Form with Offer**

JEFFERSON COUNTY DRAINAGE DISTRICT NO.6

PLANS FOR  
BASIN & Ditch 202-E1E AT UPRR



BOARD OF DIRECTORS

PRESIDENT: JOSHUA W. ALLEN, SR.  
VICE PRESIDENT: BERNIE DALEO  
SECRETARY: CHARLES GUILLORY  
DIRECTOR: ANTHONY MALLEY, III  
DIRECTOR: CHARLES KIKER, III

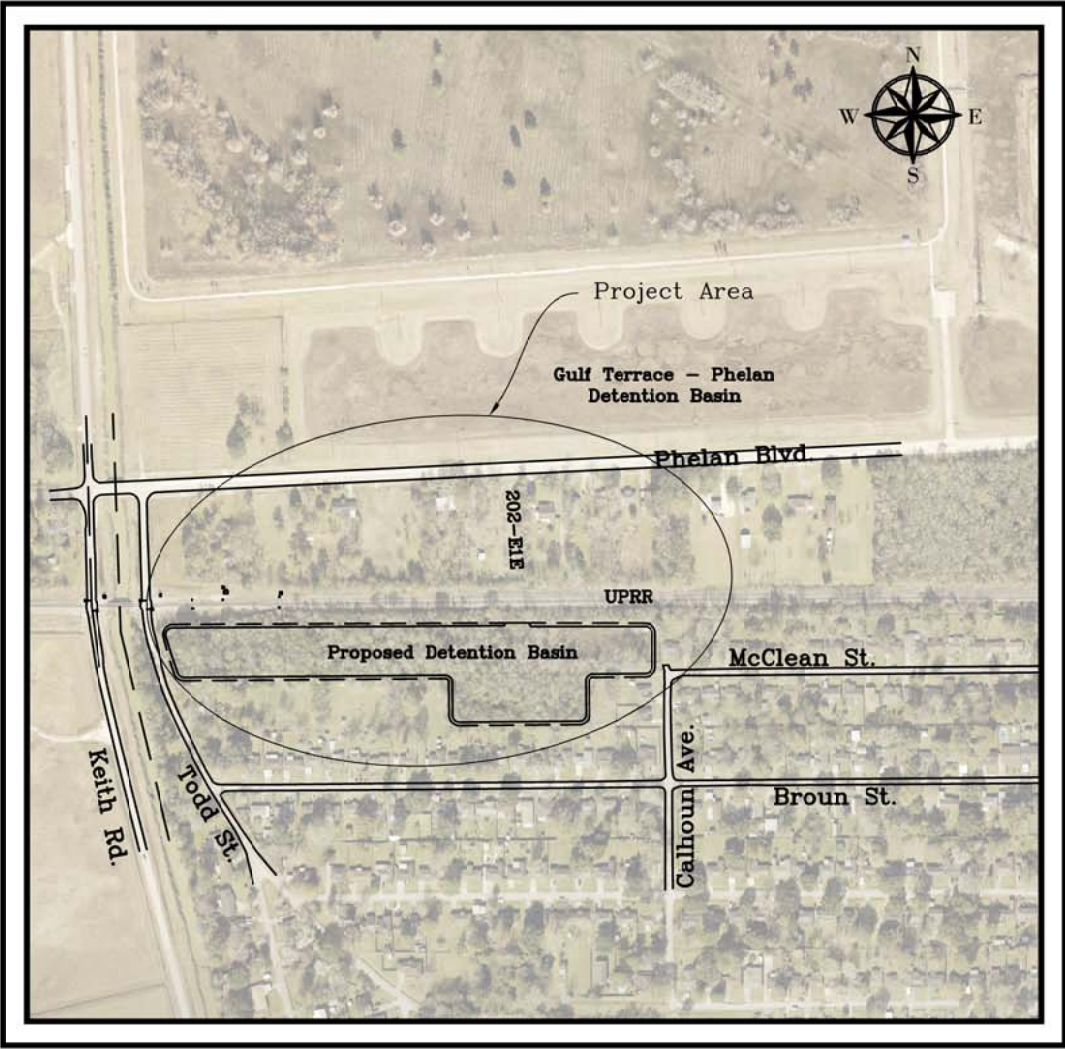
GENERAL MANAGER

DR. JOSEPH G. MAJDALANI, P.E., C.F.M.

PROJECT: Ditch 202-E1E & Basin at UPRR  
PROJECT LOCATION: Beaumont, Texas  
COUNTY: Jefferson County  
DESCRIPTION: For the renovation of ditch 202-E1E and a basin on property owned by Jefferson County Drainage District NO.6.

SHEET INDEX

- 01 TITLE SHEET
- 02 GENERAL NOTES & SPECS
- 03 MATERIALS AND QUANTITIES
- 04 PLAN VIEW OF UPRR & PHELAN
- 05 UPRR PLAN VIEW
- 06 UPRR SECTIONS
- 07 UPRR ZONE LIMITS
- 08 UPRR ESL & WSE DATA



Wallace R. Wilson P.E.

12/15/21

DATE

LOCATION MAP  
SCALE: NTS  
December 2021



General Notes and Specifications

1. The Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, Adopted November 2014, and AREMA, American Railway Engineering and Maintenance-of-Way Association, current Publication will govern all specifications not directly addressed in this document.
2. Before excavating near existing utilities, contact the utility companies or the utility coordinating committee for exact locations to prevent damage or interference with present facilities. Notify the utility coordinating committee and the Texas One Call System at the following numbers:

Texas One Call, toll-free 1-800-245-4545

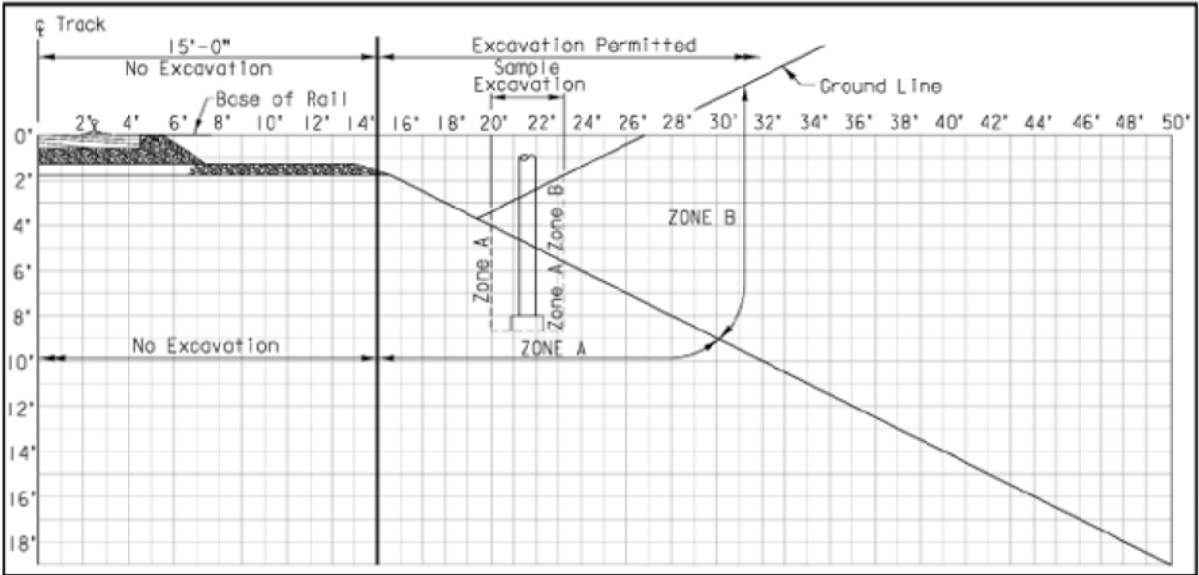
AT&T Communications 555 Main - Room 20760 Beaumont, Texas 77701 (409) 839-1666 Ray Hillin	Entergy Distribution North 11 <sup>th</sup> Street Beaumont, Texas 77701 (409) 785-2136 Brian Cross	CenterPoint Energy Entex 6090 College Beaumont, Texas 77707 (409) 860-7111 Robert Young
Spectrum 602 N. Hwy 69 Nederland, Texas 77627 (409) 720-5565 Adam LaRive	City of Beaumont City Utilities (409) 785-4720 Edward Brown	City of Beaumont Public Works-Engineering (409) 880-3725 Molly Villarreal, P.E.

This action does not relieve the Contractor of the responsibilities under the terms of the contract or the plans and specifications. Damage caused by the Contractor's operations shall be repaired and restored to service in a timely manner at no expense to DD6.

3. The approximate location of the known underground utility installations is as shown on the plans. Confirm the location of these utility lines and the exact location of any others which may exist. Assume full responsibility for notifying the utility involved in case of conflict or damage and he/she shall be responsible for damage that occurs due to his/her negligence. Remove and dispose of abandoned lines encountered that interfere with the construction of this project. Consider this work to be subsidiary to the various bid items of the contract.
4. The bore shall progress continuously (24/7, without stoppage) until the leading edge of the pipe has completely passed under all tracks and through Zone A, as shown in "Track Protection Shoring Requirements."
5. The front of the pipe shall be provided with mechanical arrangements or devices that will positively prevent the auger from leading the pipe so that no unsupported excavation is ahead of the pipe while within Zone A and under the tracks.
6. The auger and cutting head arrangement shall be removable from within the pipe in the event an obstruction is encountered and needs to be removed.
7. The over-cut by the cutting head shall not exceed the outside diameter of the pipe (plus coating) by that approximately 1 inch, grouting or other methods approved by the Railroad, shall be employed to fill such voids.
8. The face of the cutting edge shall be arranged to restrict an otherwise free flow material leading to over excavating material ahead/above the pipe.
9. Work plans and description of the equipment to be used shall be submitted to the Railroad for approval and no work shall proceed until such approval is obtained.
10. UPRR "Call Before You Dig" (CBYD) phone number - 1-800-336-9193.

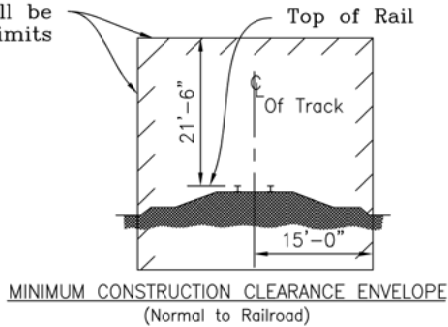
Railroad Pipeline or Culvert Accommodation Notes

1. The contractor must submit a proposed method of erosion and sediment control and have the method approved by the Railroad.
2. Regardless of underlying land ownership, all shoring systems within Railroad right-of-way or that may impact the Railroad's operations and/or supports the Railroad's embankment shall be designed and constructed per current Railroad guidelines for Temporary Shoring.
3. The contractor must submit and provide sufficient safety measures to protect the unattended excavations to the Railroad for approval.
4. All demolitions/removals within the Railroad's right-of-way and/or that may impact the Railroad's tracks or operations shall be in compliance with the current Railroad's Demolition Guidelines.
5. Railroad requirements do not allow work within 50 feet of track centerline when a train passes the work site and all personnel must clear the area within 25 feet of the track centerline and secure all equipment.
6. The contractor shall adhere to the following culvert and pipeline construction requirements while within the Railroad's right-of-way.
- a. The boring operation shall be progressed on a continuous (24/7) basis without stoppage until the leading edge of the pipe has completely passed under all track and through Zone A on each side as shown below:



- b. The front of the pipe shall be provided with mechanical arrangements or devices that will positively prevent the auger from leading the pipe so that no unsupported excavation is ahead of the pipe while within Zone A or under the tracks.
- c. The auger and cutting head arrangement shall be removable from within the pipe in the event an obstruction is encountered and needs to be removed.
- d. The over-cut by the cutting head shall not exceed the outside diameter of the pipe (plus coating) by that approximately 1 inch, grouting or other methods approved by the Railroad, shall be employed to fill such voids.
- e. The face of the cutting edge shall be arranged to restrict an otherwise free flow material leading to overexcavating material ahead/above the pipe..
- f. Work plans and description of the equipment to be used shall be submitted to the Railroad for approval and no work shall proceed until such approval is obtained.
7. The contractor must submit a track and ground monitoring plan for Railroad review. See section 3 in the link below. The elevation of the existing top-of-rail profile shall be verified before beginning construction and at project closing. As deemed necessary by the Railroad, continuous monitoring may be required as well as monitoring for 14 days after the installation. The contractor will be responsible for all costs associated with monitoring and restoring the track profile as necessary. All discrepancies shall be brought to the attention of the Railroad.
- [https://www.up.com/cs/groups/public/@uprr/@realestate/documents/up\\_pdf\\_natedocs/pdf\\_up\\_util\\_aban.pdf](https://www.up.com/cs/groups/public/@uprr/@realestate/documents/up_pdf_natedocs/pdf_up_util_aban.pdf)
8. When abandoning utilities (leave-in-place or remove), the contractor must submit their plan to the railroad for prior review. See the UPRR Abandonment Guidelines.
- [https://www.up.com/cs/groups/public/@uprr/@realestate/documents/up\\_pdf\\_natedocs/pdf\\_up\\_util\\_aban.pdf](https://www.up.com/cs/groups/public/@uprr/@realestate/documents/up_pdf_natedocs/pdf_up_util_aban.pdf)
9. Call Before You Dig. Prior to excavation, disrupting, or working on the Railroad property the contractor shall locate and protect UPRR facilities by calling the UPRR "Call Before You Dig" (CBYD) phone number: 1-800-336-9193.
10. Construction activities are not allowed within the "Minimum Construction Clearance Envelope" as they would otherwise disrupt Railroad operations.

No Construction Activities or Other Obstructions shall be Placed within These Limits



PROJECT LOCATION	
CITY	COUNTY
BEAUMONT	JEFFERSON
WATERSHED	DITCH NO.
WILLOW MARSH	202-EIE
STATE	
TEXAS	
SHEET	
02	

Drainage District No. 6, Texas  
Jefferson County

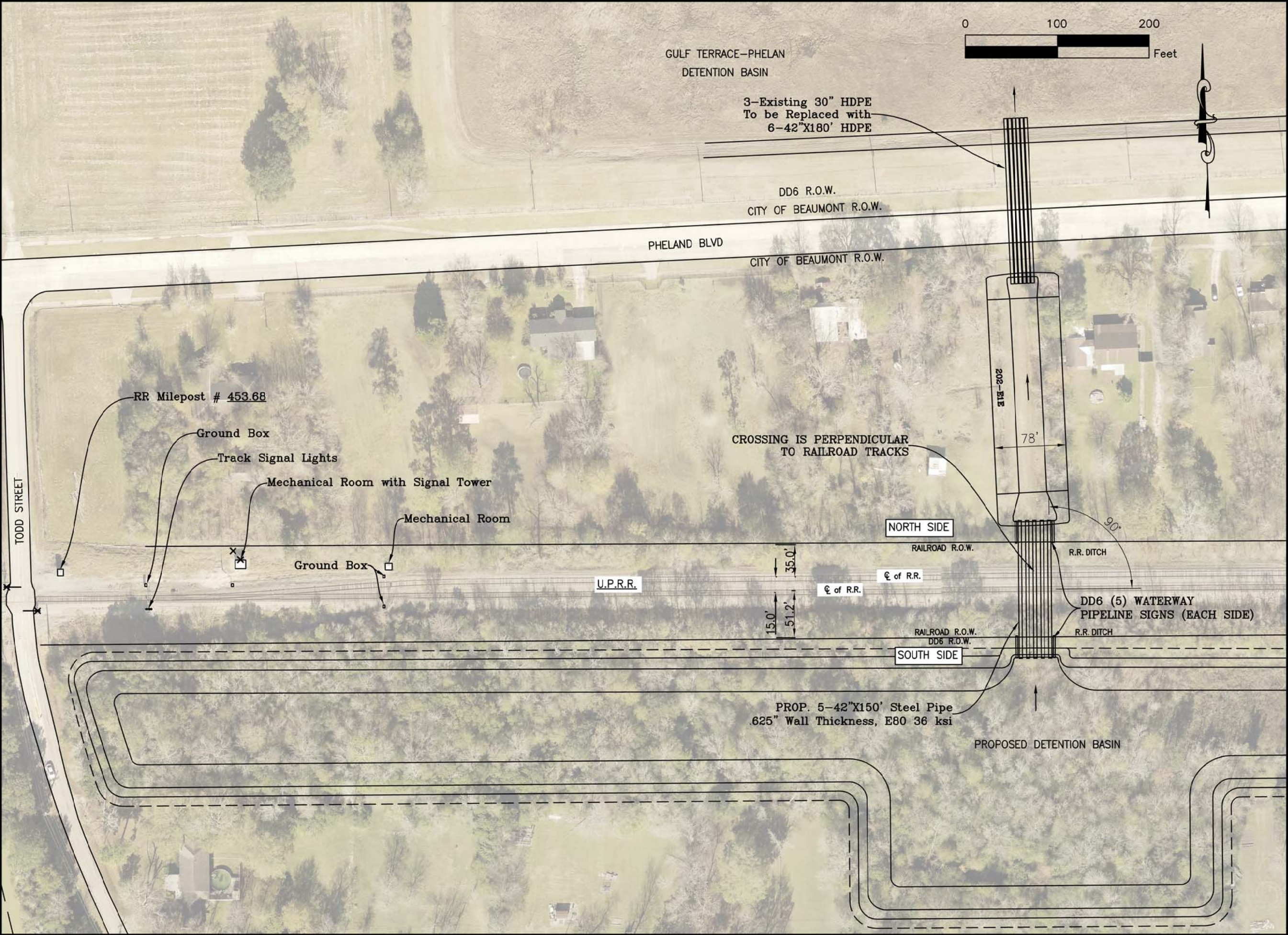
General Notes & Specifications	
MCLEAN RELIEF PROJECT	
WALLACE R. WILSON, P.E. No. 84857	
DATE 12/15/21	
Wallace R. Wilson P.E.	

STATE OF TEXAS  
WALLACE R. WILSON  
84857  
LICENSED PROFESSIONAL ENGINEER

APPROV.	
REVISION	
HEC	
NO. DATE/DRN	
6	
5	
4	
3	
2	
1	







PROJECT LOCATION					
CITY	BEAUMONT	COUNTY	JEFFERSON	STATE	TEXAS
WATERSHED	WILLOW MARSH	DITCH NO.	202-E1E	SHEET	04

DRAINAGE DISTRICT NO. 6

DD6

JEFFERSON COUNTY, TEXAS

PLAN VIEW of UPRR & PHELAN  
MCLEAN RELIEF PROJECT

WALLACE R. WILSON, P.E. No. 84857

DATE  
12/15/21

STATE OF TEXAS

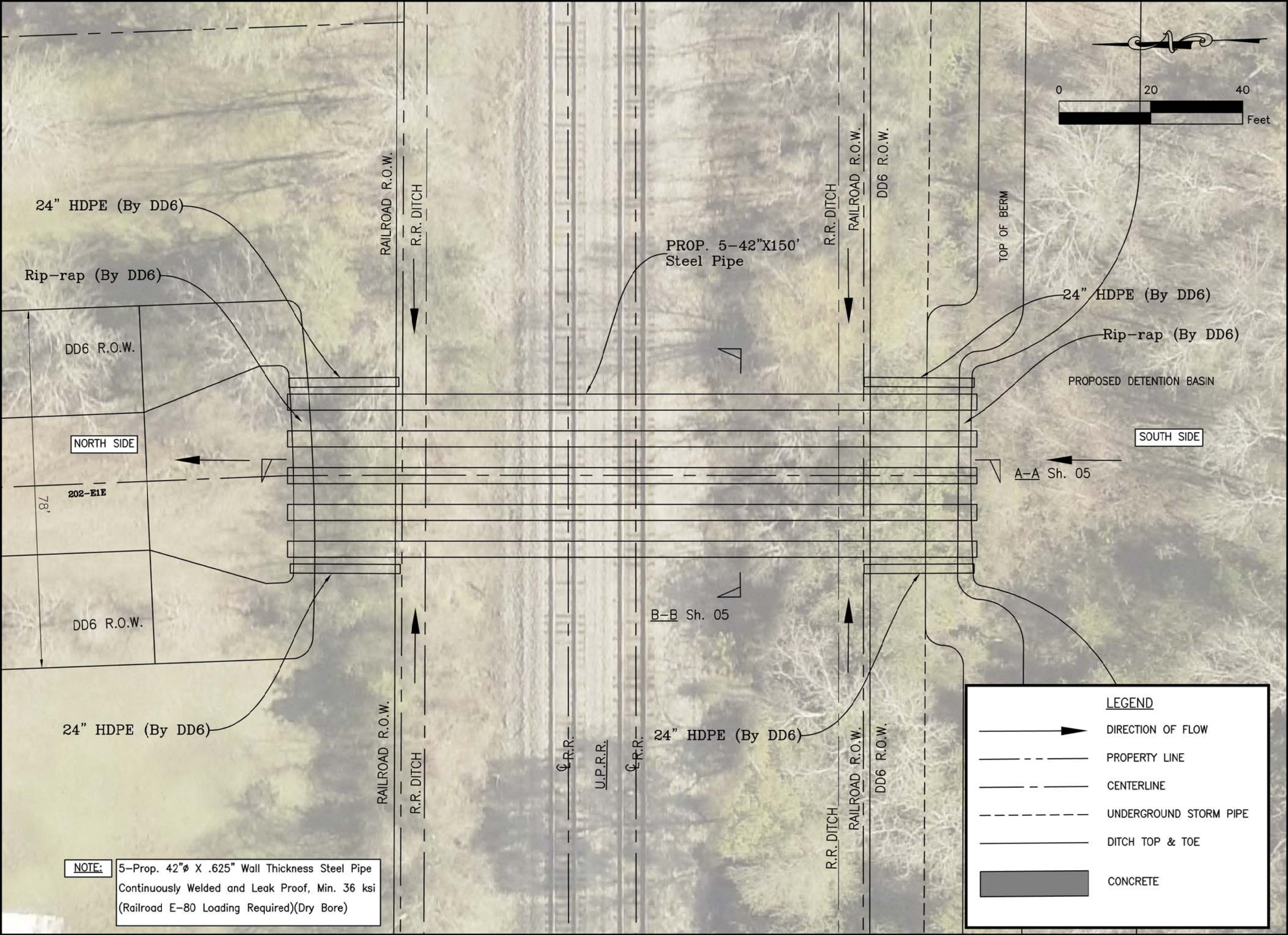
WALLACE R. WILSON

84857

LICENSED PROFESSIONAL ENGINEER

NO.	DATE/DRN	REVISION	APPROV.
6			
5			
4			
3			
2			
1			





PROJECT LOCATION				
CITY	COUNTY	STATE	DITCH NO.	SHEET
BEAUMONT	JEFFERSON	TEXAS		
WATERSHED				
WILLOW MARSH			202-E1E	05

Drainage District No. 6  
Jefferson County, Texas

UPRR PLAN VIEW  
MCLEAN RELIEF PROJECT

WALLACE R. WILSON, P.E. No. 84857

*Wallace R. Wilson P.E.*

DATE 12/15/21

STATE OF TEXAS  
WALLACE R. WILSON  
84857  
LICENSED PROFESSIONAL ENGINEER

NO.	DATE/DRN	REVISION	APPROV.
6			
5			
4			
3			
2			
1			









## PIPELINE CROSSING AGREEMENT

Mile Post: 453.88 to 453.89, Beaumont Subdivision  
Location: Beaumont, Jefferson County, Texas

**THIS AGREEMENT ("Agreement")** is made and entered into as of January 7, 2022, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6**, to be addressed at 6550 Walden Rd, Beaumont, Texas 77707 ("Licensee").

### IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

#### Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate five (5) underground 42 inch uncased steel drainage pipelines for transporting and conveying storm water only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Beaumont, Jefferson County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 3, 2022, attached hereto as **Exhibit A-1, A-2, A-3, A-4, A-5, & A-6** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for five (5) underground 42 inch uncased steel drainage pipelines for transporting and conveying storm water, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

#### Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Twenty Three Thousand Seven Hundred Fifty Dollars (\$23,750.00)**.

#### Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

**Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.**

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

**Article 5. INSURANCE.**

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licenser at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

**Article 6. DEFINITION OF LICENSEE.**

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licenser to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licenser herein.

**Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.**

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licenser to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

**Article 8. WAIVER OF BREACH.**

The waiver by Licenser of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licenser to avail itself of any remedy for any subsequent breach thereof.

**Article 9. ASSIGNMENT.**

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licenser, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licenser's written consent, will be absolutely void and may result in Licenser's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

**Article 10. SEVERABILITY.**

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

**Article 11. NOTICES.**

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company  
Attn: Analyst – Real Estate Utilities (Folder No. 03310-42)  
1400 Douglas Street, MS 1690  
Omaha, Nebraska 68179

If to Licensee: JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6  
6550 Walden Rd  
Beaumont, TX 77707

**Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.**

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

**Railpros Field Services**  
**Email: [RP.Utility@railpros.com](mailto:RP.Utility@railpros.com)**  
**Phone (682)223-5271**


[Signature Page Follows]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.


UNION PACIFIC RAILROAD COMPANY

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

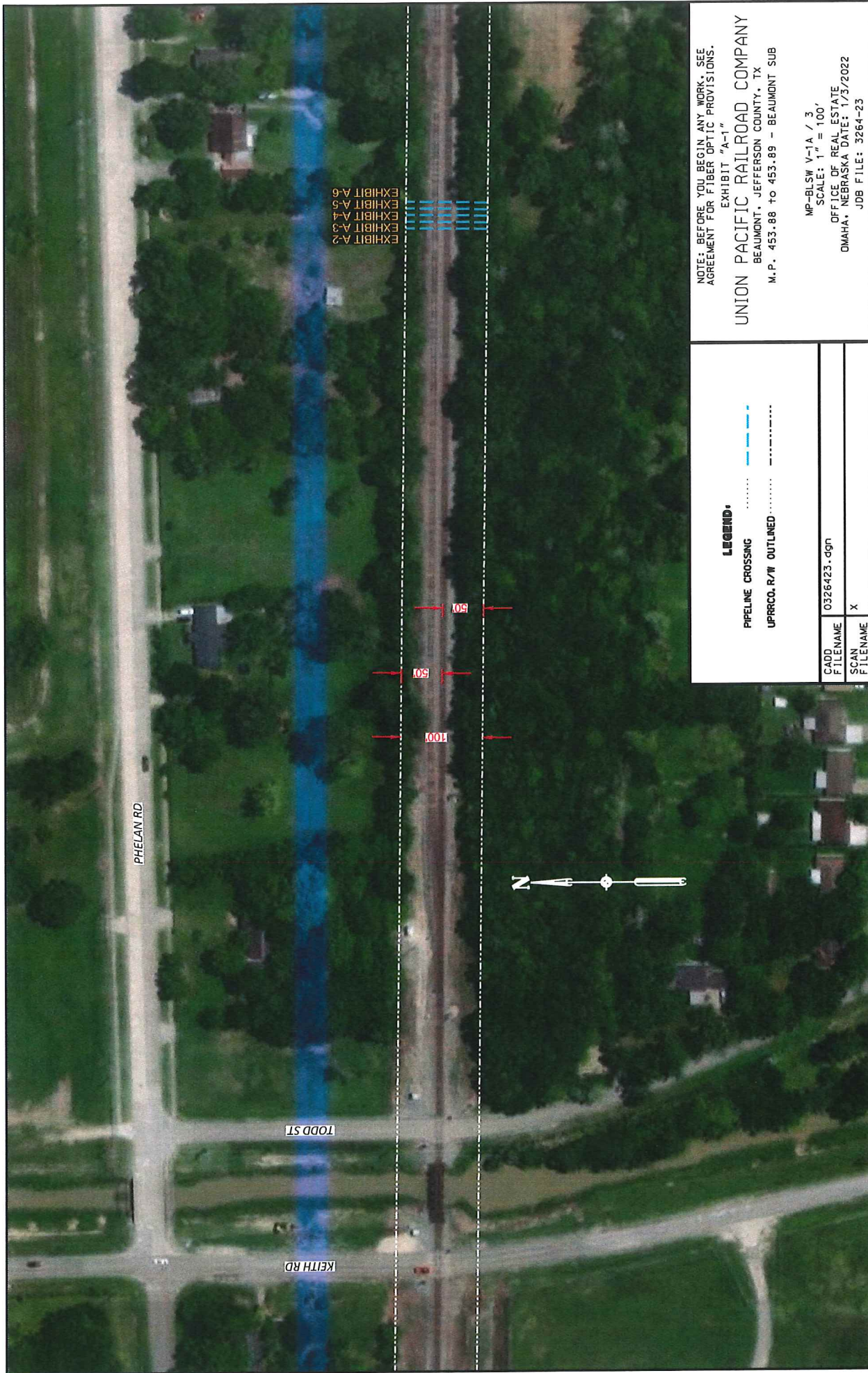
  
Jim Hird  
Director - Real Estate

JEFFERSON COUNTY DRAINAGE  
DISTRICT NO. 6

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

  
Name Printed: Dr. Joseph Majdalani

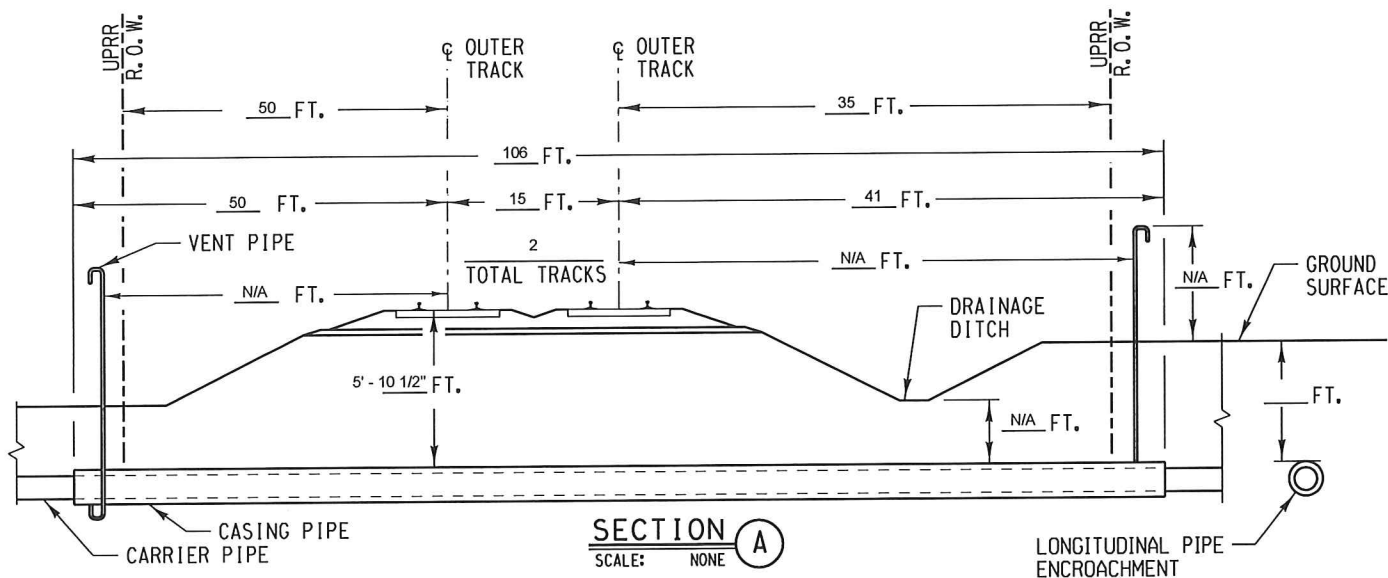
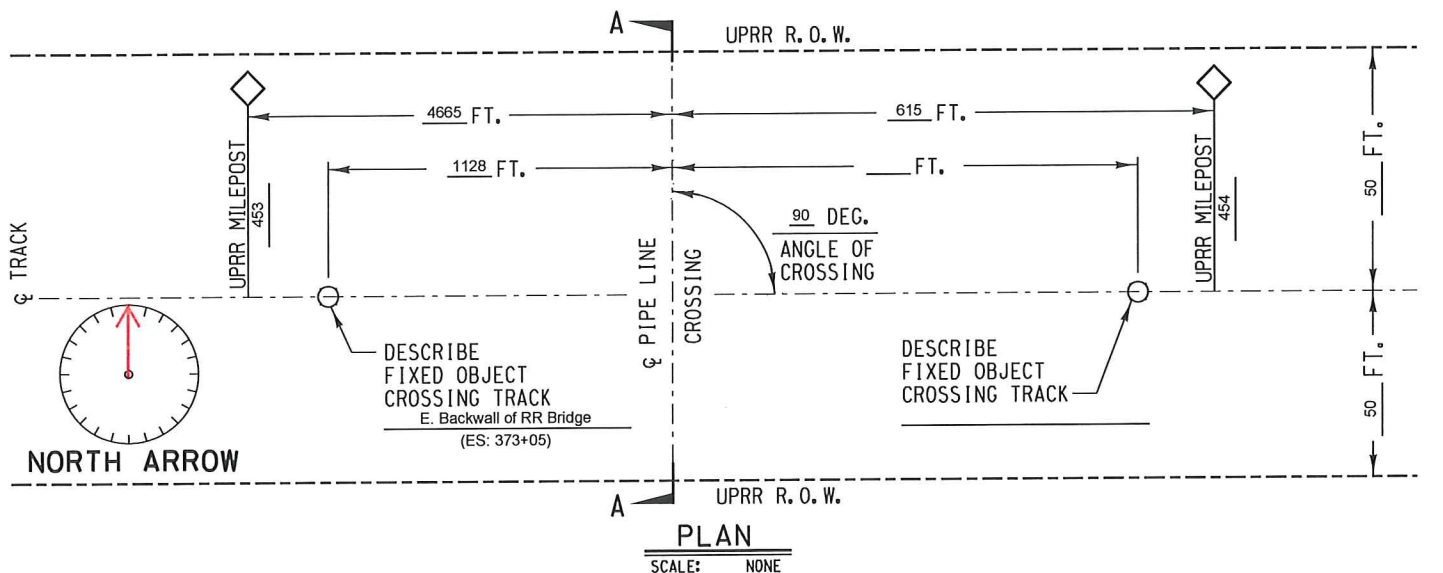
Title: General Manager





# NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING  
☐ ENCROACHMENT  
☐ BOTH



NOTES:  
1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION DRY BORE AND JACK
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT N/A
- C) SIGNS PROVIDED? YES
- D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? N/A.  
COMMODITY TO BE CONVEYED STORM WATER.  
OPERATIONAL PRESSURE 0 PSI. MAOP 400 PSI.  
WALL THICKNESS (INCH)/ SCHEDULE 0.625. DIAMETER 42 IN.  
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL N/A. IF RCP, CLASS V? N/A.  
TOTAL LENGTH CASING PIPE: N/A FT.  
WALL THICKNESS N/A IN. DIAMETER N/A IN.  
CATHODIC/COATING PROTECTION N/A  
CASING PIPE IS N/A AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
50 AND 41.



**BUILDING AMERICA®**

EXHIBIT "A"-2

SUBDIVISION: Beaumont Sub.

TRACK TYPE: MAINLINE

M.P.: 453.88

LAT.: 30°04'32" N

E.S.M.: 361+77 ±

LONG.: 94°12'28" W

NEAREST CITY:  
BEAUMONT

COUNTY:  
JEFFERSON

STATE:  
TX

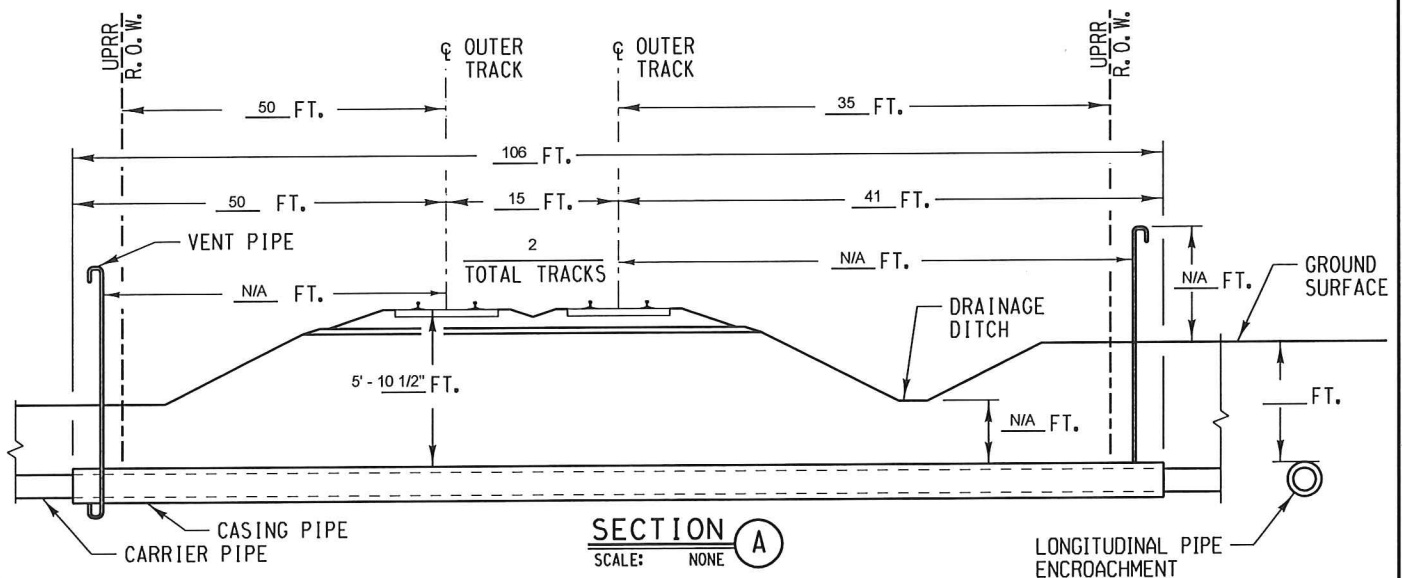
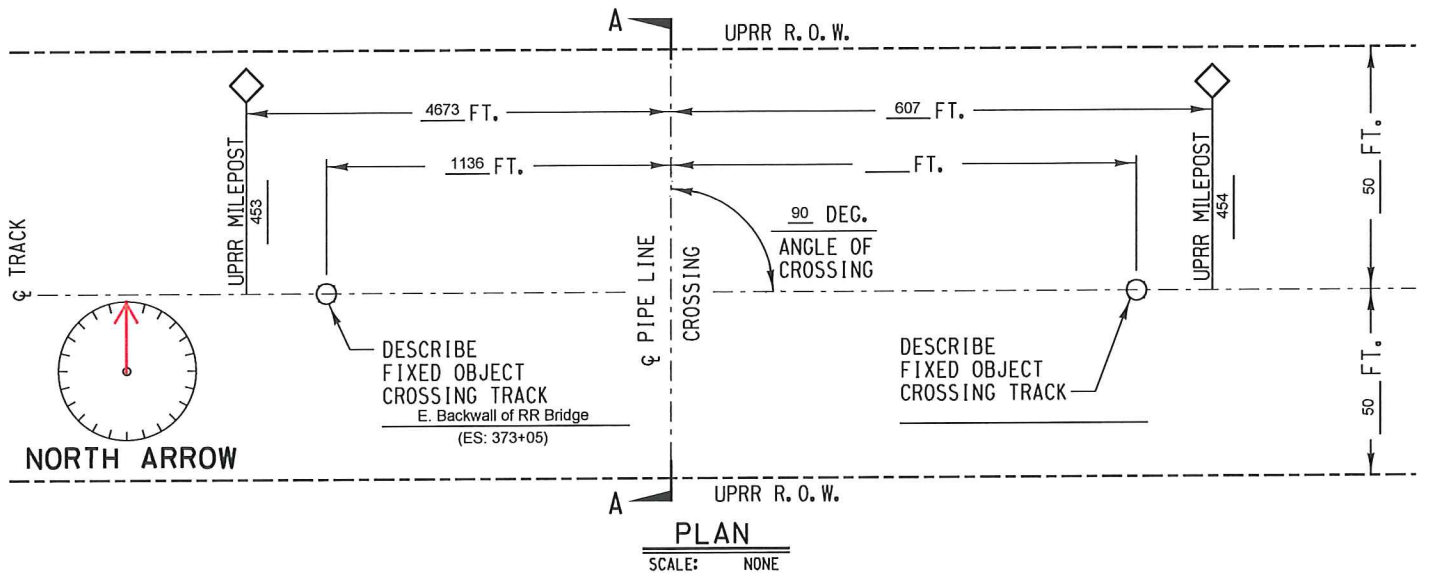
APPLICANT: Jefferson County Drainage District No. 6

FILE NO.: 3264-23

DATE: 1 / 3 / 2022

# NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING  
☐ ENCROACHMENT  
☐ BOTH



NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION DRY BORE AND JACK
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT N/A
- C) SIGNS PROVIDED? YES
- D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? N/A.  
 COMMODITY TO BE CONVEYED STORM WATER.  
 OPERATIONAL PRESSURE 0 PSI. MAOP 400 PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE 0.625. DIAMETER 42 IN.  
 CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL N/A. IF RCP, CLASS V? N/A.  
 TOTAL LENGTH CASING PIPE: N/A FT.  
 WALL THICKNESS N/A IN. DIAMETER N/A IN.  
 CATHODIC/COATING PROTECTION N/A  
 CASING PIPE IS N/A AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
50 AND 41.



**BUILDING AMERICA®**

EXHIBIT "A"-3

SUBDIVISION: Beaumont Sub.

TRACK TYPE: MAINLINE

M.P.: 453.89

LAT.: 30°04'32" N

E.S.M.: 361+69 ±

LONG.: 94°12'28" W

NEAREST CITY:  
BEAUMONT

COUNTY:  
JEFFERSON

STATE:  
TX

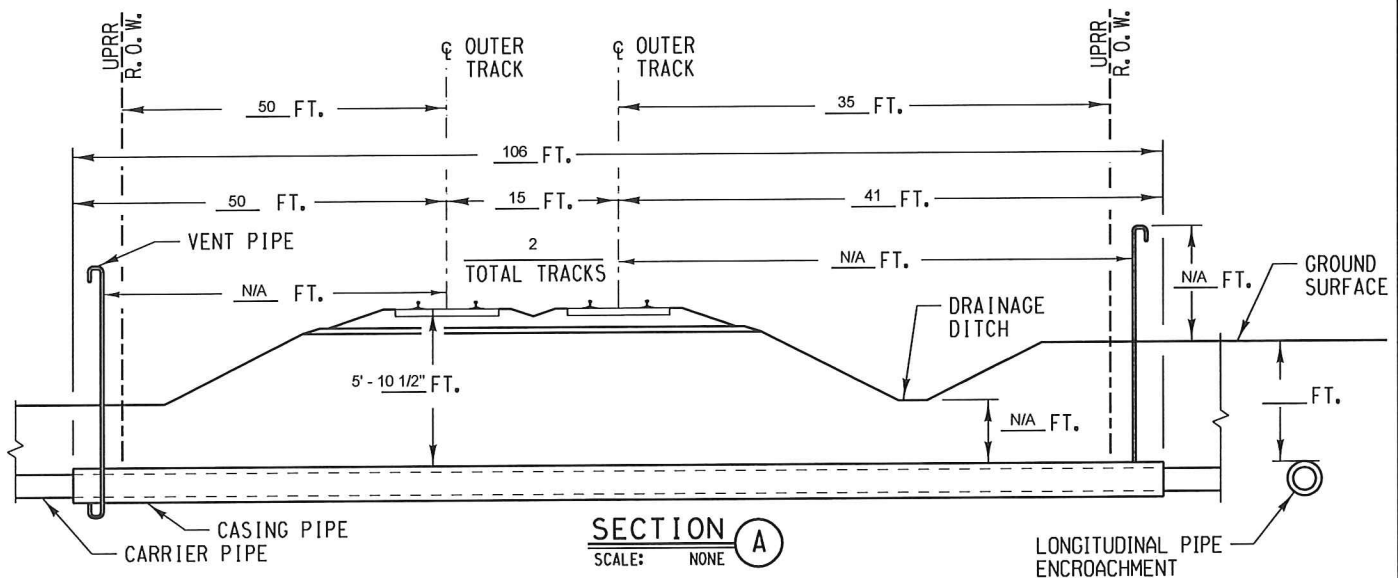
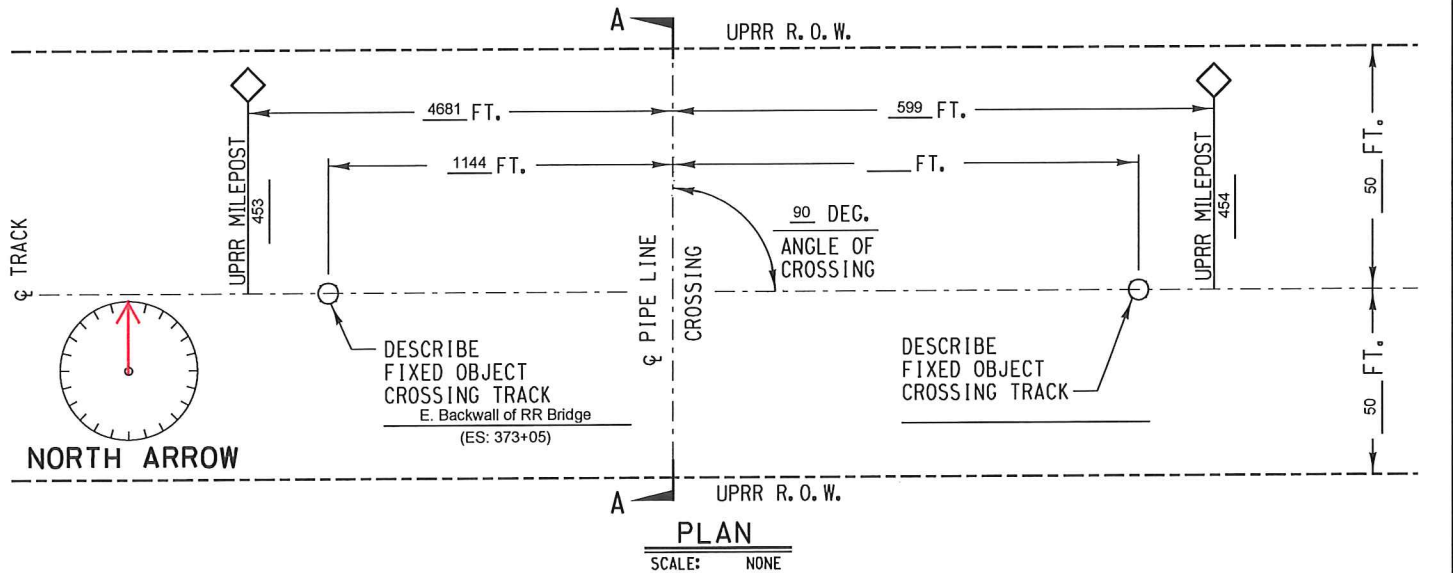
APPLICANT: Jefferson County Drainage District No. 6

FILE NO.: 3264-23

DATE: 1 / 3 / 2022

# NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING  
☐ ENCROACHMENT  
☐ BOTH



NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION DRY BORE AND JACK
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT N/A
- C) SIGNS PROVIDED? YES
- D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? N/A  
 COMMODITY TO BE CONVEYED STORM WATER  
 OPERATIONAL PRESSURE 0 PSI. MAOP 400 PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE 0.625. DIAMETER 42 IN.  
 CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL N/A. IF RCP, CLASS V? N/A  
 TOTAL LENGTH CASING PIPE: N/A FT.  
 WALL THICKNESS N/A IN. DIAMETER N/A IN.  
 CATHODIC/COATING PROTECTION N/A  
 CASING PIPE IS N/A AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
50 AND 41.



**BUILDING AMERICA®**

EXHIBIT "A"-4

SUBDIVISION: Beaumont Sub.

TRACK TYPE: MAINLINE

M.P.: 453.89

LAT.: 30°04'32" N

E.S.M.: 361+61 ±

LONG.: 94°12'28" W

NEAREST CITY:  
BEAUMONT

COUNTY:  
JEFFERSON

STATE:  
TX

APPLICANT: Jefferson County Drainage District No. 6

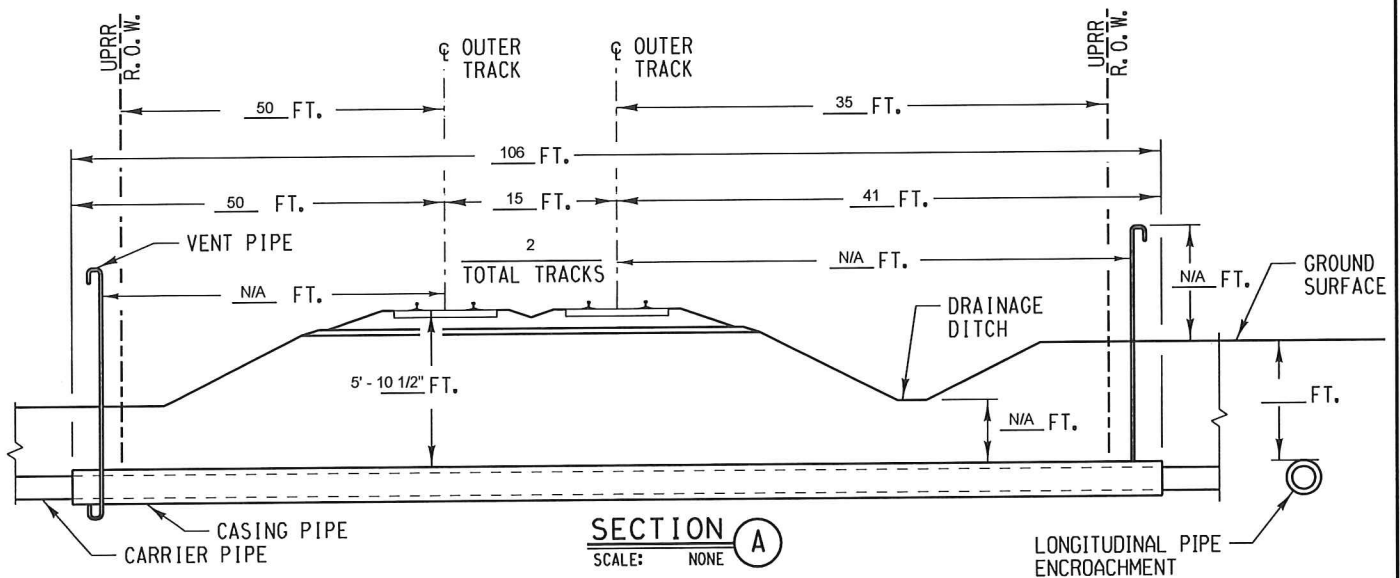
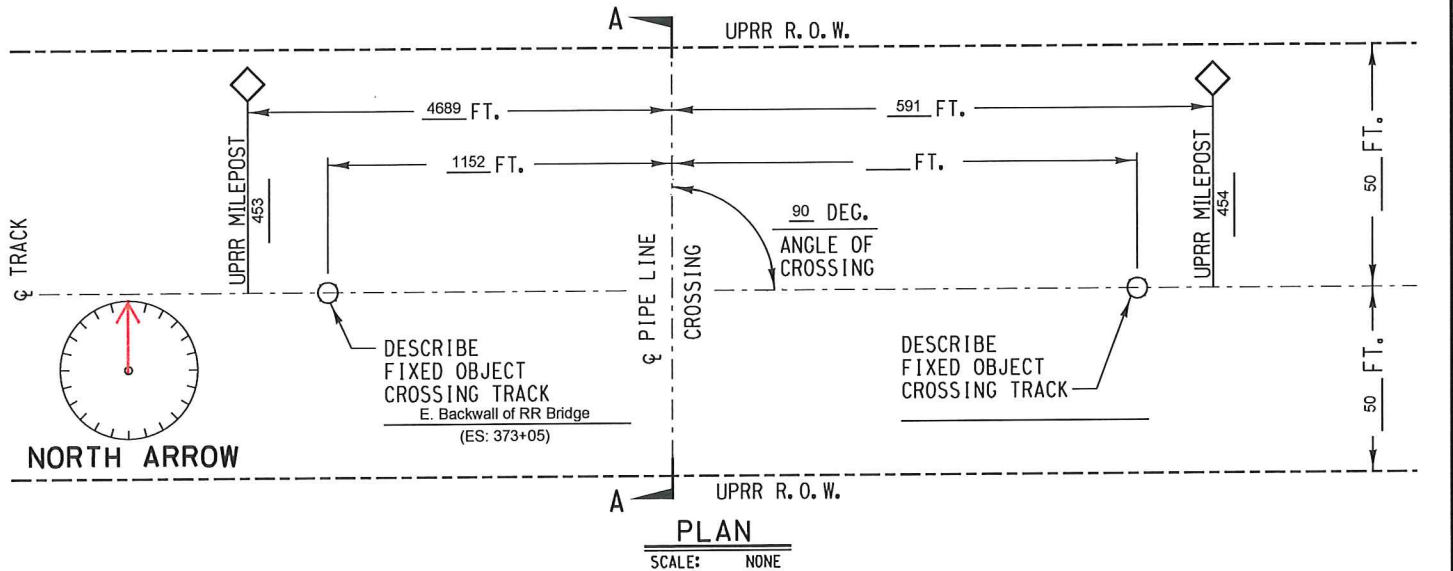
FILE NO.: 3264-23

DATE: 1 / 3 / 2022



# NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING  
☐ ENCROACHMENT  
☐ BOTH



NOTES:  
 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

- A) METHOD OF INSTALLATION DRY BORE AND JACK
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT N/A
- C) SIGNS PROVIDED? YES
- D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? N/A.  
 COMMODITY TO BE CONVEYED STORM WATER.  
 OPERATIONAL PRESSURE 0 PSI. MAOP 400 PSI.  
 WALL THICKNESS (INCH)/ SCHEDULE 0.625. DIAMETER 42 IN.  
 CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL N/A. IF RCP, CLASS V? N/A.  
 TOTAL LENGTH CASING PIPE: N/A FT.  
 WALL THICKNESS N/A IN. DIAMETER N/A IN.  
 CATHODIC/COATING PROTECTION N/A  
 CASING PIPE IS N/A AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
50 AND 41.



**BUILDING AMERICA®**

EXHIBIT "A"-5

SUBDIVISION: Beaumont Sub.

TRACK TYPE: MAINLINE

M.P.: 453.89

LAT.: 30°04'32" N

E.S.M.: 361+53 ±

LONG.: 94°12'28" W

NEAREST CITY:  
BEAUMONT

COUNTY:  
JEFFERSON

STATE:  
TX

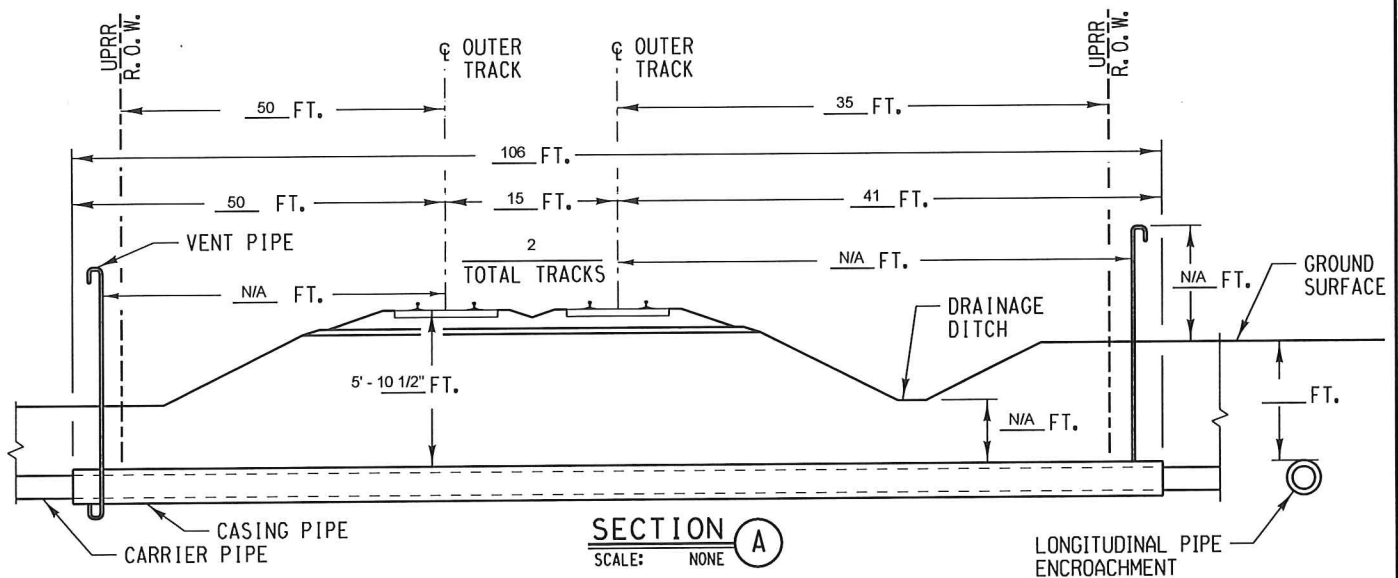
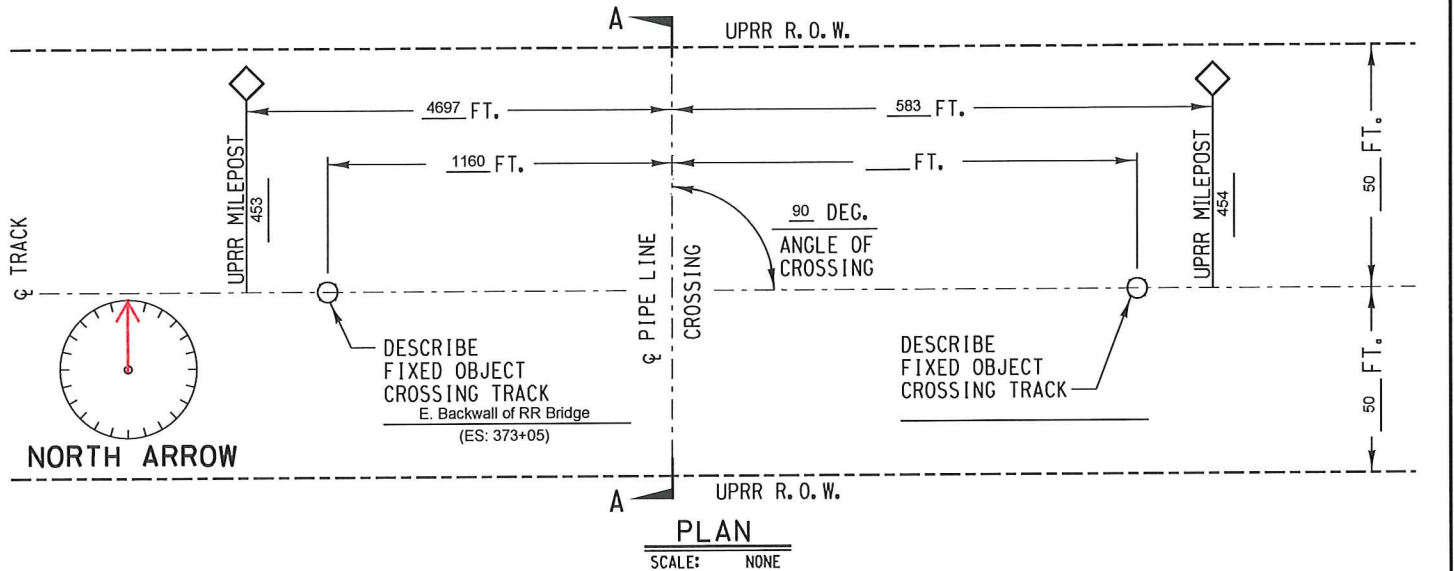
APPLICANT: Jefferson County Drainage District No. 6

FILE NO.: 3264-23

DATE: 1 / 3 / 2022

# NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING  
☐ ENCROACHMENT  
☐ BOTH



NOTES:  
1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.  
2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

A) METHOD OF INSTALLATION DRY BORE AND JACK  
B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT N/A  
C) SIGNS PROVIDED? YES  
D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? N/A  
COMMODITY TO BE CONVEYED STORM WATER  
OPERATIONAL PRESSURE 0 PSI. MAOP 400 PSI.  
WALL THICKNESS (INCH)/ SCHEDULE 0.625. DIAMETER 42 IN.  
CATHODIC/COATING PROTECTION NO  
E) CASING MATERIAL N/A. IF RCP, CLASS V? N/A  
TOTAL LENGTH CASING PIPE: N/A FT.  
WALL THICKNESS N/A IN. DIAMETER N/A IN.  
CATHODIC/COATING PROTECTION N/A  
CASING PIPE IS N/A AT THE ENDS.  
F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES  
50 AND 41.



**BUILDING AMERICA®**

**EXHIBIT "A"-6**

SUBDIVISION: Beaumont Sub.

TRACK TYPE: MAINLINE

M.P.: 453.89

LAT.: 30°04'32" N

E.S.M.: 361+45 ±

LONG.: 94°12'28" W

NEAREST CITY:  
BEAUMONT

COUNTY:  
JEFFERSON

STATE:  
TX

APPLICANT: Jefferson County Drainage District No. 6

FILE NO.: 3264-23

DATE: 1 / 3 / 2022

## **EXHIBIT B**

### **GENERAL TERMS AND CONDITIONS**

#### **Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.**

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensor without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

#### **Section 2. ENGINEERING REQUIREMENTS; PERMITS.**

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensor's satisfaction and in strict conformity with: (i) Licensor's current engineering standards and specifications, including those for shoring and cribbing to protect Licensor's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensor's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

#### **Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.**

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensor's approval, Licensee shall contact both of Licensor's field representatives ("Licensor's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licenser has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licenser's Response Management Communications Center at (888) 877-7267.

#### **Section 4. FLAGGING.**

A. Following Licensee's notice to Licenser's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licenser shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licenser will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licenser, including but not limited to flagging, Licenser shall bill Licensee for such expenses incurred by Licenser, unless Licenser and a federal, state, or local governmental entity have agreed that Licenser is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licenser and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licenser performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licenser and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licenser will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licenser is required to pay the flaggers and which could not reasonably be avoided by Licenser by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licenser to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licenser a minimum of



five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

## **Section 5.     SAFETY.**

A.     Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B.     Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C.     Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D.     Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit**

E.     Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F.     Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.



**Section 6.      PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

**Section 7.      LICENSEE'S PAYMENT OF EXPENSES.**

A.      Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B.      Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C.      As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

**Section 8.      MODIFICATIONS TO LICENSEE'S FACILITIES.**

A.      This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B.      Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline

Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

**Section 9.      RESTORATION OF RAILROAD PROPERTY.**

In the event Licensee, in any manner moves or disturbs any property of Licenser in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licenser's property to the same condition as the same were before such property was moved or disturbed.

**Section 10.    INDEMNITY.**

A.      Definitions. As used in this Section:

1.      "Licenser" includes Licenser, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2.      "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3.      "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B.      Licensee shall release, defend, indemnify, and hold harmless Licenser from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1.      Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licenser, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2.      Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licenser, or any property in the care, custody, or control of Licensee or Licenser;

3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;
7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

**Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.**

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad

Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

## EXHIBIT C

### INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the

additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licenser only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licenser's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

#### **Other Requirements**

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licenser as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licenser as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licenser and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licenser or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licenser from Licensee or any third party will not be limited by the amount of the required insurance coverage.

# **Union Pacific Railroad**

GUIDELINES FOR  
TRACK & GROUND MONITORING



CALL BEFORE YOU DIG  
1-800-336-9193

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# 1. Introduction

## A. Purpose

1. The purpose of these Guidelines is to inform 3<sup>rd</sup> party Applicants, Contractors and others outside of the Railroad of the requirements and standards for the monitoring of track movement, both vertical and horizontal, and ground movement due to surrounding construction.
2. This document governs at all locations where the Railroad operates, regardless of track ownership or track status, either active or out of service.

## 2. Track and Ground Monitoring

### A. General track and ground monitoring requirements

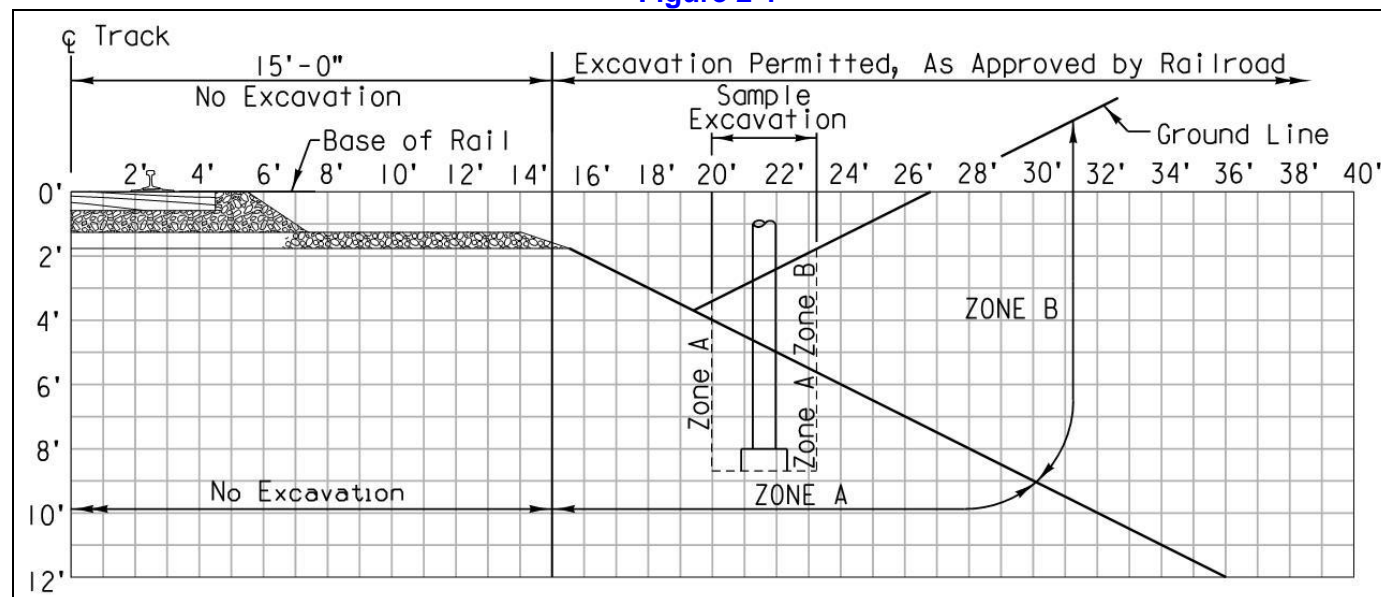
1. Track and ground monitoring are required for any of the following three conditions:
  - i. For crossings with pipe diameter and depth (below base of rail) as shown below in [Table 2-1](#).
  - ii. For shoring within Zone A of any track, as shown below in [Figure 2-1](#).
  - iii. Additional monitoring may be required by the Railroad on a case by case basis.
2. Monitoring schedule
  - i. Monitoring shall commence once any construction activity is within Zone A. See [Figure 2-1](#).
  - ii. Monitoring shall continue, after installation is complete, for 7 days or as required by the Railroad.
    - a. For large and/or shallow pipeline installations monitoring may be required for up to 30 days.
3. General requirements
  - i. Temporary lighting may also be required by the Railroad to identify tripping hazards to train crewmen and other Railroad personnel.
  - ii. Any excavation, holes or trenches on the Railroad property shall be covered, guarded and/or protected. Handrails, fence, or other barrier methods must meet OSHA and FRA requirements.

**Table 2-1**

Depth, feet (below base of rail)	<=6	<=12	<=18	<=24	<=30	<=36	<=42	<=48	<=54	<=60	>60
<=5	X	X	X	X	X	X	X	X	X	X	X
<=10	X	X	X	X	X	X	X	X	X	X	X
<=15	X	X	X	X	X	X	X	X	X	X	X
<=20			X	X	X	X	X	X	X	X	X
<=25					X	X	X	X	X	X	X
<=30								X	X	X	X
>30										X	X

X = Monitoring is required

**Figure 2-1**



## **B. Track Monitoring**

1. Track Deflection Limits
  - i. The top of rail shall not permanently deflect more than ¼ inch vertical or horizontal. This is not an “allowable” deflection. All estimated deflection should be eliminated to the greatest extent possible prior to construction.
2. Targets
  - i. Track monitoring shall not require track access other than to place the track monitoring targets.
  - ii. Monitoring targets should be placed such that monitoring is possible when a train is present. However, monitoring during the passing of a train is not required as the train will temporarily deflect the track.
  - iii. Adhesive backed reflective targets may be attached to the side of the rail temporarily. Targets should be removed once monitoring phase is complete.
  - iv. Note, there are normal and temporary vertical track deflections caused by the passage of a train which should be noted and established prior to construction.
3. Monitoring Plan
  - i. If the top of rail does deflect more than 1/4 inch, either vertical or horizontal, all operations shall stop until the matter is resolved.
  - ii. Provide established contingency plan, [See Section 2.D](#), in the event of ground loss and/or the rail deviates ¼ inch vertical or horizontal.
  - iii. Establish a bench mark in the vicinity of the construction. Establish locations for shooting elevations on the top of rail at each area of construction.
    - a. Example locations for shooting rail elevations would be at:
      - At the centerline of an under track crossing.
      - At both outside edges of the crossing. ie. For a wide excavation.
      - At multiple locations from the crossing/excavation edge but no less than 10, 20, 30, 40 and 50 feet from the crossing.
  - iv. Monitoring shall be continuous and recorded in a field log book dedicated for this purpose. Copies of these field log entries can be made available to all concerned parties upon request at any time during construction.

## **C. Ground Monitoring**

1. Provide means for monitoring ground settlement. Submit monitoring plan for Railroad review.
2. Ground monitoring points should be in alignment above the proposed construction activities.

## **D. Contingency Plans**

1. The Contractor shall supply Contingency Plan(s), which anticipate reaching the Threshold and Shutdown values, for all construction activities which may result in horizontal and/or vertical track deflection.
  - i. Track monitoring values:
    - a. Threshold value = 1/8 inch permanent vertical or horizontal deflection
    - b. Shutdown value = 1/4 inch permanent vertical or horizontal deflection
2. The Contingency Plans shall provide means and methods, with options if necessary.
3. The Contractor should anticipate the need to implement each Contingency Plan with required materials, equipment and personnel.
  - i. Once the Threshold value is met, the contractor shall determine the appropriate Contingency Plan(s) and immediately discuss this plan with, and receive approval confirmation from, the Railroad or authorized Railroad representative.
  - ii. Once the Shutdown value is met all project work shall stop and the chosen Contingency Plan shall commence.
    - a. The Railroad may choose to allow and/or require the immediate implementation of specific approved Contingency Plans, submitted by the Contractor, once the Shutdown value is met.

### 3. Excavation Requirements

#### A. Shoring Design

1. For temporary earth retention design requirements on the Right-of-Way, see the Railroad Guidelines for Temporary Shoring. [http://www.up.com/real\\_estate/roadxing/industry/index.htm](http://www.up.com/real_estate/roadxing/industry/index.htm)

#### B. Excavation Safety

1. Guardrails
  - i. Guardrails shall be provided to surround unattended excavations on Railroad Right-of-Way per OSHA Standard Number 1926.502 as follows:
    - a. The guardrail height shall be at least 42 inches above the walking surface.
    - b. The smallest dimension for openings in the guardrail shall be no greater than 19 inches.
    - c. Guardrail systems shall be capable of withstanding, without failure, a force of at least 200 pounds applied within 2 inches of the top edge, in any outward or downward direction, at any point along the top edge of the guardrail.

## 4. Glossary

**Applicant:** Any party proposing to install a new, and/or abandon existing, pipelines or Wirelines on Railroad right-of-way or other Railroad operating location, regardless of track being active or out of service. This includes any contractor, employee or consultant hired by said party.

**Call Before You Dig:** A Union Pacific Railroad 24-hr by 7-day communication center to assist in protecting, documenting and notifying callers of other utilities installed within the Railroad right-of-way.

**1-800-336-9193**

**Crossing:** Refers to a Utility which is crossing the Railroad track(s).

**Carrier Pipe:** Pipe used to transport the product.

**Casing Pipe:** Pipe through which the carrier pipe is installed.

**Cover:** Distance from either the base of rail or finished grade to the top of Pipeline or Wireline.

**Encroachment:** Utilities on Railroad right-of-way which are generally oriented parallel with Railroad right-of-way and/or track.

**Centerline of Track:** An imaginary line, that runs down the center of the two rails of a track.

**Construction Documents:** Design plans and calculations, project and/or standard specifications, geotechnical report and drainage report.

**Construction Window:** A timeframe in which construction or maintenance can be performed by the Contractor with the required presence of a Flagman.

**Contractor:** The individual, partnership, corporation or joint venture and all principals and representatives (including Applicant's subcontractors) with whom the contract is made by the Applicant for the construction of the Grade Separation Project.

**Facility:** Refers to the Applicant's pipeline, wireline, poles, manholes, handholes, splice boxes, storage tanks and other such structures which exist as part of the Applicant's infrastructure.

**Flagman (Flagging):** A qualified employee of the Railroad providing protection to and from Railroad operations per Railroad requirements.

**Guidelines:** Information contained in this document.

**Industry Track:** A secondary track designed to allow access to industries along the main track.

**Main Track:** A principle track, designated by Timetable or special instructions, upon which train movements are generally authorized and controlled by the train dispatcher. Main Track must not be occupied without proper authority.

**Railroad Load:** Cooper E-80 loading.

**Railroad:** Refers to Union Pacific Railroad.

**Railroad Manager of Track Maintenance (MTM):** Railroad representative responsible for maintenance of the track and supporting subgrade.

**Right-of-Entry Agreement:** An agreement between the Railroad and an Applicant or a Contractor allowing access to Railroad property.

**Right-of-Way:** The private property limits owned by the Railroad.

**Tracks:** The rails, ties and ballast and roadbed that compose the traveling surface used by trains.

**Utility:** Refers to a pipeline or wireline.

**Wireline:** Refers to electric power and communication utility systems including, but not limited to, all associated conductors, cables, support structures, and equipment.

## Customer Project Information Sheet

Project Information:	
Please fill in each cell for processing	
UPRR Agreement Folder Number (example 1234-56):	
Estimated Start Date for Construction On, Under, or Above UPRR ROW:	
Estimated Duration (in days) for RailPros Flagger (CIC):	
Estimated Duration (in days) for RailPros Observer:	
Estimated Work Schedule (example Mon. – Sat.):	
Daily Start Time / End Time (example 0700 to 1700 etc.):	
Field Contact Person(s):	
Mobile Phone Number(s):	
Email Address(s):	
Project's Location (City / State):	
Railroad Subdivision:	
Railroad Mile Post (MP):	
Project Description (example HDD, Jack and Bore, Encroachment, Underground or Overhead Pipeline / Wireline crossing, etc.):	
Will any type of equipment be used?	
If Yes, what type of equipment will be used?	
How close will the equipment be to the tracks (in feet)?	
If instructed by the Railroad, have all the on-site personnel completed the Railroad Safety Training?	
"Safety is Union Pacific's #1 priority and extends to all who come on Union Pacific properties." Union Pacific Property Access Training (UP-PAT) can be found here:	

By checking this box, I acknowledge that if any ground will be disturbed or excavated upon UPRR property, that I will comply with UPRR Specifications and contact the local UPRR representatives (MTM and/or MSM), in accordance with my UPRR Agreement.

I acknowledge

Additional Comments:

--

## Customer Billing Information Sheet

### Billing Information (Responsible Party):

Please fill in each cell for processing

Company Name:		
Contact Name:		
Street Address:		
City / State / Zip Code:		
Phone Number:		
Contact Name Email Address:		
Do you need a W-9?		
How would you like to receive the RailPros Invoice(s)?		
If Other, please explain and give directions for use:		
Internal PO # to be listed on RailPros Invoices:		

### Company Information (if different than above):

Company Name:		
Contact Name / Email Address:		
Phone Number:		
Street Address:		
City / State / Zip Code:		

### Prevailing Wage (PW) Information:

If the project scope of work falls under PW requirements, please review RailPros position statement on our services before completing the Prevailing Wage selection.

If you select yes, please complete the portion below and email the supporting documentation that details the PW requirements for the County the work will take in (the documents are required for reference):

PW Project Name:		
PW Project Number:		
PW City / County / State:		

### Prevailing Wage (PW) Certified Payroll Information:

Contact Name:		
Phone Number:		
Email Address:		

Additional Comments:

--

# WORK PLAN

Union Pacific Railroad Folder Number:

Date Submitted to RailPros Field Services:

## Work Plan Directions:

This project has been identified by Union Pacific Railroad (UPRR) as requiring third party construction observation. RailPros will be providing the Construction Observation services for this project and is here to assist in moving this project to completion.

The Union Pacific Railroad Real Estate Agreement outlines the requirements and standards for this installation. This work plan describes the specific details of the project, in terms of the site layout, schedule, means and methods, and general requirements, to ensure compliance with the agreement. This work plan, once released, is the basis that the Construction Observer will assess the work. Any field changes from the work plan shall be submitted via email to [utilities.office.staff@railpros.com](mailto:utilities.office.staff@railpros.com) for review and must meet or exceed UPRR and/or AREMA standards.

Work Plan Submittal Check List: **(Please check off all requirements in list, or strike through text if item is not required)**

**1. Engineering Plan and Profile (Exhibit A does not qualify):**

- a. Mark locations of launch and receiving locations.
- b. Dimension the distances from the centerline of track and any existing utilities.
- c. Dimension depth of excavation.
- d. Railroad right of way and railroad tracks clearly outlined

**2. Track Monitoring Plan (if required):**

- a. See attached Track Monitoring Guideline (pdf)

**3. HDD Installations Only:**

- a. Inadvertent Return Contingency Plan (Frac-Out Plan)
- b. HDD Plan Requirements

**4. Shoring Plan Only for excavation within UPRR property and Zone A or Zone B:**

- a. Calculations for shoring within zone a.
- b. Cut sheets for proprietary systems as applicable.
- c. Description of shoring to include but is not limited to:
- d. Exploration (pot holing)
- e. Demolition
- f. Excavation
- g. Fall protection/confined space entry
- h. Work process
- i. Backfill
- j. Close-out
- k. Contingencies which include weather events and hazmat
- l. Reference the following link to assure compliance.

[https://www.up.com/cs/groups/public/@uprr/@customers/@industrialdevelopment/@operationsspecs/@specifications/documents/up\\_pdf\\_nativedocs/pdf\\_up\\_str\\_temp-shoring.pdf](https://www.up.com/cs/groups/public/@uprr/@customers/@industrialdevelopment/@operationsspecs/@specifications/documents/up_pdf_nativedocs/pdf_up_str_temp-shoring.pdf)

## Prime Contractor Contact Name:

Email Address:

Phone Number:

Note: The field contact will be asked to sign the daily report to verify hours.

## Sub-Contractor (if performing the installation) Contact Name:

Email Address:

Phone Number:

Note: The field contact will be asked to sign the daily report to verify hours.

## Project Information

Item	Response	Item	Response
Lat/Long (Decimal Form)		Number of Tracks	
Method of Installation (HDD, Jack and Bore, Etc.)		Casing Pipe Length	
Depth from top of pipe to base of rail		Casing Pipe Type	
Distance from face of receiving pit to Nearest Track CL		Casing Pipe Diameter	
Distance from face of jacking pit to Nearest Track CL		Casing Pipe Thickness	
Excavation depth of jacking pit from base of rail		Carrier Pipe Type	
Excavation depth of receiving pit from base of rail		Carrier Pipe Diameter	
Estimated Start Date		Carrier Pipe Thickness	
Estimated Project Duration (on, under, or above UPRR property)		Is the crossing within a roadway?	
Will there be hot work within UPRR ROW? (welding, open flame, cutting, etc.)		Will there be abandonment work within UPRR ROW?	

<b>Description of Work:</b> Provide a description of Means and Methods the contractor will use to complete the authorized work on, under, or above UPRR property. Excavation or potholing within 15 feet of track centerline is not acceptable, unless approved by UPRR Engineering.	
Equipment:	Machine Make & Model:
Description of Process: 1. 2. 3. 4. 5. 6. 7. 8.  <p style="text-align: center;"><b>Please review the following link to ensure compliance with all UPRR PPE Requirements.</b></p> <p style="text-align: center;"><a href="https://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_natedocs/pdf_up_supplier_safety_req.pdf">https://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_natedocs/pdf_up_supplier_safety_req.pdf</a></p>	

<b>Track Monitoring:</b> Track Monitoring Plan is required in accordance with the UPRR Track Monitoring Guideline (attached). If work is occurring in more than one (1) shift, Track Monitoring is required during all shifts. Send track monitoring data to <a href="mailto:utilities.office.staff@railpros.com">utilities.office.staff@railpros.com</a> .	
Survey Company:	
Name of Surveyor:	Instrument:
<b>Will you be using adhesive targets for the track monitoring? Yes or No</b>	
Description of Process: 1. 2. 3. 4. 5. 6. 7. 8.  <p style="text-align: center;"><b>Please review the following link to ensure compliance with all UPRR PPE Requirements.</b></p> <p style="text-align: center;"><a href="https://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_natedocs/pdf_up_supplier_safety_req.pdf">https://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_natedocs/pdf_up_supplier_safety_req.pdf</a></p>	