

CITY OF SUGAR LAND
STANDARD CONTRACT FOR CIVIL ENGINEERING CONSTRUCTION PROJECTS
(Not For Building Construction Projects)
(Rev. 8-13-24)

This City of Sugar Land Standard Contract for Civil Engineering Construction Projects (Contract) is made between the City of Sugar Land, Texas (City), and the Contractor. The City and the Contractor agree to the terms and conditions of this Contract, which consists of the following

- I. Signatures
- II. Summary of Contract Terms
- III. Standard Contractual Provisions
- IV. Contract Documents

I. Signatures. By signing below, the parties agree to the terms of this Contract:

CITY OF SUGAR LAND

By:

Name:

Title:

Date:

CONTRACTOR: McDonald Municipal and Industrial -
A Division of C. F. McDonald Electric, Inc.

By:

Name: Wayne Berkenmeier
Title: Vice President Special Projects

Date: 01/15/25

II. Summary of Contract Terms.

Project: Replacement of MCCs at Woodchester Water Plant and Sugar Creek Water Well, CWA2305

Contractor: C.F. McDonald Electric, Inc.

Name of Engineering Firm, if any:

Name of Owner's Project Manager: Sagnik Raha

Base Bid: \$1,090,469.00

Alternate Bid Item Nos.: Bid Allowance \$96,000.00; Alternate Bid Items \$12,000.00

Total Alternate Bid Items Amount: \$108,000.00

Contract Price (Base Bid + Alternates): \$1,198,469.00, as may be adjusted by Change Orders

Effective Date of Contract: On the latest date of the dates executed by both parties

Date to Begin Work: Date specified in Notice to Proceed

Substantial Completion: Contractor must achieve Substantial Completion within 680 Calendar Days from date specified in Notice to Proceed, as the time may be adjusted by Change Order

Final Completion: Contractor must complete the Punch List within 30 Calendar Days from Substantial Completion

Liquidated Damage Amount for Failure to Meet Time for Substantial Completion: \$250 per Calendar Day

Liquidated Damage Amount for Failure to Complete Punch List Items by Time for Final Completion: \$50 per Calendar Day

III. Standard Contractual Provisions.

A. Definitions.

Contract means this Standard Contract for Civil Engineering Construction Projects, comprised of the:

- (1) Signatures (Section I);
- (2) Summary of Contract Terms (Section II);
- (3) Standard Contractual Provisions s (Section III); and
- (4) Contract Document (listed in Section IV).

Project means the project identified in Section II above.

Work means all labor, materials, equipment, and services necessary to construct, erect, install, equip, and complete the Project.

B. Work. The Contractor will complete the Work according to the Contract requirements.

C. Payment. Subject to the terms of the Contract, the City will pay the Contractor the sum(s) as shown in Section II above plus any additional sums approved by change order. The Contractor will bill the City for the services provided at intervals of at least thirty (30) calendar days, except for the final billing. The Contractor must bill or invoice the City within thirty (30) calendar days from the date of service and submit the final invoice no later than thirty (30) calendar days from the Contract termination or expiration date. The City is not responsible or liable for payment of any invoice submitted to the City more than sixty (60) calendar days after the date in which the services were rendered or for any work which is unsatisfactory to the City. The City will pay the Contractor for the services provided for in this Contract with current revenues available to the City, but all of the City's payments to the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to other requirements of this Contract and Chapter 2251 of the Texas Government Code. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). The City will return all invoices containing errors to the Contractor with an explanation of the deficiency. The City will not pay the Contractor for any costs or expenditures that are not included in the scope of work or a change order under the Contract. If the City determines that the Contractor has been overpaid, the Contractor must refund the overpayment to the City within thirty (30) calendar days of the receipt of the notice from the City unless an alternate payment plan is specified by the City.

D. Law Governing and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Fort Bend County, Texas.

E. Entire Contract. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

F. Independent Contractor. Contractor will perform the Work under this Contract as an independent contractor and not as an employee of the City. The City has no right to supervise, direct, or control the Contractor or Contractor's officers or employees in the means, methods, or details of the Work to be performed by Contractor under this Contract. The Contractor will perform the Work in a workmanlike manner and take proper care and precautions to insure the safety of Contractor's officers, employees, and agents.

G. Labor Classification and Minimum Wage Scale. The Contractor must comply with Chapter 2258 of the Texas Government Code. This statute, among other things, requires all contractors and subcontractors performing public works contracts for a municipality to:

- (1) Pay the prevailing wage rate as determined by the municipality, a copy of which is attached as the Labor Classification and Minimum Wage Scale;
- (2) Keep records of the name and occupation of each worker, laborer and mechanic employed by them to work on the Project and the actual per diem wages paid to each; and
- (3) Forfeit, as a penalty, sixty dollars per day for each laborer, worker, or mechanic who is not paid the stipulated wage for the type of work performed by him as shown in the attached Labor Classification and Minimum Wage Scale. The City is authorized to withhold the penalty amount from the Contractor's payment, as provided in the statute.

H. Compliance with Laws. The Contractor will comply with all laws and regulations applicable to its business operations and the Work. The Contractor represents that it has complied with the federal immigration and citizenship laws.

I. Severability. The provisions of this Agreement are severable and the invalidity of any part of this Agreement will not affect the validity of the remainder of this Agreement.

J. Cumulative Remedies. The rights and remedies provided in this Contract, or otherwise under applicable laws, shall be cumulative and the exercise of any particular right or remedy shall not preclude the exercise of any other right or remedies in addition to, or as an alternate of, the right or remedy.

K. Compliance with CenterPoint Houston Electric, LLC's Tariff. The Contractor must comply with CenterPoint Houston Electric, LLC's or its successor's (CenterPoint) most current tariff filed with the Texas Public Utility Commission. If electrical facilities are installed that require indemnity under the tariff, **CONTRACTOR ASSUMES THE RISK OF AND SHALL INDEMNIFY THE CITY, CENTERPOINT HOUSTON ELECTRIC, LLC (CENTERPOINT), THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AGAINST DAMAGES FOR INJURIES OR DEATH TO PERSONS OR LOSS TO THE CITY OF SUGAR LAND'S (CITY) PROPERTY OR TO PROPERTY OF CENTERPOINT WHEN OCCASIONED BY ACTIVITIES OF THE CITY, CONTRACTOR, OR THIRD PARTIES ON THE CITY'S PREMISES, RESULTING FROM THE INSTALLATION, EXISTENCE, REPLACEMENT OR REPAIR OF CENTERPOINT'S UNDERGROUND FACILITIES, AND AS FURTHER PROVIDED IN THE TERMS OF "LIMITS ON LIABILITY", SECTION 5.2 OF CENTERPOINT'S TARIFF.**

L. Railroad Requirements. If this Project involves work on or use of Union Pacific Railroad Company's property, whether through construction of an at-grade crossing, installation of utilities, or other City use, the Contractor must comply with the Railroad's requirements, the City's agreement with the Railroad, and the applicable federal, state and local laws regulations and enactment affecting the Work. **ALSO, CONTRACTOR RELEASES, DEFENDS AND INDEMNIFIES UNION PACIFIC RAILROAD COMPANY (RAILROAD) AND THE CITY FROM AND AGAINST ANY LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, COST, OR EXPENSE INCURRED BY ANY PERSON, INCLUDING, WITHOUT LIMITATION, THE CONTRACTOR'S AND THE CITY OF SUGAR LAND'S PROPERTY OR EQUIPMENT (COLLECTIVELY, THE "LOSS") THAT ARISES FROM THE PRESENCE OR ACTIVITIES OF CONTRACTOR'S AND CITY'S EMPLOYEES ON RAILROAD'S PROPERTY, EXCEPT TO THE EXTENT THAT ANY LOSS IS CAUSED BY THE SOLE DIRECT NEGLIGENCE OF THE CITY OR THE RAILROAD.FURTHER. IF THE CONTRACTOR'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ENACTMENTS, RESULTS IN ANY FINE, COST OR CHARGE BEING ASSESSED, IMPOSED OR CHARGED AGAINST THE CITY OR THE RAILROAD, THE CONTRACTOR SHALL REIMBURSE AND INDEMNIFY THE CITY OR RAILROAD FOR ANY SUCH FINE, PENALTY, COST, OR CHARGE, INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS AND EXPENSES. UPON THE RAILROAD'S OR CITY'S NOTICE OF ANY SUCH ACTION BEING PROVIDED BY THE RAILROAD OR THE CITY, THE CONTRACTOR AGREES TO DEFEND SUCH ACTION FREE OF COST, CHARGE OR EXPENSE TO THE CITY OR THE RAILROAD.**

M. Disclosure of Interested Persons for Council-Approved Contracts. Contracts that require City Council approval, such as contracts that exceed \$50,000, are subject to the requirements of Section 2252.908, Tex Gov't Code. Under the provisions of this statute:

(1) The City may not enter into a contract with a business entity that requires Council approval unless the business entity submits a disclosure of interested persons at the time the business entity submits a signed contract to the City;

(2) A disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (Commission) that includes:

(a) A list of each interested party for the contract of which the contractor business entity is aware, an interested party being a person who has a controlling interest in the business entity or who actively participates in facilitating or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity; and

(b) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

The Commission has approved a Certificate of Interested Persons form, which must be filled out, signed and notarized by the Contractor and submitted to the City at the time of execution of this Contract, along with the certification of filing generated from the Commission's website at <https://www.ethics.state.tx.us/filinginfo/1295/>. The Certificate of Interested Persons form is available on the Commission's website and the Contractor must follow the Commission's filing process adopted pursuant to the statute. The Contractor's notarized Certificate of Interested Persons and certification of filing are attached to this Contract.

N. Prohibition on Contracts with Companies Boycotting Israel. Certain contracts for goods and services are subject to the requirements of Section 2271.002, Tex Gov't Code (H.B. 89, as amended by H.B. 793). Specifically, contracts for good and services that:

- (1) are between the City and a company with ten (10) or more full time employees; and
- (2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

O. Prohibition on Contracts with Companies Boycotting Certain Energy Companies. Certain contracts for goods and services are subject to the requirements of Section 2276.002, Tex. Gov't Code (S.B. 13). Specifically, contracts for good and services that:

- (1) are between the City and a company with ten (10) or more full time employees; and
- (2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

- (1) does not boycott energy companies; and
- (2) will not boycott energy companies during the term of the contract.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

P. Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries. Certain contracts for goods and services are subject to the requirements of Section 2274.002, Tex. Gov't Code (S.B. 19). Specifically, contracts for good and services that:

- (1) are between the City and a company with ten (10) or more full time employees; and
- (2) have a value of \$100,000.00 or more that is to be paid wholly or partly from public funds of the City.

Under the provisions of this statute, if the above conditions apply the City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it:

- (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

If this is a contract to which the verification requirement applies, the City has approved a verification form which must be filled out and signed by the Contractor and submitted to the City at the time of execution of this Contract.

This verification requirement does not apply if this contract is with a sole-source provider or, if this a contract subject to competitive bidding, the City did not receive any bids from a company that is able to provide the written verification required.

Q. Prohibition on Contracts with Certain Foreign-owned Companies in Connection With Critical Infrastructure. Certain contracts for critical infrastructure are prohibited by Section 2275.0102, Tex. Gov't Code (S.B. 2116). Specifically, relating to a contract for critical infrastructure that:

- (1) would grant a company direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes; and
- (2) where the City knows that the company is:
 - (A) owned by or the majority of stock or other ownership interest of the company is held or controlled by:
 - (i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or
 - (ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or
 - (B) headquartered in China, Iran, North Korea, Russia, or a designated country.

In signing this Contract, Contractor represents and acknowledges that it is not a foreign-owned company under Section 2275.0102 and that this is not a contract prohibited by Section 2275.0102, Tex. Gov't Code (S.B. 2116).

R. Preservation and Provision of Contracting Information. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor or vendor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. That subchapter applies to contracts for the purchase of goods and services by the City where: (1) the Maximum Contract Amount in Sec. II is \$1,000,000.00 or greater; and/or (2) will result in the expenditure of at least \$1,000,000.00 by the City in a fiscal year.

For the duration of the Contract, and in accordance with records retention requirements governed by Chapters 201 and 205 of the Texas Local Government Code and Texas Administrative Code Title 13, Chapter 7, and any other applicable statute, ordinance, or policy, Contractor will preserve all contracting information, as defined by Section 552.003 of the Texas Government Code, related to this Contract. Upon receiving a written request from the City, Contractor will promptly provide any contracting information related to this Contract that is in the custody or possession of Contractor. Upon the expiration or termination of this Contract, Contractor will either: (1) provide, at no cost to the City, all contracting information related to this Contract that is in the custody or possession of Contractor; or (2) preserve the contracting information related to this Contract as provided by the records retention requirements applicable to the City.

IV. Contract Documents. The Contractor must comply with the following additional Contract Documents, which are part of this Contract and are incorporated by reference:

- (1) General Conditions
- (2) Performance Bond
- (3) Payment Bond
- (4) Labor Classification and Minimum Wage Rates
- (5) State of Texas Workers' Compensation Insurance Coverage Addendum
- (6) Minimum Insurance Policy Limits for Large Construction Projects
- (7) Conflict of Interest Questionnaire
- (8) Certificate of Interested Persons
- (9) H.B. 89 Verification Form
- (10) S.B. 13 Verification Form
- (11) S.B. 19 Verification Form
- (12) Invitation to Bid No. 2025-003 & Addenda
- (13) Notice to Bidders
- (14) Instructions to Bidders
- (15) Contractor's Bid for the Project
- (16) Contractor's Affidavit of Bills Paid
- (17) Notice to Proceed
- (18) Change Orders
- (19) Special Conditions, if any
- (20) Engineer's Specifications, including any special shoring requirements
- (21) Engineer's Plans
- (22) Geo-Tech Report (if Contract involves trench excavation exceeding depth of five feet)

If there is a conflict between or among the terms of the Contract the City will determine which provision applies.