

RFQ/RFP 2023-021 FOR DESIGN BUILD CONSTRUCTION OF BENTLEY BRIDGE DRIVE

Evaluation Criteria	Max. Points	Award		
		Conatser Construction TX, L.P. Fort Worth, TX HUB - No	Zachry Construction Corporation San Antonio, TX HUB - No	The Fain Group Fort Worth, TX HUB - No
Design Build Entity Team Profile	15	9.52	9.84	8.60
Understanding of Project and Delivery Strategy	20	12.67	14.40	9.60
Quality Assurance/Quality Control Program	10	6.40	7.40	6.23
Project Delivery Schedule	25	16.67	18.33	14.17
Pricing Factors	30	27.17	20.69	30.00
Total Score	100	72.43	70.66	68.60



TARRANT COUNTY
TRANSPORTATION DEPARTMENT

December 6, 2022

Ms. Elizabeth Pietzsch
Senior Contracts Administrator
100 E. Weatherford, Suite 303
Fort Worth, Texas 76196

RE: Bentley Bridge Drive Design-Build RFQ/RFP No. 2023-021

Elizabeth,

Based on the information provided in the RFP responses related to the Bentley Bridge Drive improvement project, Transportation Services recommends approval of the following firm:

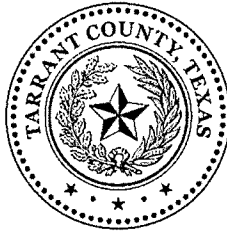
Conatser Construction L.P.

Thank you for your assistance with this effort.

A handwritten signature in black ink, appearing to read "Randy Skinner", is written over a horizontal line.

Randy Skinner
Director

Cc: Joseph Jackson, Assistant Director/County Engineer



December 5, 2022

Mrs. Susan Young
Mobility Coordinator – Tarrant County
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196

RE: RFQ AND RFP NO. 2023-021 FOR DESIGN BUILD CONSTRUCTION OF BENTLEY BRIDGE DRIVE

Elizabeth,

Based on the information provided in the RFP responses, Tarrant County Administrative Offices approves award of RFP No. 2023-021 to the following firm:

Conatser Construction L.P.

Thank you for your assistance with this effort.

Susan Young
Mobility Coordinator
Tarrant County Administrator's Office

THE STATE OF TEXAS §
COUNTY OF TARRANT §

**Professional Services Agreement for
RFQ/RFP 2023-021 for Design Build Construction
Of Bentley Bridge Drive**

This Professional Services Agreement (the “Agreement”) is made and entered into effective December 13, 2022, by and between Tarrant County, Texas a governmental entity organized under the laws of the state of Texas (the “County”), and Conatser Construction TX, L.P., (the “Contractor”). The County and Contractor may be referred to collectively as “Parties” or individually as a “Party”.

WHEREAS, County issued Request for Qualification and Request for Proposal No. 2023-021 dated October 13, 2022 (the “RFQ/RFP Proposal Documents”) to request from qualified and appropriately licensed contractors to provide Design-Build Construction of Bentley Bridge Drive; and

WHEREAS, Contractor responded to the RFQ/RFP Proposal Documents for providing Design-Build Construction of Bentley Bridge Drive; and

WHEREAS, Contractor responded and represented that its services shall meet or exceed the requirements set forth in the RFQ/RFP Proposal Documents; and

WHEREAS, Contractor represents that it has the experience and holds all necessary permits and licenses and certificates to practice and perform the services solicited in the RFQ/RFP Proposal Documents and desires to perform the services solicited in the RFQ/RFP Proposal Documents and covered in this Agreement; and

WHEREAS, Contractor is a limited partnership operated under the laws of the State of Texas, is qualified to do business in the State of Texas, and is qualified and capable of performing and completing the Design-Build Construction of Bentley Bridge Drive; and

WHEREAS, the County desires to retain a qualified and experienced contractor to provide Design-Build Construction of Bentley Bridge Drive described below for the Scope of Services attached hereto as **Exhibit A**; and

WHEREAS, based on Contractor’s response to the RFQ/RFP Proposal Documents; the County has selected the Contractor to provide the services described in the RFQ/RFP Proposal Documents and agree to pay Contractor for the services provided as detailed in this Agreement; and

WHEREAS, Contractor has agreed to provide the services in accordance with the specifications contained in the RFQ/RFP Proposal Documents, and Contractor’s proposal presented to the County in response to the RFQ/RFP Proposal Documents, and

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, it is hereby agreed as follows:

1. **Scope of Services**. Contractor shall provide professional architectural and engineering services, as well as complete construction services, (the “Services”) for the RFQ/RFP Proposal Documents for Design-Build Construction of Bentley Bridge Drive (the “Project”), said as set forth in the Scope of Services as outline in RFQ/RFP Proposal Documents and any addenda thereof.

2. **Services to be Performed; Applicable Standards.** Contractor shall perform and complete the Services in a diligent, professional and workmanlike manner using industry best practices applicable to the performance of the Services. Furthermore, Contractor shall use only qualified personnel to perform and complete the Services. Contractor will supply at its own expense, necessary computers, software, supplies and other materials required to perform and deliver the Services to the County.

3. **Term and Termination.**

(a) *Term.* The Parties agree that this Agreement shall continue until the earlier of a period of three (3) years from the Effective Date or the Date of Final Completion.

(b) *Termination for Cause.* Either Party may terminate this Agreement for cause upon the occurrence of an Event of Default (as defined below) by delivery of written notice of termination to the other Party while such Event of Default continues to exist, whereupon all obligations of the County under this Agreement shall terminate, other than the payment by the County for all amounts due under this Agreement through the effective date of termination.

(c) *Event of Default; Notice of Material Breach.* Either Party shall be in material default under this Agreement upon the occurrence of any one or more of the following which continues to exist fifteen (15) days after a Notice of Material Breach (defined below) is given to the defaulting Party (each occurrence being a “Event of Default”): (i) a failure or refusal by a Party to timely make any payment that is required to be paid by such Party under this Agreement; (ii) a failure by a Party to perform or observe any other obligation under this Agreement; (iii) any warranty or representation of a Party in this Agreement is false or misleading in any material respect; (iv) the commencement of any insolvency, bankruptcy or similar proceedings by or against such Party (including any assignment by such Party for the benefit of creditors or the appointment of a receiver for the assets of such Party). A “Notice of Material Breach” means written notice that includes: (i) a description sufficient to identify the Event of Default to the defaulting Party; and, (ii) if not obvious from the nature of the Event of Default, the notifying Party’s specific recommendations of the actions to be (or if appropriate, not to be) taken by the defaulting Party in order for it to cure the Event of Default.

(d) *Remedies for Default.* Upon the occurrence of an Event of Default, the non-defaulting Party may, in addition to any and all other remedies available under law, elect to: (1) terminate this Agreement in accordance and upon compliance with the termination provisions in Section 3 of this Agreement, and/or (2) commence collection actions (including court actions) for all sums due under this Agreement, and/or (3) seek such other remedies for such Event of Default as are available at law or in equity. All rights and remedies available to a Party hereunder, by law or equity, shall be cumulative and there shall be no obligation for such Party to exercise a particular remedy.

(e) *Early Termination.* The County shall have the right to terminate this Agreement without cause in its sole discretion at any time prior to such completion of the Services by giving Contractor at least thirty (30) days’ prior written notice of such termination (hereinafter referred to as “Early Termination”). In the event of Early Termination, the County will pay all fees due to Contractor under Sections 4 & 5 hereof for all Services performed by Contractor in accordance

with the requirements of this Agreement up to and including the date of termination. The County also shall reimburse Contractor for all expenses incurred by Contractor in the performance of Services hereunder and which are or would be due to Contractor under Section 4 & 5 hereof if Early Termination had not occurred. Contractor acknowledges and agrees that in the event of such Early Termination, Contractor will not perform any unnecessary part of the Services, nor will it incur any unreasonable expenses after receiving notice of Early Termination, but Contractor will perform only those Services and incur only those expenses reasonably necessary to fulfill its obligations under Section 2 hereof and this Section 3. Nothing set forth in this Section 3 shall limit the County's other rights or remedies.

4. **Cost.**

(a) For the Services described in RFQ/RFP Proposal Documents, and as defined in Contractor's response to the RFQ/RFP Proposal Documents, the Contractor's compensation for these services shall be in accordance with the Contractors Price Sheet, attached hereto as Exhibit A.

(b) Contractor shall bill for the Services performed in accordance with this Agreement.

(c) Contractor shall send all invoices to:

Joseph Jackson, P.E
Tarrant County Transportation Services
100 East Weatherford Street, Room 401
Fort Worth, Texas 76196

(d) Contractor's invoice shall detail the Services provided;

(e) *Monthly Invoices – Expenses.* In addition to the Fees, Contractor will invoice the County monthly for the Reimbursable Expenses (defined below and collectively referred to as the "Expenses") incurred during the applicable monthly period in performing the Services. The "Reimbursable Expenses" means those reasonable and necessary out-of-pocket expenses for travel, hotel rooms, and meals, actually incurred by Contractor to perform and complete the Services, which, without the prior approval of the County, shall exceed neither (i) those set forth in the Contractor's Pricing Sheet attached hereto as Exhibit A, nor (ii) the applicable per diem lodging rates and per diem meals and incidental expense rates established by the General Services Administration ("GSA") for Tarrant County, Texas. Current GSA per diem lodging rates and per diem meals and incidental expense rates can be found at <https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>.

(f) Contractor understands that Contractor shall be responsible for any other expenses incurred by Contractor in performing the Services under this Agreement.

5. **Fees for Services Performed.** Based upon applications for payment submitted to Tarrant County Transportation Services by Contractor, the County will make progress payments on account of the Total Contract Price to the Contractor as follows:

(a) There will be due and payable on Agreement, approximately each thirty (30) days, an amount equal to 95% of the value of the work completed.

(b) The County reserves the right to withhold 5% of the Total Contract Price for thirty (30) days after final acceptance of the work.

6. **Agency-Independent Contractor.** Neither County nor any employee thereof is an agent of Contractor, and neither Contractor nor any employee thereof is an agent of County. This Agreement does not and shall not be construed to entitle either party or any of their respective employees, if applicable, to any benefit, privilege or other amenities of employment by the other party.

7. **Indemnity.** THE CONTRACTOR, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, SUBSIDIARIES AND SUBCONTRACTORS AGREES TO FULLY INDEMNIFY, SAVE, AND HOLD HARMLESS THE COUNTY, ITS COMMISSIONERS, ELECTED OFFICIALS, OFFICERS, DIRECTORS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, INJURIES (INCLUDING DEATH), CAUSES OF ACTION, CLAIMS, DEMANDS, LIABILITIES, JUDGMENTS, SUITS, FINES, ASSESSMENTS, PENALTIES, ADVERSE AWARDS AND EXPENSES (WHETHER BASED UPON TORT, BREACH OF AGREEMENT, PATENT, TRADEMARK OR COPYRIGHT INFRINGEMENT, OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT, FAILURE TO PAY EMPLOYEE TAXES OR WITHHOLDINGS, FAILURE TO OBTAIN WORKER'S COMPENSATION INSURANCE, OR OTHERWISE), WHETHER KNOWN OR UNKNOWN, INCLUDING, WITHOUT LIMITATION, LEGAL AND RELATED LEGAL FEES AND EXPENSES, OF ANY KIND OR NATURE (COLLECTIVELY, "LOSSES") INCURRED BY COUNTY ARISING OUT OF, OR ON ACCOUNT OF, OR RESULTING FROM, ANY CLAIM AGAINST COUNTY TO THE EXTENT SUCH LOSSES ARISE OUT OF OR ARE CAUSED BY: (I) DELTA OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE EMPLOYEES OR OTHER REPRESENTATIVE'S NEGLIGENT ACTS OR OMISSIONS; (II) DELTA OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE EMPLOYEES OR OTHER REPRESENTATIVE'S INTENTIONAL OR WILLFUL MISCONDUCT; (III) DELTA OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE EMPLOYEES OR OTHER REPRESENTATIVE'S BREACH OR VIOLATION OF APPLICABLE FEDERAL OR STATE LAW; (IV) BREACH OF DELTA'S OBLIGATIONS OR WARRANTIES SET FORTH IN THIS AGREEMENT; (V) DELTA OR ITS SUBCONTRACTORS OR THEIR RESPECTIVE EMPLOYEES OR OTHER REPRESENTATIVE'S DEFAULT IN THE PERFORMANCE OF, ATTEMPTED PERFORMANCE OF, OR FAILURE TO PERFORM, ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT; OR (VI) ANY COMBINATION OF (I), (II), (III), (IV), AND (V).

8. **Sovereign Immunity.** THIS AGREEMENT IS EXPRESSLY MADE SUBJECT TO COUNTY'S SOVEREIGN IMMUNITY, TITLE 5 OF THE TEXAS CIVIL PRACTICES AND REMEDIES CODE, AND ALL APPLICABLE FEDERAL AND STATE LAWS. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT THE COUNTY HAS BY OPERATION OF LAW. NOTHING IN THIS AGREEMENT IS INTENDED TO BENEFIT ANY THIRD-PARTY BENEFICIARY.

9. **Insurance.** Contractor shall purchase and maintain at all times such insurance at Contractor's sole cost, which will protect Contractor from all claims, including but not limited to those claims set forth below, which may arise out of Contractor's activities including the Services, whether such activities are by Contractor's employees (including Workers), agents, or contractors.

(a) *Workers Compensation* with statutory limits of liability and Employer's Liability limits in a coverage amount not less than Five Hundred Thousand (\$500,000.00);

(b) *Comprehensive General Liability* (including but not limited to bodily injury and death, broad-form property damage, products, completed operations, contractual, and premises liability) with combined single limits of not less than Two Million Dollars (\$2,000,000.00) for each occurrence and Four Million Dollars (\$4,000,000.00) in the annual aggregate, and an umbrella/excess coverage limit of not less than Five Million Dollars (\$5,000,000.00); and

(c) *Professional Liability* at all times during the term that professional services and construction of the project until two years after the services and construction have completed in a coverage amount not less than Ten Million Dollars (\$10,000,000.00); and

(d) *Automobile Liability* covering use of owned automobiles, hired automobiles and non-owned automobiles with a minimum Five Hundred Thousand Dollars (\$500,000.00) combined single limit per occurrence for bodily injury and property damage.

(e) All insurance shall be issued by insurance companies authorized to engage in business in the State of Texas and have a rating of no less than A- in the most current edition of the A.M. Best Insurance Report or the equivalent in Moody's and/or S&P (or comparable rating from a recognized insurance rating agency).

(f) *Specific Requirements.* All liability policies shall be specifically endorsed to include the County as an additional insured to the extent indemnified pursuant to this Agreement. Contractor's policies shall be primary and non-contributing over the County's policies (if any), and shall provide for severability of interests, and thirty (30) days' notice of cancellation. Any deductibles or self-insured retentions will be Contractor's responsibility. The policies must be endorsed to waive subrogation with respect to the County, its affiliates, and their respective employees. The policies must provide 30 days' notice prior to any material modification, cancellation or non-renewal of the policies.

(g) *Certificates and Notices.* Two (2) Certificates of Insurance shall be provided to the County as evidence of compliance with this requirement and any necessary policy endorsements, prior to the provision of Services under this Agreement. Contractor shall provide thirty (30) days' prior written notice to the County of any material modification, nonrenewal, or cancellation of any insurance coverage.

(h) Contractor recognizes and agrees that the County is a political subdivision of the Sovereign State of Texas and is therefore subject to the Tort Claims Act.

10. **Work Product and Inventions.** All materials and/or other information developed, generated or produced, in whole or part, by Contractor (including the employees, independent contractors or agents of Contractor) in performing and completing the Services including, but not

limited to, all documentation, flow charts, diagrams, specifications, descriptions, definitions, reports, and data (collectively, the "Work Product") and any invention, product, computer program or specification, whether patentable or unpatentable, made, conceived or first actually or constructively reduced to practice, in whole or part, by Contractor (including the employees, independent contractors or agents of Contractor) in performing and completing Services (individually, an "Invention" and collectively, the "Inventions"), shall be the County's sole and exclusive property. Contractor shall perform all acts that may be deemed reasonably necessary or desirable by the County to evidence that the Work Product and Inventions are 'works made for hire' and/or to more fully transfer ownership to the County of the Work Product and Inventions.

11. **Construction Management & Procedures.** All construction services and activities shall be in accordance with the Construction Management & Procedures, attached hereto as Exhibit B, as applicable. Any deviation from these from these procedures shall not occur without the express written consent of the County.

12. **Project Schedule.** Contractor will submit a proposed Project Schedule, for County's acceptance and provided monthly updates of the schedule. The proposed Project Schedule will include a detailed and comprehensive construction schedule utilizing a critical path method arrow diagram network that (i) shows all major design, procurement and construction elements and phases of the Project and County furnished items with milestone dates; (ii) breaks down each element or phase by trade; (iii) shows early and late start dates so that all "float" time will be accurately identified; (iv) clearly identifies critical path activities; (v) discloses relationship in number of days and types of linkage between all linked activities; (vi) identifies, coordinates and integrates design and construction schedules, County's responsibilities, governmental approvals, and other activities necessary for the timely completion of the Project in accordance with the scheduled dates of Substantial and Final Completion; and (vii) otherwise is in a form satisfactory to County. County's acceptance is expressly limited to County's acknowledgment that based upon County's limited review, the dates of Substantial Completion and milestone dates are acceptable and the latest dates of County-provided information, materials, approvals and the like identified in the Project Schedule are reasonable.

13. **Notices.** Any notice given under this Agreement shall be in writing and will be deemed given on (a) the third business day after being deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested; (b) the first business day after being sent by a recognized national overnight courier service; or (c) on the date personally delivered, with signed acceptance thereof by the person designated below in either case properly addressed to the other party at the address set forth below, or at such other address as such party will specify from time to time by written notice delivered in accordance herewith:

If to Contractor:	Conatser Construction TX, L.P. Attn: Brock Huggins, President Phone: 817-534-1743 Fax: 817-534-4556 Email: brock@cctxlp.com
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If to County: B. Glen Whitley
Tarrant County Judge
100 E. Weatherford St., Suite 501
Fort Worth, TX 76196

And

G. K. Maenius
County Administrator, Tarrant County
100 E. Weatherford St., Suite 401
Fort Worth, TX 76196

With a copy to:

Tarrant County District Attorney's Office, Civil Division
Attn: Chief Civil Division
Tim Curry Criminal Justice Center
401 West Belknap
Fort Worth, Texas 76196

or to such other address or to the attention of such other person as either party may designate in writing pursuant to this Section 10. Written notices shall be deemed received on the date actually delivered to the other party.

14. **Applicable Law and Venue.** The Parties agree that this Agreement is subject to, and agree to comply with, applicable local, State of Texas, and federal statutes, rules and regulations. THIS AGREEMENT BETWEEN THE PARTIES SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, USA, WITHOUT REFERENCE TO ITS LAWS RELATING TO CONFLICTS OF LAW. Any legal action arising out of or relating to the Agreement shall be brought only in the state or federal courts located in Tarrant County, Texas, and the Parties irrevocably consent to the jurisdiction and venue of such courts.

15. **Texas Government Code Chapter 551 ("Texas Open Meetings Act" or "TOMA")**. County is also subject to Chapter 551 of the Texas Government Code ("Texas Open Meetings Act" or "TOMA"), as well as various purchasing laws and open government laws and conflicts and ethics laws, any of which may require some information to be disclosed to transact business or to comply with applicable laws. Accordingly, this Agreement shall not be read, construed, or applied in any manner to require County to violate any law or to preclude County from any disclosure, response, report, or other publication of any information required by law or by lawful authority. Notwithstanding any language herein, this Agreement and all attachments hereto is open to the public, and all Parties, by signing this Agreement, expressly agree and hereby give their written consent that this Agreement may be agendized for public action of the Tarrant County Commissioners Court in the manner that all agreements and contracts are considered, including the provision of an explanation of the purpose of the agreement in the publicly posted Commissioners Court communication and a full copy of the Agreement may be posted online and

is public. Public deliberation pursuant to TOMA is also expressly approved, so that this Agreement may be made in lawful compliance with applicable laws.

16. **Texas Government Code Chapter 552 (“Texas Public Information Act” or “TPIA”)**. The County advises Contractor that the County is a governmental body under Chapter 552 of the Texas Government Code and that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act (“TPIA”) request. Contractor’s trade secrets, certain financial information, and proprietary information may be subject to an exception to disclosure under Chapter 552 of the Texas Government Code, Subchapter C. If a TPIA request is made on the County to disclose Contractor information that may be subject to an exception from disclosure, County will (i) promptly notify Contractor of such request for disclosure, and (ii) decline to release such information and file a written request with the Texas Attorney General’s office seeking a determination as to whether such information may be withheld.

17. **Chapters 2271, 2252, and 2274 Texas Government Code Verification.**

(a) *Boycott of Israel Prohibited.* In compliance with Section 2271.001 et seq. of the Texas Government Code, Contractor verifies that neither it nor any of its affiliates currently boycott Israel and neither it nor any of its affiliates will boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section 808.001(1) of the Texas Government Code.

(b) *Scrutinized Business Operations Prohibited.* In compliance with Section 2252.151 et seq. of the Texas Government Code, Contractor warrants and represents that: (1) neither Contractor nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Contractor nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Contractor nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section 2270.0052 of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section 2270.0102 of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section 2270.0152 of the Texas Government Code. Contractor further represents and warrants that neither Contractor nor any of its affiliates appears on any of the Texas Comptroller’s Scrutinized Companies Lists.

(c) *Boycott of Certain Energy Companies Prohibited.* In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 13), Contractor verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. “Boycott energy company” is defined in Section 809.001(1) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, 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 with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

(d) *Discrimination against Firearm Entities or Firearm Trade Associations Prohibited.* In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 19), Contractor verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section 2274.001(3) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.

18. **Compliance with Law.** Each party shall comply with the provisions of all applicable laws relating to the performance of its obligations under this Agreement. Each party is responsible for obtaining its own legal advice concerning its compliance with applicable laws.

19. **Prohibition of Political Activity.** None of the funds provided under this Agreement shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent the Parties’ compliance with the Texas Public Information Act. No funds provided under this Agreement may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government, the State of Texas, or the government of the United States. None of the funds provided under this Agreement shall be paid to any official or employee who violates any of the provisions of this Section.

20. **Federal Debarred Vendor.** No products or services utilizing Federal funds may be procured from contractors that are listed (debarred or otherwise suspended) on System for Award Management (SAM) formerly known as the Federal Excluded Parties List. Government requirements for non-procurement suspension and debarment are contained in the OBM guidance 2 CFR, part 180 that implements Executive Orders 12549 and 12689 Debarment and Suspension. County reserves the right to terminate this Agreement if Contractor is found to be suspended, ineligible or debarred as outlined herein.

21. **Form 1295 Certificate of Interested Parties.** Contractor acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the Form 1295 electronically filed with the Texas Ethics Commission, at <https://www.ethics.state.tx.us/filinginfo/1295/>, as required by law.

22. **Conflict of Interest.** Contractor assures that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code and has filed or will promptly file the Conflict of Interest Questionnaire (CIQ Form) with the Tarrant County Clerk no later than the 7th business day after the date Contractor becomes aware of facts that require the form to be filed. Completed forms are to be sent to:

Tarrant County Clerk
100 West Weatherford Street, Room 130
Fort Worth, Texas 76196

23. **Equal Opportunity.** Contractor is an Equal Opportunity and Affirmative Action employer.

24. **Fair Labor Standards Act.** Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend and hold harmless the County and its Commissioners Court, County Judge, elected officials, its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by Contractor's employees for which the County may be found jointly or solely liable.

25. **Salaries and Expenses of Vendor Employees.** Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the Agreement. Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this Agreement.

26. **Title VI Assurances and Compliance.** This Agreement is subject to applicable federal and state laws and executive orders, including the Fair Labor Standards Act of 1938, relating to equal opportunity and nondiscrimination in employment. Neither Contractor nor its agents or subcontractors shall discriminate in their employment practices against any person by reason of disability, age, race, creed, national origin, color, religion, sex, political affiliation, or veteran status. In addition, Contractor assures that no person will, on the grounds of disability, age, race, creed, national origin, color, religion, sex, political affiliation, or veteran status, be excluded from, be denied the benefit of or be subjected to discrimination under any program or activity funded in whole or in part under this Agreement. Contractor agrees to comply, and to cause its agents and subcontractors to comply, with the provisions of said laws and orders to the extent any such laws and orders are applicable in the performance of this Agreement. Contractor agrees to comply with its Title VI assurances contained in Exhibit C which is attached hereto and incorporated herein by reference.

27. **Collusion.** Contractor expressly warrants and certifies that neither Contractor nor its employees or associates has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in conjunction with the competitive bidding process for this Agreement or this Agreement itself.

28. **Use of Name.** Each party shall use the other party's name, logo and trademark only in the manner specified by the other party in writing, or as expressly permitted by this Agreement.

29. **Assignment.** Neither this Agreement nor any of the rights or obligations of either of the parties hereto may be assigned or transferred without the prior written consent of both parties hereto, except as expressly authorized herein.

30. **Severability.** Should any provision of this Agreement be declared invalid, the remaining provisions shall remain in full force and effect.

31. **Entire Agreement; Amendment.** This Agreement (i) represents the entire understanding and agreement of the Parties hereto with respect to the matters contained herein, and (ii) may be amended, modified or waived only by a separate writing executed by the Parties expressly so amending, modifying or waiving this Agreement.

32. **Binding Agreement.** This Agreement binds and inures to the benefit of the Parties, and their respective successors and permitted assigns.

33. **Headings and Captions.** The subject headings of the sections, paragraphs, and subparagraphs of this Agreement are included herein solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify, or aid in the meaning, construction, or interpretation of any of the provisions of this Agreement.

34. **Construction.** This Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

35. **No Third Party Beneficiary Status.** The terms and provisions of this Agreement are intended solely for the benefit of each Party hereto and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third party beneficiary rights upon any other Person.

36. **Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE USE OF THE SERVICES.

37. **Authority to Agreement.** County hereby represents and warrants that it has obtained due and proper authority to enter into this Agreement through its governing body. The person or persons signing and executing this Agreement on behalf of Contractor or representing themselves as signing and executing this Agreement on behalf of Contractor, do hereby warrant and certify that he, she, or they have been duly authorized by Contractor to execute this Agreement on behalf of Contractor and to validly and legally bind Contractor to all terms, conditions and provisions herein set forth.

38. **Electronic Signatures; Facsimile and Scanned Copies; Duplicate Originals; Counterparts; Admissibility of Copies.** Each Party agrees that: (i) any electronic signature (if

any), whether digital or encrypted, to this Agreement made by any Party is intended to authenticate this Agreement and shall have the same force and effect as an original manual signature; and (ii) any signature to this Agreement by any Party transmitted by facsimile or by electronic mail shall be valid and effective to bind that Party so signing with the same force and effect as an original manual signature. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile or electronic transmission, will have the same effect as physical delivery of the paper document bearing an original or electronic signature. This Agreement may be executed in multiple duplicate originals and all such duplicate originals shall be deemed to constitute one and the same instrument. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall be deemed to constitute a single instrument. The Parties warrant and represent that a true and correct copy of the original of this Agreement shall be admissible in a court of law in lieu of the original Agreement for all purposes of enforcement hereof.

39. The Contract Documents consist of the following:
- (a) This Agreement
 - (b) RFQ/RFP Proposal Documents
 - (c) Dunaway Schematic Plans
 - (d) Conatser Construction TX, L.P. responses to RFQ/RFP 2023-021
 - (e) Exhibit A. Price pages
 - (f) Exhibit B. Construction Management & Procedures
 - (g) Exhibit C. Title VI Assurances and Compliance Policy

Any exhibits attached hereto, conditions of the Agreement (special, supplementary and other conditions), all addenda issued prior to execution of this Agreement and all modifications issued subsequent thereto.

To the extent of an ambiguity among the various documents, this signed Agreement prevails. These documents collectively form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, in duplicate originals with one original being delivered to each Party, to be effective on the Effective Date.

COUNTY OF TARRANT
COUNTY

CONATSER CONSTRUCTION TX, L.P.
CONTRACTOR

(SIGNATURE)

(SIGNATURE)

BY: B. Glen Whitley

BY: Brock Huggins_____

TITLE: County Judge

TITLE: President_____

Date: _____

Date: _____

*Approved as to Form:

Certification of Funds Available
for the Amount of \$12,840,659.52

Criminal District Attorney's Office

S. Renee Tidwell
Tarrant County Auditor

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

EXHIBIT A

RFP FOR DESIGN BUILD CONSTRUCTION OF BENTLEY BRIDGE DRIVE

PROPOSAL PRICE FORM

BENTLEY BRIDGE DRIVE

Project Components*:

General	\$ 505,000.00
Paving	\$ 5,968,792.50
Storm	\$ 2,590,750.00
Street Lighting	\$ 597,300.00
Signage and Pavement Marking	\$ 40,280.00
Engineering	\$ 702,107.10

Additional Items, if deemed necessary:

Item Name: Construction Material Testing	\$ 116,500.00
Item Name: Subsurface Utility Engineering	\$ 12,320.00
Item Name: TDPES Construction Gen. Permit	\$ 5,000.00

CONTRACTOR'S CONTINGENCY 10.00 % \$ 1,053,804.96

BOND (PAYMENT, PERFORMANCE, AND MAINTENANCE) \$ 195,000.00

SUBTOTAL \$ 11,786,854.56

CONSTRUCTION PROFIT 10.00 % \$ 1,053,804.96

Proposed Fixed Project Construction Budget \$ 12,840,659.52

Additional fees required for project delivery* \$ 0.00

TOTAL PROPOSED CONTRACT PRICE \$ 12,840,659.52

PROPOSED CONSTRUCTION
DURATION/COMPLETION 353 (See Note 1) Calendar days from Notice to Proceed

*RFP respondents must provide a detailed list of items, quantities, and associated unit prices.

Notes:

1. The proposed construction duration/completion is 353 days for the construction construction only; stating from Notice to Proceed. Total Design & Construction is estimated to be 465 calendar days.
2. Detailed list items quantities, and associated unit prices is on the following page.

THE ORIGINAL AND THREE (3) COPIES OF THIS FORM MUST BE RETURNED WITH PROPOSAL!

DETAILED PROJECT PROPOSAL SUMMARY

(ITEMS, QUANTITIES, AND ASSOCIATED UNIT PRICES)
TARRANT COUNTY - BENTLEY BRIDGE DRIVE

NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
GENERAL					
1	Site Clearing	LS	1.00	\$ 29,000.00	\$ 29,000.00
2	SWPPP (Erosion Control)	LS	1.00	\$ 100,000.00	\$ 100,000.00
3	Construction Staking	LS	1.00	\$ 110,000.00	\$ 110,000.00
4	Seeding, Hydromulch	SY	38,000.00	\$ 2.00	\$ 76,000.00
5	4" Topsoil Import	SY	38,000.00	\$ 5.00	\$ 190,000.00
GENERAL SUB-TOTAL					\$ 505,000.00
PAVING					
6	Unclassified Excavation and Fill	CY	53,175.00	\$ 19.50	\$ 1,036,912.50
7	Hydrated Lime	TN	582.00	\$ 275.00	\$ 160,050.00
8	8" Lime Treatment	SY	32,320.00	\$ 5.00	\$ 161,600.00
9	11" Conc Pvmnt	SY	30,955.00	\$ 130.00	\$ 4,024,150.00
10	4" Conc Sidewalk	SF	95,180.00	\$ 6.00	\$ 571,080.00
11	ADA Curb Ramps (Barrier Free)	EA	6.00	\$ 2,500.00	\$ 15,000.00
PAVING SUB-TOTAL					\$ 5,968,792.50
STORM					
12	Medium Stone Riprap, dry (18-Inch)	SY	2,000.00	\$ 150.00	\$ 300,000.00
13	Trench Safety	LF	5,344.00	\$ 5.00	\$ 26,720.00
14	24" RCP, Class III	LF	2,755.00	\$ 100.00	\$ 275,500.00
15	27" RCP, Class III	LF	280.00	\$ 120.00	\$ 33,600.00
16	30" RCP, Class III	LF	300.00	\$ 125.00	\$ 37,500.00
17	36" RCP, Class III	LF	675.00	\$ 160.00	\$ 108,000.00
18	42" RCP, Class III	LF	30.00	\$ 225.00	\$ 6,750.00
19	6x6 Box Culvert	LF	- -	\$ -	\$ -
19	8'x5' Box Culverts	LF	528	\$ 955.00	\$ 504,240.00
20	7x6 Box Culvert	LF	- -	\$ -	\$ -
20	7'x5' Box Culverts	LF	256	\$ 890.00	\$ 227,840.00
21	8x4 Box Culvert	LF	- -	\$ -	\$ -
21	9x6 Box Culvert	LF	520	\$ 1,230.00	\$ 639,600.00
22	4' Storm Junction Box	EA	9.00	\$ 6,000.00	\$ 54,000.00
23	5' Storm Junction Box	EA	1.00	\$ 7,500.00	\$ 7,500.00
24	10' Recessed Inlet	EA	17.00	\$ 7,500.00	\$ 127,500.00
25	15' Recessed Inlet	EA	7.00	\$ 10,000.00	\$ 70,000.00
25A	24" Headwall SETP-CD	EA	2.00	\$ 4,500.00	\$ 9,000.00
26	WINGWALL (PW - 1) (HW=5 FT)	EA	- -	\$ -	\$ -
26	WINGWALL (PW - 1) (HW=7 FT)	EA	4.00	\$ 24,500.00	\$ 98,000.00
28	WINGWALL (PW - 1) (HW=10 FT)	EA	- -	\$ -	\$ -
27	WINGWALL (PW - 1) (HW=8 FT)	EA	2.00	\$ 32,500.00	\$ 65,000.00
STORM SUB-TOTAL					\$ 2,590,750.00
STREET LIGHTING					
29	Furnish/Install Conduit-Schedule 80 PVC 2 Inch Open Cut	LF	9,500.00	\$ 20.00	\$ 190,000.00
30	NO 2 Insulated Elec Condr	LF	25,300.00	\$ 4.00	\$ 101,200.00
30A	NO 6 Insulated Elec Condr	LF	4,400.00	\$ 4.00	\$ 17,600.00
31	NO 8 Bare Elec Condr	LF	- -	\$ -	\$ -

32	Ground Box Type B, w/Apron	EA	12.00	\$ 2,000.00	\$ 24,000.00
33	Furnish/Install Type 33A Arm	EA	35.00	\$ 1,000.00	\$ 35,000.00
34	Furnish/Install 120-240-Volt Single-Phase Metered Pedestal	EA	- -	\$ -	\$ -
34	Furnish/Install 240-480 Volt Single Phase Metered Pedestal	EA	1.00	\$ 7,500.00	\$ 7,500.00
35	Furnish/Install LED Lighting Fixture (70-watt ATB0 Cobra Head)	EA	- -	\$ -	\$ -
35	Furnish/Install LED Lighting Fixture (137 watt ATB2 Cobra Head)	EA	35.00	\$ 1,200.00	\$ 42,000.00
36	Rdwy Illum Foundation TY 3,5,6, and 8	EA	30.00	\$ 2,000.00	\$ 60,000.00
37	Furnish/Install Rdway Illum TY 18 Pole	EA	30.00	\$ 4,000.00	\$ 120,000.00
STREET LIGHTING SUB-TOTAL					\$ 597,300.00
SGPM					
38	4" BRK Pvmt Marking HAS (W)	LF	4,500.00	\$ 2.00	\$ 9,000.00
39	8" SLD Pvmt Marking HAS (W)	LF	300.00	\$ 4.00	\$ 1,200.00
40	REFL Raised Marker TY II-C-R	EA	220.00	\$ 4.00	\$ 880.00
41	Furnish/Install Alum Sign Ground Mount City Std.	EA	7.00	\$ 1,200.00	\$ 8,400.00
42	4" SLD Pvmt Marking HAS (Y)	LF	9,000.00	\$ 2.00	\$ 18,000.00
43	4" BRK Pvmt Marking HAS (Y)	LF	1,400.00	\$ 2.00	\$ 2,800.00
SGPM SUB-TOTAL					\$ 40,280.00
CONSTRUCTION SUB-TOTAL					\$ 9,702,122.50
ENGINEERING					
44	Design Survey	LS	1.00	\$ 31,505.10	\$ 31,505.10
45	Geotechnical Pavement Report	LS	1.00	\$ 30,602.00	\$ 30,602.00
46	Final Engineering	LS	1.00	\$ 600,000.00	\$ 600,000.00
47	Permit Processing (TxDOT)	LS	1.00	\$ 25,000.00	\$ 25,000.00
48	Gas/Franchise Coordination	LS	1.00	\$ 15,000.00	\$ 15,000.00
ENGINEERING SUB-TOTAL					\$ 702,107.10
ADDITIONAL ITEMS					
49	Construction Material Testing	LS	1.00	\$ 116,500.00	\$ 116,500.00
50	Subsurface Utility Engineering	LS	1.00	\$ 12,320.00	\$ 12,320.00
51	TPDES Construction General Permit (5 or More Acres)	LS	1.00	\$ 5,000.00	\$ 5,000.00
ADDITIONAL SUB-TOTAL					\$ 133,820.00
A. SUBTOTAL (CONSTRUCTION + ENGINEERING + ADDITIONAL ITEMS)					\$ 10,538,049.60
B. CONTRACTOR'S CONTINGENCY (10%)					\$ 1,053,804.96
C. BONDS (PAYMENT, PERFORMANCE, AND MAINTENANCE)					\$ 195,000.00
SUBTOTAL (A thru C)					\$ 11,786,854.56
D. CONSTRUCTION PROFIT (10%)					\$ 1,053,804.96
PROPOSED FIXED PROJECT CONSTRUCTION BUDGET (SUBTOTAL A thru D)					\$ 12,840,659.52
E. ADDITIONAL FEES REQUIRED FOR PROJECT DELIVERY					\$ -
TOTAL PROPOSED CONTRACT PRICE (A thru E)					\$ 12,840,659.52
Notes:					
1. Some bid items that were provided in the RFQ were revised or replaced based on the analysis of the design.					

Bentley Bridge Drive Document Review and Analysis		
Provided Documents	Design Team Analysis & Comments	
Schematic Design Documents		
PDF & AutoCAD Files of Plans	<div><div>1. Peloton Land Solutions performed a survey using GPS equipment to verify the existing topography that was used for the schematic design documents. The field data that Peloton collected was generally ½ foot lower than the topography shown in the plans. This ½ foot difference could require an additional 10,000 – 12,000 CY of required fill material, which could result in \$250,000 - \$300,000 in additional construction costs.</div><div>2. Streetlights are shown across from each other on Bentley Bridge Drive. Streetlights can be staggered, which eliminates the need of 16 streetlights.</div><div>3. The streetlight fixture with a 70-watt head shown in plans is for residential roads. Bentley Bridge Drive is a collector, so City of Fort Worth requires a higher wattage of 137-watts.</div><div>4. No streetlight was provided at the Aledo Road/Aledo Road Connector Intersection. The City of Fort Worth will require a streetlight at the intersection.</div><div>5. A 120 – 240 Volt Single Phase Metered Pedestal was provided in the design. A 240 – 480 Volt Single Phase Metered Pedestal will be required due to the distance of wiring.</div></div>	
Schematic Quantities	<div><div>1. 6'x6' Box Culvert (Item 19) – Quantity shown is 130 LF, actual quantity is 390 LF</div><div>2. 7'x6' Box Culvert (Item 20) – Quantity shown is 925 LF, actual quantity is 792 LF</div><div>3. 8'x4' Box Culvert (Item 21) – Quantity shown is 385 LF, actual quantity is 256 LF</div><div>4. Missing bid item for 2, 24" SETP-CD headwalls</div><div>5. No.2 Insulated Electric Conductor (Item 30) – Quantity shown is 18,600 LF, actual quantity is 25,300 LF</div><div>6. No.8 Bare Electrical Conductor (Item 31)</div></div>	
Reference Plans / Easement Documents		
90% TxDOT Interchange Documents	<div><div>1. The Earthwork Quantities indicate the IH-20 Interchange project will generate 150,000 CY +/- in excess dirt material.</div><div>2. The Bentley Bridge Drive project needs approximately 4,800 – 5,600 CY of fill (embankment) material for the project.</div><div>3. There is an opportunity to get fill material from the IH-20 Interchange project.</div></div>	
Fort Worth 36-inch Water Main	<div><div>1. The proposed 36-inch water main alignment is generally parallel and north of an existing gas line and north of Aledo Road.</div><div>2. The proposed water line will cross the southern portion of Bentley Bridge Drive and the Aledo Connector Road.</div><div>3. The water line is typically 6 – 10 feet deep (to top of pipe). The proposed Bentley Bridge Drive is in a fill condition when crossing the proposed 36-inch water line, so we don't anticipate any conflicts.</div><div>4. The Design-Build Team will need to coordinate with the water line engineer prior to construction and contractor during construction.</div></div>	

Permanent Water Easement	1. Reviewed the water easement and do not see any conflicts or issues with the Bentley Bridge Drive Project and the easement.
Temporary Construction Easement	1. Reviewed the temporary construction easement and do not see any conflicts or issues with the Bentley Bridge Drive Project and the easement.
Gas Easement	<ol style="list-style-type: none"> 1. The Bentley Bridge Drive improvements will need to cross the 50' gas line easement for Barnett Gathering, LP. 2. There other gas lines parallel to the Barnett Gathering, LP including Crosstex, Southwestern, and Energy Transfer. 3. The Design-Build Team will need to coordinate with all these pipeline companies (or the current pipeline owners).
WOUS Delineation Report	<ol style="list-style-type: none"> 1. Stream 11 and Stream 13 (Walnut Creek) are the two identified waters of the U.S. that Bentley Bridge Drive Project will impact. 2. Wetlands 21 and 22 are close to the proposed road alignment too. 3. It is intended to construction the proposed road improvements under USACE Nationwide Permit (NWP) 14 (Transportation). 4. The ordinary high-water marks are only 2' wide and we anticipate impacting a 250' +/- of each of the two streams. Therefore, then impact to the two streams will be approximately 1,000 +/- SF. The NWP 14 allows impacts up to 4,356 SF (0.1-acre) of a stream, so the project should not require a pre-construction notification.
CFW Pavement Design Manual	<ol style="list-style-type: none"> 1. The Bentley Bridge Drive Project is classified by the City of Fort Worth (COFW) as a Commercial Collector, so the pavement will be need to be designed per this street classification. For example, a Collector requires a design for 100,000 ESALS, 2.0% growth, and 25-year design life. 2. The Design-Team's geotechnical engineer will use the COFW Pavement Design Manual for the pavement design.
Sub-Surface Potholes of Gas Lines	<ol style="list-style-type: none"> 1. Yellow Rose Mapping identified three (3) gas lines parallel to and north of Aledo Road. 2. These gas lines include a 4.5", 4.5", and 16" diameter steel lines. 3. The gas lines are 4.5' - 5' deep, so <u>no</u> conflicts are anticipated.
Design Files	
HEC-HMS Hydrology Model	1. The Design-Build Team revised the hydrology to compute the flowrates more accurately to each culvert by doing the following: 1) adding cross sections, 2) adjusting the coefficients, 3) adjusting the proposed drainage areas to the proposed road centerline, and 4) recalculating the time of concentrations
HEC-RAS Hydraulic Model	<p>There were several technical errors in RAS model were corrected:</p> <ol style="list-style-type: none"> 1. Fifteen cross sections on the middle tributary and one cross section on the northern tributary were using an N-value of 0.5, instead of the correct N-value of 0.05. 2. Expansion/Contraction coefficients were not set to 0.3/0.5 near roadway crossings. 3. Reach lengths were not computed for several cross sections. Ineffective flow areas we not modeled where relevant.

4. Cross sections were not located at the fully expanded flow locations for roadway crossings.
5. We computed revised culvert sizes to maintain at 2' freeboard requirement as required by the City of Fort Worth.
6. Culverts were revised as follows per the changes made to the hydrology and hydraulic models:

Culverts	Dunaway Plans	Revised Sizes	Comments
South Culverts	3 – 6'x6'	4 – 9'x6'	Culvert sizes increased due to errors in the Hydraulic Model
Middle Culverts	2 – 8'x4'	2 -7'x5'	Reduced the culvert height to reduce the culvert headwall height
North Culverts	6 – 7'x6'	4 – 8'x5'	Used wider box culverts to create less required culverts (cost savings and construction time savings)

EXHIBIT B
Construction Management and Procedures

ARTICLE 1. THE DESIGN/BUILD TEAM AND EXTENT OF AGREEMENT

Conatser Construction TX, L.P. (herein after referred to as “**Design/Build Firm**”) accepts the relationship of trust and confidence established between him and the County by this Agreement. Design/Build Firm covenants with the County to furnish their professional skill and ordinary care and to cooperate with the Engineer in furthering the interests of the County. Design/Build Firm agrees to furnish efficient business administration and superintendence and to use their best efforts to complete the Project in an expeditious and economical manner consistent with the interest of the County.

1.1. The Design/Build Team: The Design/Build Firm, the County, and the Engineer called the “Design/Build Team” will work from a Notice to Proceed from the County through construction completion. The Design/Build Firm will provide leadership to the Design/Build Team on all matters relating to construction.

1.2. Extent of Agreement: This Agreement will not be superseded by any provisions of the documents for construction unless amended by subsequent written instrument signed by both the County and the Design/Build Firm. To the extent the work pursuant to that contract has not concluded that contract remains in force and effect and is not superseded by this Agreement.

1.3. Definitions: The Project is the total construction to be performed under this Agreement. The Work is that part of the Construction Phase Services that the Design/Build Firm is to perform or that part of the construction that a particular Sub-contractor under contract with the Design/Build Firm is to perform. The term day will mean calendar day unless otherwise specifically designated.

ARTICLE 2. DESIGN/BUILD FIRM’S SERVICES

The DESIGN/BUILD FIRM will perform the following services:

2.1. Pre-Construction Phase Services: The services under this section shall be performed pursuant to the Design/Build Firm’s response to Request for Qualification and Request for Proposal No. 2023-021 dated December 13, 2022 (the “RFQ/RFP”).

2.2. Construction Phase Services

2.2.1. Administrative Requirements

2.2.1.1. Work Covered by Contract Documents

- a) Work is to include furnishing all labor, materials, and equipment, and performing all Work necessary for this construction project as detailed in the Drawings and Specifications.

2.2.1.2. Subsidiary Work

- a) Any and all Work specifically governed by documentary requirements for the project, such as conditions imposed by the Drawings or Contract Documents in which no specific item for bid has been provided for in the Proposal and the

item is not a typical unit bid item included on the standard bid item list, then the item shall be considered as a subsidiary item of Work, the cost of which shall be included in the price bid in the Proposal for various bid items.

2.2.1.3. Use of Premises

- a) Coordinate uses of premises under direction of the County.
- b) Assume full responsibility for protection and safekeeping of materials and equipment stored on the Site.
- c) Use and occupy only portions of the public streets and alleys, or other public places or other rights-of-way as provided for in the ordinances of the County, as shown in the Contract Documents, or as may be specifically authorized in writing by the County.
 - 1) A reasonable number of tools, materials, and equipment for construction purposes may be stored in such space, but no more than is necessary to avoid delay in the construction operations.
 - 2) Excavated and waste materials shall be stored in such a way as not to interfere with the use of spaces that may be designated to be left free and unobstructed and so as not to inconvenience occupants of adjacent property.
 - 3) If the street is occupied by railroad tracks, the Work shall be carried on in such manner as not to interfere with the operation of the railroad.

2.2.1.4. Work within Easements

- a) Do not enter upon private property for any purpose without having previously obtained permission from the owner of such property.
- b) Do not store equipment or material on private property unless and until the specified approval of the property owner has been secured in writing by the Contractor and a copy furnished to the County.
- c) Unless specifically provided otherwise, clear all rights-of-way or easements of obstructions which must be removed to make possible proper prosecution of the Work as a part of the project construction operations.
- d) Preserve and use every precaution to prevent damage to, all trees, shrubbery, plants, lawns, fences, culverts, curbing, and all other types of structures or improvements, to all water, sewer, and gas lines, to all conduits, overhead pole lines, or appurtenances thereof, including the construction of temporary fences and to all other public or private property adjacent to the Work.
- e) Notify the proper representatives of the owners or occupants of the public or private lands of interest in lands which might be affected by the Work.
 - 1) Such notice shall be made at least 48 hours in advance of the beginning of the Work.
 - 2) Notices shall be applicable to both public and private utility companies and any corporation, company, individual, or other, either as owners or occupants, whose land or interest in land might be affected by the Work.

- 3) Be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in the manner or method or execution of the Work, or at any time due to defective work, material, or equipment.

2.2.1.5. Fence

- a) Restore all fences encountered and removed during construction of the Project to the original or a better than original condition.
- b) Erect temporary fencing in place of the fencing removed whenever the Work is not in progress and when the site is vacated overnight, and/or at all times to provide site security.
- c) The cost for all fence work within easements, including removal, temporary closures and replacement, shall be subsidiary to the various items bid in the project proposal, unless a bid item is specifically provided in the proposal.

2.2.2. Project Control: Monitor the Work of the Sub-contractors and coordinate the Work with the activities and responsibilities of the County, Engineer and Design/Build Firm to complete the Project in accordance with the County's objectives of cost, time, quality and safety all of which are enumerated in the contract documents for construction.

2.2.2.1. Maintain a competent full-time staff at the Project site to coordinate and provide general direction of the Work and progress of the Sub-contractors on the Project.

2.2.2.2. Establish on-site organization and lines of authority in order to carry out the overall plans of the Design/Build Team.

2.2.2.3. Establish procedures for coordination among the County, Engineer, Sub-contractors and Design/Build Firm with respect to all aspects of the Project and implement such procedures.

2.2.2.4. Schedule and conduct progress meetings at which Sub-contractors, County, Engineer and Design/Build Firm can discuss jointly such matters as procedures, progress, problems and scheduling.

2.2.2.5. Provide regular monitoring of the schedule as construction progresses. Identify potential variances between scheduled and probable completion dates. Review the schedule for Work not started or incomplete and recommend to the County and Sub-contractors' adjustments in the schedule to meet the probable completion date. Provide summary reports for each adjustment and document all changes in the schedule.

2.2.2.6. Determine the adequacy of the Sub-contractors' personnel and equipment and the availability of materials and supplies to meet the schedule.

2.2.2.7. The Design/Build Firm will provide the monthly update schedule in the format described in the Agreement and provide a monthly update sheet entitled "Project Critical Path This Month and 3 Month Look Ahead". Design/Build Firm will provide this update as part of their monthly progress payment application. This update schedule requires that the listing of critical path activities separately from the normal project management software program. The Design/Build Firm will list the critical path activities in tabular format (Microsoft Office Word or Excel document). This list will include the critical path

activities (completed percentage of each and those not completed) for the month of the current progress payment application and the upcoming 3 months ahead (Month 1, Month 2 and Month 3, all listed as separate months). The document should be titled "Project Critical Path This Month and the 3 Month Look Ahead".

2.2.3. The Design/Build Firm will, as prescribed under Section 2269.351 through 2269.367 of the Texas Government Code, select and identify sub-contractors for the performance of all major elements of the work other than work authorized as general conditions by the County.

2.2.3.1. Once all Sub-contractors have been identified to the County, the Design/Build Firm may not substitute any identified sub-contractor, unless an identified Sub-contractor:

- a) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the Design/Build Firm;
- b) voluntarily removes itself from the Design/Build Team;
- c) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or
- d) fails to negotiate in good faith in a timely manner in accordance with provisions established in the Agreement for the Project.

2.2.4. Cost Control: Develop and monitor an effective system of Project cost control. Revise and refine the initially approved Project Construction Budget, incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise County and Engineer whenever projected cost exceeds budgets or estimates. Identify scope changes and costs as requested by the County prior to performing the Work.

2.2.4.1. Maintain cost accounting records on authorized Work performed under unit costs, actual costs for labor and material, or other bases requiring accounting records, unless provided for by the Sub-contractor. Afford the County access to these records and preserve them for a period of three (3) years after final payment.

2.2.5. Change Orders: The Design/Build Firm shall submit all requests for changes to the County and Engineer for review and approval. The Engineer will submit recommendations to the County and assist in negotiating Change Orders. The Design/Build Firm will implement a system for the preparation and submittal of Change Orders to the County and Engineer.

2.2.6. Payments to Sub-contractors: Develop and implement a procedure for the review, processing and payment of applications to Sub-contractors for progress and final payments. The Design/Build Firm will pay Sub-contractors the appropriate share of any payment received from the County not later than the 10th day after the date such payment is received by the Design/Build Firm. The foregoing requirement does not apply to any payment withheld because of a bona fide dispute between the Design/Build Firm and a Sub-contractor.

2.2.7. Permits and Fees: Obtain all permits and special permits for permanent improvements, excluding permits for inspection or temporary facilities required to be obtained directly by the various Sub-contractors.

2.2.8. County's Consultants: If required, assist the County in selecting and retaining professional services of a surveyor, testing laboratories and special consultants, and coordinate these services, without assuming any responsibility or liability of or for these consultants.

2.2.8.1. Provide a project specific site safety program. Review the safety programs of each of the Sub-contractors. The Design/Build Firm will retain overall responsibility for safety precautions and programs in the performance of the Work, including the Sub-contractors. While this Section establishes the responsibility for safety between the County and the Design/Build Firm, it does not relieve Sub-contractors of their responsibility for the safety of persons or property in the performance of their work, nor for their compliance with the provisions of applicable federal, state and local law, regulations and orders applicable to the conduct of the Work.

2.2.8.2. Quality Review: The Design/Build Firm will establish and implement a program to monitor the quality of the construction. The program will protect the County from defects and deficiency in the work of the Sub-contractors. The Design/Build Firm must reject work and transmit to the Sub-contractor a notice of nonconforming work when it is the opinion of the Design/Build Firm that the Work does not conform to the requirements of the Contract Documents. Except for minor variations as stated herein, the Design/Build Firm shall not with the prior approval of the County, which shall not be unreasonably withheld, change, evoke, relax, alter, or release any requirement of the Construction Documents or approve or accept any portion of the Work not performed in accordance with the Construction Documents.

2.2.9. Document Interpretation: Refer all questions for interpretation of the documents prepared by the Engineer to the Engineer and a copy to the County.

2.2.10. Shop Drawings and Samples: In collaboration with the Engineer, establish and implement procedures for expediting the processing and Engineer's approval of shop drawings, samples, and other submittals. Receive from the Sub-contractors and review all such submittals, coordinate them with the information contained in related documents, and transmit them to the Engineer for approval.

2.2.11. Construction Documents: The Design/Build Firm must provide construction documents to the Engineer for review and approval. Neither the County nor its Engineer shall be responsible for the accuracy or completeness of the construction documents prepared by the Design/Build Firm.

2.2.12. If the Design/Build Firm becomes aware of any fault or defect in the Project or nonconformance with the Drawings and Specifications, prompt written notice thereof will be provided to the County and Engineer.

2.2.13. Reports and Project Site Documents: Record the progress of the Project. Submit monthly written progress reports to the County and the Engineer including information on the Sub-contractors' Work, and the percentage of completion. Keep a daily log available to the County and the Engineer. Submit the daily logs to the County and Engineer monthly.

2.2.13.1. Maintain at the Project site, on a current basis: records of all necessary Contracts, Drawings, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction related documents, including all revisions. Obtain data from Sub-contractors and maintain a current set of

record and as-built Drawings, Specifications and operating manuals. Review as-built/record drawings each month prior to sign-off of Sub-contractor applications for payment to determine if documents are being kept up to date. The recording of record and as-built drawings will be done by hand and does not include any computer aided product by the Design/Build Firm. At the completion of the Project, deliver all such records to the County.

2.2.14. Warranty: Where any Work is performed by the Design/Build Firm's own forces or by Sub-contractors under contract with the Design/Build Firm, the Design/Build Firm will warrant that all materials and equipment included in such Work will be new, unless otherwise specified by the Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and Specifications. If, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under any other provision of the contract documents, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the Requirements of the Contract Documents, the Design/Build Firm will correct it promptly after receipt of written notice from the County to do so. The County will give this notice promptly after discovery of the condition. The Design/Build Firm will collect and deliver to the County any specific written warranties given by others. If Design/Build Firm fails or refuses to correct the Work in accordance with its obligations under the Contract Documents after written notice from the County, then County may correct the Work and Design/Build Firm will remain liable for the costs to correct the Work, any related architectural, engineering or other consulting costs, legal fees and expenses and fines or penalties, if any. The foregoing warranty does not cover normal wear and tear and/or damage where the non-conformance is due to abuse, lack of proper maintenance or casualty losses.

2.2.15. Conduct with the County and Engineer, post-completion inspections during the 2-year (2) year warranty period to ascertain defects in material and workmanship and determine corrective action. Assign, if possible, the causes of the defects, the responsible Sub-contractor, and recommend reasonable corrective action. Aid the County in obtaining this corrective action and in filing insurance and bond claims where coverage is available. Ultimate responsibility for correcting defects in material and workmanship will rest with the Design/Build Firm at no expense to the County.

2.2.16. Conduct with the County and Engineer a Final Warranty Inspection within thirty (30) days of the end of the one (1) year warranty period.

2.2.17. After taking all steps necessary to assure that the Sub-contractors perform their contracts in accordance with their terms, the Design/Build Firm will notify the County of the necessity of any legal action including but not limited to litigation, mediation, etc. against the Sub-contractor.

2.3. Bond Requirements:

2.3.1. Power of Attorney: Attorney-in-fact who signs bids or contract bonds must file with each bond a certified and current copy of the power of attorney.

2.3.2. Payment Bond: A Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project.

2.3.3. Performance Bond: A Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of Tarrant County.

2.3.4. Maintenance Bond: A Maintenance Bond shall be executed in the amount of 100% the contract guaranteeing the prompt, full and faithful performance of the general guaranty and warranty contained in bid documents for a two (2) year period after work has been completed and accepted by Tarrant County.

2.3.5. The cost for Bond premiums shall be considered subsidiary to the unit prices.

2.4. Final Completion: Prior to Final Completion, the Design/Build Firm must provide record drawings to the County.

2.5. Additional Services

2.5.1. At the request of the County the Design/Build Firm will provide the following additional services upon written agreement between the County and Design/Build Firm defining the extent of such additional services and the amount and manner in which the Design/Build Firm will be compensated for such additional services.

2.5.2. Providing "Auto-Cad" As-Built or Record Documents.

2.6. Standard of Care

2.6.1. Design/Build Firm will proceed with sufficient qualified personnel necessary to expedite and fully complete all Services required under this Agreement with the Design/Build Firm's professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license.

2.6.2. Design/Build Firm's personnel assigned to the Project may be subject to County's approval, and no change in key personnel set out in the organization chart will be made unless approved by County. County may request replacement of any employee assigned by Design/Build Firm to the Project with reasonable cause and with agreement by the Design/Build Firm.

2.6.3. The Design/Build Firm covenants with the County to furnish its skills and judgment with due care in accordance with applicable federal, state and local laws and regulations.

2.7. Minimum Wage Rates

2.7.1. Attention is called to the Texas Government Code, Title 10 General Government, Subtitle F, Chapter 2258. This Article requires the Contractor and any subcontractor under him to pay not less than the prevailing rates per diem wages in the locality of the work at the time of construction to all laborers, workmen and mechanics employed by them in the execution of the Contract. Respondents should familiarize themselves with the entire provisions of this law and the penalties provided for its violation before submitting their proposals.

2.7.2. For the work required of this project, the Design/Build Firm and all sub-contractors shall pay his/her employees the prevailing wage rates in accordance with the Texas Government Code, Chapter 2258. The prevailing wage rates determined applicable for projects are the current

prevailing wage rate schedules of the United States Department of Labor adopted in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a, et. seq.) and its subsequent amendments. These prevailing wage rates can be obtained from the following web page:

https://beta.sam.gov/wagedetermination/20155231/12?keywords=TARRANT%20COUNTY&sort=-relevance&index=wd&is_active=true&page=1 and search State of Texas, County of Tarrant.

2.7.3. Any Contractor and any subcontractor under him to pay not less than the prevailing rates per diem wages in the locality of the work at the time of construction to all laborers, workmen and mechanics employed by them in the execution of the Agreement. Respondents should familiarize themselves with the entire provisions of this law and the penalties provided for its violation before submitting their proposals.

2.7.4. Any workers not included in the schedule shall be properly classified and paid not less than the rate of wages prevailing in the locality of the work at the time of construction.

2.7.5. For overtime work and legal holidays, the hourly rate shall be one and one-half times the Basic Hourly Rate.

2.7.6. The Contractor shall pay Tarrant County the amount of sixty dollars (\$60.00) for each laborer, workman or mechanic employed, for each calendar day or portion thereof such laborer, workman or mechanic is paid less than the stipulated rates for any work done under this Contract, by him or by any subcontractor under him.

2.7.7. No portion of this provision shall be construed to prohibit the payment to any laborer, workman, or mechanic employed on the work of more than the stated wage rate. It shall be the responsibility of the Contractor to maintain an adequate work force whether higher wages are required or not.

ARTICLE 3. ENGINEER'S RESPONSIBILITIES

3.1. Engineer:

3.1.1. The Engineer for this Project shall be Pacheco Koch Consulting Engineers, LLC.

3.1.2. The Engineer of Record shall be a part of the Design/Build Team.

3.2. **Inspection:** Engineer shall inspect the Work for compliance with approved plans, general conditions, and specifications.

ARTICLE 4. COUNTY'S RESPONSIBILITIES

4.1. The County will provide full information regarding the requirements for the Project.

4.2. The County may designate in writing a representative who will be fully acquainted with the Project and has authority to issue and approve Project Construction Budgets, issue Change Orders, render decisions promptly and furnish information expeditiously. This representative has the authority outlined in Section 6.5. Any limitations of the foregoing will be indicated to the Design/Build Firm in writing.

4.3. The County will secure the necessary right-of-way and construction easements as required for the construction.

4.4. The County will furnish such legal services as may be necessary for providing the items set forth in Section 4.3 and such auditing services as may be required.

4.5. The Design/Build Firm will provide the insurance for the Project as provided in Section 9.2 and 9.3.

4.6. If the County becomes aware of any fault or defect in the Project or nonconformance with the Drawings and Specifications, prompt written notice thereof will be provided to the Design/Build Firm.

4.7. The County will furnish, prior to commencing work and at such future times as may be requested, reasonable evidence satisfactory to the Design/Build Firm that sufficient funds are available and committed for the entire cost of the Project. Unless such reasonable evidence is furnished, the Design/Build Firm is not required to commence or continue any Work, or may, if such evidence is not presented within a reasonable time, stop the Project upon 15 days notice to the County. The failure of the Design/Build Firm to insist upon the providing of this evidence at any one time will not be a waiver of the County's obligation to make payments pursuant to this Agreement nor will it be a waiver of the Design/Build Firm's right to request or insist that such evidence be provided at a later date.

4.8. The County and Engineer will communicate with the Sub-contractors only through the Design/Build Firm.

4.9. **Substantial Completion:** The County shall determine Substantial Completion of the Work or designated portions thereof and prepare for the Engineer a list of incomplete or unsatisfactory items and a schedule for their completion. Develop and maintain a rolling punch list to minimize the final punch list.

4.10. **Final Completion:** The Design/Build Firm shall determine final completion and provide written notice to the County and Engineer that the Work is ready for final inspection. Secure and transmit to the Architect/ Engineer required guarantees, affidavits, releases, bonds and waivers. Turn over to the County record drawings and maintenance bonds.

4.11. The Design/Build Firm will be responsible for the removal, encapsulation, transportation, and disposal of any hazardous material, including without limitation, any asbestos or asbestos- related products as may be required in connection with the preparation of the Project site.

4.12. The County will provide or contract for, independently of the Design/Build Firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the County.

ARTICLE 5. SCHEDULE

5.1. The County will establish a Date of Substantial Completion of the Project.

5.2. The Date of Substantial Completion of the Project or a designated portion thereof is the date when construction is sufficiently complete in accordance with the Drawings and Specifications so the County can utilize the Project or designated portion thereof for the use for which it is intended. Warranties called for by this Agreement or by the Drawings and

Specifications will commence on the Date of Substantial Completion of the Project or designated portion thereof.

5.3. If the Design/Build Firm is delayed at any time in the progress of the Project by any act or neglect of the County or the Engineer or by any employee of either, or by any separate contractor employed by the County, or by changes ordered in the Project, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Design/Build Firm's control and substantiated by the Critical Path Schedule, the Substantial Completion Date will be extended by Change Order and the Design/Build Firm's reasonable costs of shut-down, delay and start-up, all of which costs will be reimbursed by the County.

5.4. Limitation of Damages for Delays by Design/Build Firm

In the event the Design/Build Firm fails to achieve Substantial Completion by the date set forth in the Project Schedule, as such date may be extended for any increases in performance time to which the Design/Build Firm is entitled under the terms of this Agreement, Design/Build Firm will be liable to County for \$1,000.00 per day, specifically including the additional cost to County of any Engineer and Project Manager services as a result of such failure.

ARTICLE 6. CHANGES IN THE PROJECT

6.1. The County, without invalidating this Agreement, may order Changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, the Construction Phase Services and the Substantial Completion Date being adjusted accordingly. All such Changes in the Project will be authorized by Change Order. The Design/Build Firm will provide an estimate of the cost of the Change and the impact the Change will have on the Project Time Schedule to the County.

6.1.1. A Change Order is a written order to the Design/Build Firm signed by the County or his authorized agent issued after the execution of this Agreement, authorizing a Change in the Project.

6.1.2. The Cost of a Change in the Project will be calculated as the sum of the cost of the additive change to the work performed by the Sub-contractors.

6.1.3. When both additions and credits are involved in any one change, the increase in Fee will be figured on the basis of net increase, if any, subject to the limitations set forth in the Contract Documents.

6.1.4. If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order or as a result of several Change Orders that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the County or the Design/Build Firm.

6.2. Claims for Additional Cost or Time

6.2.1. If the Design/Build Firm wishes to make a claim and/or an extension in the Substantial Completion Date, he must give the County written notice thereof within a reasonable time after the occurrence of the event giving rise to such claim. This notice must be given by the Design/Build Firm before proceeding to execute any Work, except in an emergency endangering

life or property in which case the Design/Build Firm will act, at his discretion, to prevent threatened damage, injury or loss. Claims arising from delay must be made within a reasonable time after the delay. No such claim will be valid unless so made.

6.2.2. Claims for extension of time because of unusual inclement weather will be granted only because such inclement weather prevented the execution of major items of work on normal working days. Unusual inclement weather as used herein means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year. Time extensions may also be granted for any day following a period of precipitation during which muddy conditions exist and prevent the performance of major items of work conducted on normal working days. Time may be granted for weather days over and above the normal rains days as outlined below.

6.2.3. Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number expected as shown in the Rainfall Table provided the rainfall prevented the execution of major items of work on normal working days. A rain day is defined as a day when rainfall exceeds one-one hundredth (.01) inch of rain and one (1.0) inch of snow pellets during a 24-hour period. The number of rain days expected for each month during the term of the Contract is provided by the National Oceanic and Atmospheric Administration based on recorded information reported from Dallas/Fort Worth International Airport, Texas, latitude 32° 53' 47" N, longitude 97° 02' 28" W, elevation (ground) 559 ft., for the period of 1971-2000 as shown in the Rainfall Table as follows:

January	7 calendar days
February	6 calendar days
March	8 calendar days
April	7 calendar days
May	9 calendar days
June	7 calendar days
July	4 calendar days
August	4 calendar days
September	6 calendar days
October	7 calendar days
November	6 calendar days
December	6 calendar days

6.2.4. No additional payment, Change Order or extension of time will be provided to the Design/Build Firm because of hindrances or delays from any cause which is the fault of Design/Build Firm or Design/Build Firm's Sub-contractors or under Design/Build Firm's control whether such hindrances or delays be avoidable or unavoidable. Claims for extension of time and/or payment of General Conditions and Construction Phase Services will be considered because of hindrances or delays which are not the fault of the Design/Build Firm.

6.2.5. Claims for extension of time may be considered because of hindrances or delays not the fault of Design/Build Firm or County, but only to the extent that Substantial Completion

of the Project exceeds the original Substantial Completion date of the Project because of the delay. Requests for time extension will be submitted on a monthly basis and will specify the time delay, the cause of the delay and the fault of the delay.

6.3. Minor Changes in the Project

6.3.1. The Engineer will have authority to order minor Changes in the Project not involving an extension of the Substantial Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such Changes may be effected by written order and will be binding on the County, the Sub-contractor and the Design/Build Firm, provided notice and reasonable opportunity to object have been given.

6.4. Emergencies

6.4.1. In any emergency affecting the safety of persons or property, the Design/Build Firm will act, at his discretion, to prevent threatened damage, injury or loss. Any extension of time claimed by the Design/Build Firm on account of emergency work will be determined as provided in this Article.

6.5. Change Order Review Time

Design/Build Firm understands that proper review and authorization of Change Orders by Commissioners Court requires no less than sixty (60) days. The Commissioners Court must approve all Change Orders.

6.6. Proof Required

In support of any request for an extension of the Contract Time, Design/Build Firm must demonstrate to the reasonable satisfaction of County that the critical path of the Project Schedule was delayed and such change delayed the Date of Substantial Completion. Design/Build Firm will be entitled to an increase in the Contract Time for the number of days that the Date of Substantial Completion was delayed solely as a result of the compensable or excusable event.

Design/Build Firm will compare the critical path of the Project Schedule to the actual critical path of the Work, identifying the specific impact of the compensable or excusable event. Design/Build Firm will submit to the County a written time impact analysis illustrating the influence of each compensable or excusable event on the Date of Substantial Completion. Each time impact analysis will include a fragmentary network (network analysis) demonstrating how the Design/Build Firm proposes to incorporate the time impact based on the date of the delay in time and the event time computation of all affected activities.

ARTICLE 7. PAYMENTS TO THE DESIGN/BUILD FIRM

7.1. The Design/Build Firm will submit monthly to the County a statement, sworn to if required, showing all moneys paid out, costs accumulated or costs incurred on account of the Cost of the Project during the previous month, cost for work performed by Sub-contractors due as provided in Article 6. Payment by the County to the Design/Build Firm, for the services provided by the Design/Build Firm, will be paid within thirty days (30) after it is received by Transportation Services from the Design/Build Firm. The County will withhold from each monthly payment an amount equal to five percent (5%) as Retainage on account of the Design/Build Firm. County may

release partial retainage to Design/Build Firm on written approval of the Design/Build Firm's surety on the performance and payment bonds.

7.1.1. The Design/Build Firm will maintain detailed statements, including without limitation, payroll records, receipted invoices, check vouchers, and any other evidence demonstrating costs incurred by the Design/Build Firm on account of the Cost of the Project, which records will be available for the County's examination during regular business hours.

7.2. Final payment will be made by the County to the Design/Build Firm when (1) the Contract has been fully performed by the Design/Build Firm, including the correction of nonconforming work, except for the Design/Build Firm's responsibility to satisfy other requirements, if any, which County agrees necessarily survive final payment: (2) a final Application for Payment and a final accounting for the Cost of the Project have been submitted by the Design/Build Firm and reviewed and commented on by the County and (3) Engineer has inspected the work and a final Certificate for Payment has then been issued by the Engineer, such final payment will be made by the County not more than 30 days after the issuance of the Engineer's final Certificate for Payment. If Final Payment is withheld, the amount withheld will equal a sum 150% of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately together with the estimated cost of completing each unfinished item. Thereafter, County will pay to the Design/Build Firm, monthly, the amount retained for incomplete items as each of said items is completed.

7.3. If the County should fail to pay the Design/Build Firm within fourteen (14) days after the time the payment of any amount becomes due, then the Design/Build Firm may, upon seven (7) additional days written notice to the County and the Engineer, stop the Project until payment of the amount owing has been received. The Contract performance time will be extended appropriately and the Design/Build Firm's reasonable costs of shut-down, delay and start-up will be reimbursed by the County.

7.4. Payments due but unpaid will bear interest at the statutory interest rate set forth in Texas Government Code Sec. 2251.025.

7.5. As a part of his monthly progress payment application the Design/Build Firm will list the critical path activities in tabular format (Microsoft Office Word or Excel document). This list will include the critical path activities (completed percentage of each and those not completed) for the month of the current progress payment application and the upcoming 3 months ahead (Month 1, Month 2 and Month 3, all listed as separate months). The document should be titled "Project Critical Path This Month and the 3 Month Look Ahead".

ARTICLE 8. INSURANCE, INDEMNITY, WAIVER OF SUBROGATION, AND BONDS

8.1. Indemnity

8.1.1. TO THE EXTENT CLAIMS, DAMAGES, LOSSES OR EXPENSES ARE NOT COVERED BY INSURANCE PURCHASED BY THE DESIGN/BUILD FIRM UNDER 9.4, THE DESIGN/BUILD FIRM WILL INDEMNIFY AND HOLD HARMLESS THE COUNTY AND ITS CONSULTANTS FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK,

PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, (except damage to the Work itself which is insured under the Property Insurance for the Project pursuant to Section 8.4.1,) BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE DESIGN/BUILD FIRM, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER. SUCH OBLIGATION WILL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION.

IN CLAIMS AGAINST ANY PERSON OR ENTITY INDEMNIFIED UNDER THIS SECTION BY AN EMPLOYEE OF THE DESIGN/BUILD FIRM, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION WILL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONSTRUCTION MANAGER OR A TRADE CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

8.2. Design/Build Firm's Liability Insurance

8.2.1. The Design/Build Firm will purchase and maintain such insurance as will protect him from the claims set forth below which may arise out of or result from the Design/Build Firm's operations under this Agreement whether such operations be by himself or by anyone directly or indirectly employed by him, or by anyone for whose acts he may be liable.

8.2.1.1. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed.

8.2.1.2. Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees under any applicable employer's liability law.

8.2.1.3. Claims for damages because of bodily injury, death of any person other than his employees.

8.2.1.4. Claims for damages insured by usual personal injury liability coverage.

8.2.1.5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use therefrom.

8.2.1.6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

8.2.2. The Design/Build Firm's Commercial General Liability insurance will include premises/operations (including explosion, collapse and underground coverage) elevators, independent contractors, completed operations, and blanket contractual liability on all written contracts, all including broad form property damage coverage.

8.2.3. The Design/Build Firm's Commercial General and Automobile Liability Insurance will be written for not less than limits of liability as follows:

- a) Commercial General Liability
 - 1) Bodily Injury \$2,000,000 Each Occurrence \$4,000,000 Aggregate - Completed Operations
 - 2) Property Damage \$1,000,000 Each Occurrence \$2,000,000 Aggregate
- b) Business Automobile Liability
 - 1) \$500,000 Minimum Combined Single Limit.
- c) Professional Liability Minimum of \$10,000,000.

8.2.4. Commercial General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.

8.2.5. The policies will contain provisions giving the County 60 days written notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage. Certificates of Insurance showing such coverages to be in force will be filed with the County prior to commencement of the Work.

8.2.6. With regard to insurance purchased by the Design/Build Firm for claims listed in Sections 8.2.1.3, 8.2.1.4, 8.2.1.5, and 8.2.1.6 the Design/Build Firm will include as a named insured the County. With regard to insurance purchased under Sections 8.2.2, 8.2.3, and 8.2.4 the Design/Build Firm will include as a named insured the County.

8.2.7. All insurance required by this Agreement must be secured with companies with an A. M. Best rating of at least "A" and acceptable to the County.

8.3. Insurance to Protect Project

8.3.1. The Design/Build Firm will purchase and maintain property insurance in a form acceptable to the County upon the entire Project for the full cost of replacement as of the time of any loss. This insurance will include as named insureds, the County and the Design/Build Firm and thier Sub-contractors and will insure against loss from the perils of Fire, Extended Coverage, and will include "All Risk" insurance for physical loss or damage including, without duplication of coverage, at least theft, vandalism, malicious mischief, transit, collapse, flood, and earthquake. The Design/Build Firm will increase limits of coverage, if necessary, to reflect estimated replacement cost. The Design/Build Firm will be responsible for any coinsurance penalties or deductibles.

8.3.1.1. If the County finds it necessary to occupy or use a portion or portions of the Project prior to Substantial Completion thereof, such occupancy will not commence prior to a time mutually agreed to by the County and Design/Build Firm and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance will not be canceled or lapsed on account of such partial occupancy. Consent of the Design/Build Firm and of the insurance company or companies to such occupancy or use will not be unreasonably withheld.

8.3.2. The Design/Build Firm will purchase and maintain such boiler and machinery insurance as may be required or necessary. This insurance will include the interests of the County, the Design/Build Firm and their Sub-contractors in the Work.

8.3.3. The Design/Build Firm will file a copy of all policies with the County before an exposure to loss may occur. Copies of any subsequent endorsements will be furnished to the Design/Build Firm and the County. The County will be given sixty (60) days' notice of cancellation, non-renewal, or any endorsements restricting or reducing coverage.

8.4. Property Insurance Loss Adjustment

8.4.1. A loss insured under the Contractor's property insurance shall be adjusted by the County as fiduciary and made payable to the County as fiduciary for the insureds, as their interests may appear.

8.4.2. Upon the occurrence of an insured loss, monies received will be deposited in a separate account and the trustees will make distribution in accordance with the agreement of the parties in interest.

8.5. Waiver of Subrogation

8.5.1. The County and Design/Build Firm waive all rights against each other, the Engineer and their Sub-contractors for damages caused by perils covered by insurance provided under Section 9.3, except such rights as they may have to the proceeds of such insurance held by the County and Design/Build Firm as trustees. The Design/Build Firm will require similar waivers from all Sub-contractors.

8.5.2. The County and Design/Build Firm waive all rights against each other and the Engineer and thier Sub-contractors for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Design/Build Firm will require similar waivers from all Sub-contractors.

8.5.3. The County waives subrogation against the Design/Build Firm, Engineer, on all property and consequential loss policies carried by the County under property and consequential loss policies purchased for the Project after its completion.

8.5.4. If the policies of insurance referred to in this Section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

8.6. Bonds

The Design/Build Firm will provide performance, payment, and maintenance bonds as required in accordance with Chapter 2253, Texas Government Code. If a fixed contract amount has not been determined at the time this Agreement is awarded, the penal sums of the performance, payment, and maintenance bonds delivered to the County must each be in an amount of 100% of the contract. The Design/Build Firm will deliver the bonds not later than the 10th day after the date the Design/Build Firm executes the contract.

ARTICLE 9. TERMINATION OF THE AGREEMENT AND COUNTY'S RIGHT TO PERFORM DESIGN/BUILD FIRM'S OBLIGATIONS

9.1. Termination by the Design/Build Firm

9.1.1. If the Project, in whole or substantial part, is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Design/Build Firm, or if the Project should be stopped for a period of thirty days by the Design/Build Firm for the County's failure to make payment thereon, then the Design/Build Firm may, upon seven days' written notice to the County and the Engineer, terminate this Agreement and recover from the County payment for all Work executed, and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, cancellation charges on existing obligations of the Design/Build Firm.

9.2. County's Right to Perform Design/Build Firm's Obligations and Termination by the County for Cause.

9.2.1. If the Design/Build Firm fails to perform any of his obligations under this Agreement including any obligation he assumes to perform Work with his own forces, the County may, after seven days written notice during which period the Design/Build Firm fails to perform such obligation, make good such deficiencies.

9.2.2. This Agreement may be terminated by County for cause should the Design/Build Firm fail to perform any provision of this Agreement, including without limitation, for any of the following reasons:

- a) Design/Build Firm abandons the Work;
- b) Design/Build Firm assigns or attempts to assign its rights or obligations under this Agreement or any part thereof to any third-party without the prior written consent of County;
- c) Design/Build Firm is adjudged bankrupt or insolvent, makes a general assignment for the benefit of creditors, has a trustee or receiver appointed for its property, or files a petition to take advantage of any debtor's acts;
- d) Design/Build Firm fails or refuses to perform any material obligation under the Agreement, or fails to remedy such non-performance within seven (7) days after its occurrence;
- e) Design/Build Firm fails to comply with any applicable Laws and fails to remedy such non-performance within seven (7) days after its occurrence; and
- f) Design/Build Firm fails to achieve the required dates of Substantial and/or Final Completion.

9.2.3. The County's right of termination as set forth herein will be in addition to, and not a limitation of, any and all other remedies available to County at law, in equity, or under the terms and provisions of this Agreement.

9.2.4. In the event of termination of the Agreement for cause, County may use Design/Build Firms material and leased equipment to complete the Work, and may complete the Work in any reasonable manner. Design/Build Firm will receive no further payment, if any is due, until the Work is complete. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Engineer's services and expenses made necessary

thereby, and other damages incurred by the County and not expressly waived, such excess will be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor will pay the difference to the County. The obligation to pay the amount to the Contractor or County will survive termination of the Contract.

9.2.5. If, after a termination for cause, it is determined that the Design/Build Firm was not in default, the rights or obligations of the parties will be the same as if the termination had been issued for the convenience of the County. The County will then be liable to the Design/Build Firm for any payments required by the termination for convenience clause.

9.3. Termination by County Without Cause

9.3.1. Notwithstanding anything else contained in the Contract Documents, County will have the right at its sole and absolute discretion to terminate the Agreement without cause and solely for the County's convenience by giving the Design/Build Firm written notice that the Agreement is terminated.

Design/Build Firm will, within thirty (30) days of receiving notice of termination under this Section, submit to County its statement of costs incurred by Design/Build Firm for performance of the Work prior to termination plus the costs incurred by Design/Build Firm in the performance of the Work terminated, less prior payments received. County will, within ninety (90) days after receipt of such statement, pay to Design/Build Firm all amounts it determines are properly included thereon. The phrase "costs incurred by Design/Build Firm in the performance of the Work terminated" as used herein means the following (and only the following) costs:

- a) Sub-contractor termination costs;
- b) Cancellation fees in regard to equipment and materials ordered;
- c) Cost of all materials and equipment ordered which cannot be cancelled, less actual proceeds received upon the disposition thereof;
- d) Restocking fees incurred in returning ordered materials; and
- e) Design/Build Firm demobilization costs

Upon payment by County of the sums owed under this Section, title to all materials, equipment and other property included or ordered for the terminated Work will pass to County. Payment by County to Design/Build Firm of the amounts specified in this Section will constitute a waiver by the Design/Build Firm of any other claims of any type arising out of the performance or termination of the Work, including any claims for consequential or indirect damages of any type, kind, or description.

ARTICLE 10. ASSIGNMENT AND GOVERNING LAW

10.1. Neither the County nor the Design/Build Firm may assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

10.2. Venue for any cause of action concerning this Agreement must be in the state district courts of Tarrant County, Texas. The law of the State of Texas governs this Agreement. Design/Build Firm will place Section 10.2 in every contract Design/Build Firm executes in performance of this Project.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1. It is expressly understood that the County will be directly retaining the services of an Engineer.

11.2. Notwithstanding anything contained herein, it is expressly understood that the Design/Build Firm's Project Control Systems, including without limitation, Estimating, Scheduling, Purchasing, Cost Reporting, and Project Engineering Systems, and all modifications, additions, or alterations thereto, are and will remain the sole property of the Design/Build Firm. The Project information gathered, compiled and stored in the Design/Build Firm's Project Control System is the property of the County. The Design/Build Firm will provide the estimating, scheduling, purchasing, cost reporting and other project specific information in a format readily transferrable to the County such as in paper form or MicroSoft based applications.

11.3. Notwithstanding the event of any claim, dispute, or other matter in question arising out of or relating to this Agreement or the breach thereof, the Design/Build Firm will carry on the Work and the County will continue to make payments in accordance with this Agreement.

11.4. This Agreement is a product of negotiation between the parties. The parties disclaim the use of contra proferentem in its interpretation.

11.5. The parties shall comply with the requirements of written notice in this Agreement.

EXHIBIT C
Title VI Assurances and Compliance Policy

A. ASSURANCES

During the performance of this Agreement, Conatser Construction TX, L.P., for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Term of the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this Agreement, the Recipient will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the Agreement until the Contractor complies; and/or

b. canceling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include provisions analogous to paragraphs one through six in every subcontract.

B. NONDISCRIMINATION AUTHORITIES

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees, to the extent applicable to Contractor and the services provided under the Agreement to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123)

(prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

C. REPRESENTATIONS/WARRANTIES

The Contractor also makes the following representations and warranties to Tarrant County:

1. It has taken the steps necessary to effectuate Title VI requirements.
2. Disadvantaged business enterprises are afforded equal opportunity to submit bids/proposals as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color, sex, age, disability, religion, veteran status, or national origin in consideration of a selection or award.
3. Neither Contractor or any subcontractors or sub-recipients that will participate in activities to be funded as a result of this Agreement/bid/solicitation, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed Parties to this Addendum and Employer Agreement, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment or disqualification.

D. TITLE VI COMPLAINTS

Any person who, based on race, religion, color, national origin, sex, age, or disability believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by Tarrant County or its sub-recipients, consultants and contractors may bring forth a discrimination complaint under Title VI. Only complaints based on the complainant's protected status will be considered under Title VI. The complainant may file a signed, written complaint up to 180 calendar days from the date of the alleged act of discrimination or the date the person(s) became aware of the alleged act(s) of discrimination. Complaints must be in writing and signed by the complainant and/or the complainant's representative. Complaints must be filed with the Tarrant County Title VI Coordinator at the

following address:

Tarrant County Human Resources Department
ATTN: Director of Human Resources and Title VI Coordinator
Records Building
500 Elm Street, Suite 4100
Tarrant, Texas 75202
(214) 653-7638 (phone)
(214) 653-7608 (fax)

A copy of the Tarrant County Title VI Non-Discrimination Plan and Documents, and complaint forms, may be obtained at

https://www.Tarrantcounty.org/Assets/uploads/docs/human-resources/TitleVI_Non-DiscriminationPlan_121218.pdf

And

https://www.Tarrantcounty.org/departments/HR/title_vi.php

Or at the physical address listed above.

A complainant may also contact the Federal Coordination and Compliance Office, Civil Rights Division at the Title VI Hotline: 888-TITLE-06 (888-848-5306) or send a letter to: U.S. Department of Justice Civil Rights Division Federal Coordination and Compliance Section, NWB 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530. More information on Title VI is available from the Justice Department online at www.justice.gov.

Contractor shall comply with all reasonable requests made in the course of an investigation of Title VI and these assurances by Tarrant County, the Texas Department of Transportation, the US Department of Transportation, the US Department of Justice, or any other federal or state agency. Failure to comply with such reasonable requests will be deemed a breach of this Agreement/bid/solicitation.

E. ENFORCEMENT

The Contractor affirmatively acknowledges that it will be subject to Title VI, and implementing regulations, and any enforcement measures therein. In addition to any enforcement action by Tarrant County, the Contractor acknowledges that the United States and the State of Texas has a right to seek judicial enforcement with regard to any matter arising under Title VI, including the assurances herein.

[Remainder of Page Intentionally Left Blank]

Contractor's Full Name:

Conatser Construction TX, L.P.

Signature,

Brock Huggins, President
Name and Title

TEXAS STATUTORY PERFORMANCE BOND
(Public Works)

Bond No. 0249367

KNOW ALL MEN BY THESE PRESENTS:

THAT, Conatser Construction TX, L.P.
5327 Wichita St., Fort Worth, TX 76119 (hereinafter called the Principal), as principal, and
Berkley Insurance Company

a corporation organized and existing under the laws of the State of Delaware, licensed to do
business in the State of Texas and admitted to write bonds, as surety, (hereinafter called the Surety), are held
and firmly bound unto Tarrant County, TX

(hereinafter called the Obligees), in the amount of Twelve Million, Eight Hundred Forty Thousand,
Six Hundred Fifty Nine and 52/100
Dollars (\$ 12,840,659.52) for the payment whereof, the said Principal and Surety bind themselves, and their
heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain contract with the Obligees, dated the 13th day of
December, 2022, for RFQ/REP 2023-021 for Design Build Construction of Bentley Bridge Drive

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the said Principal
shall faithfully perform the work in accordance with the plans, specifications and contract documents, then, this
obligation shall be null and void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the
Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions,
conditions and limitations of said Chapter to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this
13th day of December, 2022

Witness:

(if Individual or Firm) Conatser Construction TX, L.P. (Seal)

Attest: _____ By _____ (Seal)

(if Corporation) Brock Huggins, President (Seal)
Principal

Berkley Insurance Company (Seal)
Surety

By: Robbi Morales
Robbi Morales, Attorney-in-Fact

TEXAS STATUTORY PAYMENT BOND
(Public Works)

Bond No. 0249367

KNOW ALL MEN BY THESE PRESENTS:

THAT, Conatser Construction TX, L.P.

5327 Wichita Rd., Fort Worth, TX 76119 (hereinafter called the Principal), as principal, and
Berkley Insurance Company

a corporation organized and existing under the laws of the State of Delaware, licensed to do
business in the State of Texas and admitted to write bonds, as surety, (hereinafter called the Surety), are held
and firmly bound unto Tarrant County, TX

Twelve Million, Eight Hundred Forty Thousand,
(hereinafter called the Obligee), in the amount of Six Hundred Fifty Nine and 52/100
Dollars (\$ 12,840,659.52) for the payment whereof, the said Principal and Surety bind themselves, and their
heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain contract with the Obligee, dated the 13th day of
December, 2022, for RFQ/RFP 2023-021 for Design Build Construction of Bentley Bridge Drive

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length
herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the said Principal
shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work
provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and
effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the
Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions,
conditions and limitations of said Chapter to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this
13th day of December, 2022.

Witness:

(if Individual or Firm)

Attest:

(if Corporation)

Conatser Construction TX, L.P. (Seal)

By _____ (Seal)

Brock Huggins, President (Seal)
Principal

Berkley Insurance Company (Seal)
Surety

By: Robbi Morales
Robbi Morales, Attorney-in-Fact

MAINTENANCE BOND

STATE OF TEXAS §
COUNTY OF TARRANT §

KNOW ALL MEN BY THESE PRESENTS:

THAT we, Conatser Construction TX, L.P. of Fort Worth, Texas, as Principal, and Berklev Insurance Company as Surety, whose address is 475 Steamboat Rd., Greenwich, CT 06830, are held and firmly bound unto the County of Tarrant, State of Texas, as Obligee, through its County Judge, or his successor in office, in the sum of Twelve Million, Eight Hundred Forty Thousand, Six Hundred Fifty Nine and 52/100----- dollars (\$ 12,840,659.52), for the payment of which well and truly be made, we bind ourselves, and each of us, our heirs executors, administrators, successors and assigns, jointly and severally, by these presents.

WHEREAS, the said Principal has sub-divided and platted a certain tract of land located outside the limits of an incorporated city or town in Tarrant County, Texas, said subdivision known as Bentley Bridge Drive, more fully described as RFQ/RFP 2023-021 for Design Build Construction of Bentley Bridge Drive;

WHEREAS, the said Principal has dedicated to the public certain roads and streets as indicated on the plat, and the Principal desires Tarrant County, Texas, to accept for maintenance and operation on behalf of the public these dedicated improvements;

WHEREAS, Tarrant County will not accept for maintenance and operation on behalf of the public the dedicated roads and streets UNLESS AND UNTIL the said Principal has constructed, maintained and operated the said improvements, together with any associated drainage improvements, for a period of two consecutive years, beginning on the date this Bond is fully executed, with said dedicated roads, streets and associated drainage improvements being constructed, maintained and operated by said Principal: (1) in conformity with the specifications contained on the plat recorded in the Tarrant County Clerk's Office in Fort Worth, TX; (2) in accordance with the *Tarrant County Subdivision & Land Use Regulations* promulgated by the Commissioners Court of Tarrant County, Texas; and (3) to the satisfaction of the Transportation Services Department of Tarrant County.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH that the obligation begins as of the date this Bond is fully executed and will remain in effect until:

(1) the Principal has constructed, maintained and operated all dedicated roads, streets and associated drainage improvements for a period of two consecutive years, beginning on the date this Bond is fully executed:

(a) in conformity with the specifications contained on the plat recorded in the Tarrant County Clerk's Office in Fort Worth, TX;

(b) in accordance with the *Tarrant County Subdivision & Land Use Regulations* promulgated by the Commissioners Court of Tarrant County, Texas; and

(c) to the satisfaction of the Transportation Services Department of Tarrant County;

and

Bond Number: 0249367

(2) the Commissioners Court of Tarrant County, Texas, formally releases by a Court Order the Principal and Surety from liability under this Bond.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals this 13th day of December, 20 22.

PRINCIPAL

Conatser Construction TX, L.P.

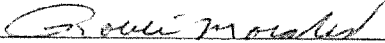
By: Brock Huggins, President

Address: 5327 Wichita St.

Fort Worth, TX 76119

SURETY

Berkley Insurance Company


By: Robbi Morales, Attorney-in-fact

Address: 475 Steamboat Rd.

Greenwich, CT 06830

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Ricardo J. Reyna; Don E. Cornell; Sophie Hunter; Robbi Morales; Kelly A. Westbrook; Tina McEwan; Joshua Saunders; Tonie Petranek; or Mikaela Peppers of Aon Risk Services Southwest, Inc. of Dallas, TX* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 11th day of May, 2022.

Attest:

(Seal)

By

Ira S. Lederman
Executive Vice President & Secretary

Berkley Insurance Company

By

Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 11th day of May, 2022, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDRAKEN
NOTARY PUBLIC
CONNECTICUT
MY COMMISSION EXPIRES
MAY 30, 2024

Maria C. Rundraken
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 13th day of December, 2022.

(Seal)

Vincent P. Forte
Vincent P. Forte

WARNING: Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Berkley Surety Group, LLC and its affiliates by telephone for information or to make a complaint:

BERKLEY SURETY GROUP, LLC

Please send all notices of claim on this bond to:

Berkley Surety Group, LLC
(866) 768-3534

412 Mount Kemble Avenue, Suite 310N
Morristown, NJ 07960
Attn: Surety Claims Department

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact your agent or Berkley Surety Group, LLC first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document and is given to comply with Texas legal and regulatory requirements.