

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: September 23, 2014		DATE SUBMITTED: September 8, 2014	
DEPARTMENT OF ORIGIN: Streets & Drainage		SUBMITTED BY: E. Zaragoza	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consider approval of an “Annual Contract for Concrete Curb, Gutter and Flatwork” with Brazos Site Works of Bryan, Texas for a not-to-exceed amount of \$617,860.			
SUMMARY STATEMENT: Three (3) sealed bids for concrete curb, gutter, and flatwork were received and opened on August 27, 2014, from Brazos Site Works, Brazos Paving and Vox Construction. The bid providing the best value to the City was the lowest bid submitted by Brazos Site Works of Bryan, Texas in the amount of \$617,860. In addition, the City shall have the option of extending this contract for four (4) additional one (1) year terms to be extended one (1) year at a time.			
<p>This contract has gone to bid twice in the last six years, in 2009 and 2014. As shown above, the City received three (3) bids for this contract (Brazos Site Works, Brazos Paving and Vox Construction). In 2009, the City also received three bids (Brazos Site Works, Brazos Valley Service and Fuqua Construction). At that time, there was an \$85,491 difference between the low bid (Brazos Site Works) and the second lowest bidder (Fuqua Construction). Currently, there is a \$2,995 difference between the low bid (Brazos Site Works) and the second lowest bidder (Vox Construction). The unit prices for the 2014 Brazos Site Works contract are 3 to 6 percent more than the contract bid in 2009.</p> <p>The Streets & Drainage Department personnel use this contract to repair concrete streets, curb and gutter, and sidewalks on an as-needed basis or by citizen work order requests. The bulk of the contract is used to repair concrete streets and sidewalks after cuts are made for utility repairs by Water Services. The City has utilized a contract similar to this for many years and has found it the most efficient and effective manner to make street repairs after utility cuts are made. By repairing a street in an expeditious manner, damage is minimized to the surrounding pavement and the City’s image and infrastructure is restored.</p>			
Table 1 below summarizes what has been expended on the existing contract over the last five (5) years.			
Table 1. Summary of Expenditures for Concrete Curb, Gutter, and Flatwork, Contract #09-149, Brazos Site Works			
Year #	PO#	Extension Date	Amount
Year 1 (09/1/09 – 09/15/10)	091198	-	\$ 604,852.41
Year 2 – 1 st Extension	101177	09/01/10	\$ 379,367.76
Year 3 – 2 nd Extension	120182	09/28/11	\$ 503,900.41
Year 4 – 3 rd Extension	130339	09/28/12	\$ 468,505.78
Year 5 - 4 th Extension	140014	08/27/13	\$ 543,549.23*
* As of 9/2/14			

Funds for this contract will be expended on an as-needed basis for the repair of streets and sidewalk utility repairs, which arise during the contract period. The funds for this contract are available in the Streets & Drainage, Water, and Wastewater Departments budgets for Fiscal Year 2015.

STAFF ANALYSIS AND RECOMMENDATION: The Public Works Streets & Drainage Department respectfully requests the City Council consider approval of an “Annual Contract for Concrete Curb, Gutter and Flatwork” with Brazos Site Works of Bryan, Texas for a not-to-exceed amount of \$617,860. In addition, the City shall have the option of extending this contract for four (4) additional one (1) year terms.

The Streets & Drainage Department personnel use this contract to repair concrete streets, curb and gutter, and sidewalks on an as-needed basis or by citizen work order requests. The bulk of the contract is used to repair concrete streets and sidewalks and to repair utility cuts made by Water Services. The City has utilized a contract similar to this for many years and has found it the most efficient and effective manner to make street repairs after utility cuts are made. By repairing a street in an expeditious manner, damage is minimized to the surrounding pavement and the City’s image is enhanced.

OPTIONS (In Suggested Order of Staff Preference):

1. Approve the contract
2. Do not approve the contract and direct staff to rebid

ATTACHMENTS:

1. Bid Tab
2. Annual Contract

FUNDING SOURCE: Streets & Drainage Department (General Fund), Water Fund, Wastewater Fund

APPROVALS: Jayson E. Barfknecht 09/05/14; Hugh R. Walker, 09/16/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 09-12-2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09-16-2014



City of Bryan
 Purchasing Department
 Bid Tabulation for #14-075
 Annual Contract for Concrete Curb, Gutter and Flatwork
 Opening: 08/27/14 at 2:00 PM

Attachment #1

All bids submitted are reflected on this bid tab sheet. However, the listing of a bid should not be construed as any indication that the City accepts such bid as responsive. The City will notify the successful bidder upon award of contract.

			Brazos Site Works, LP	Vox Construction, LLC		Brazos Paving Inc.				
# of Copies (1 required)			Y	Y	Y	Y	Y			
Addendum No. 1 (Y/N)			Y	Y	Y	Y	Y			
Prompt Payment Discount:			N	N	N	N	N			
Felony Conviction Notice (Y/N)			Y	Y	Y	Y	Y			
References (Y/N)			Y	Y	Y	Y	Y			
Certification from bid package (Y/N)			Y	Y	Y	Y	Y			
Bid Bond (Y/N)			Y	Y	Y	Y	Y			
#	QTY	UNIT	DESCRIPTION		Unit	Total	Unit	Total	Unit	Total
1	1500	Lin. Ft.	Remove & Replace Concrete Curb & Gutter, in accordance with TSDHPT 1993 Standard Specs, Item #360, & according to attached specifications 135, 150, 305, 310 & 360 and details on sheet ST1.		\$32.50	\$48,750.00	\$38.05	\$57,075.00	\$34.00	\$51,000.00
2	2300	Lin. Ft.	Furnish and Install Monolithic Concrete Curb, in accordance with attached specifications 135, 150, 305, 310, & 360 and details on sheet ST1.		\$12.20	\$28,060.00	\$12.35	\$28,405.00	\$8.00	\$18,400.00
3	500	Cu. Yd.	Remove & Replace Concrete Flatwork (For qty's from 0-20 cu yds) (sidewalks, driveways, aprons, gutters) in accordance with the attached specifications 135, 305, 310, 350, 360, 370 and details on sheet ST1, ST2, and ST3.		\$444.00	\$222,000.00	\$441.00	\$220,500.00	\$525.00	\$262,500.00
4	250	Cu. Yd.	Replace Concrete Flatwork where Flatwork has already been removed (For qty's from 0-20 cu yds) (sidewalks, driveways, aprons, gutters) in accordance with the attached specifications 135, 305, 310, 350, 360, 370 and details on sheet ST1, ST2, and ST3.		\$365.00	\$91,250.00	\$313.50	\$78,375.00	\$484.00	\$121,000.00
5	500	Cu. Yd.	Remove & Replace Concrete Flatwork (For qty's greater than 20 cu yds) (sidewalks, driveways, aprons, gutters) in accordance with the attached specifications 135, 305, 310, 350, 360, 370 and details on sheet ST1, ST2, and ST3.		\$385.00	\$192,500.00	\$398.00	\$199,000.00	\$425.00	\$212,500.00
6	100	Cu. Yd.	Replace Concrete Flatwork where Flatwork has already been removed (For qty's greater than 20 cu yds) (sidewalks, driveways, aprons, gutters) in accordance with the attached specifications 135, 305, 310, 350, 360, 370 and details on sheet ST1, ST2, and ST3.		\$318.00	\$31,800.00	\$320.00	\$32,000.00	\$399.00	\$39,900.00
7	100	tons	Removal and replacement of unsuitable material, as determined by the City, and replace with cement stabilized sand, according to the attached specification 135.		\$35.00	\$3,500.00	\$55.00	\$5,500.00	\$40.00	\$4,000.00
SPECIFIED RESPONSE TIME:			1 day		5 days		5 days			
GRAND TOTAL			\$617,860.00		\$620,855.00		\$709,300.00			

**CONTRACT FOR
ANNUAL CONCRETE CURB GUTTER AND FLATWORK
RFB #14-075**

This Contract, dated _____, 2014, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and **Brazos Site Works, LP** (the Service Provider), whereby the Service Provider agrees to provide the City with certain services as described herein and the City agrees to pay the Service Provider for those services.

1. Scope of Services

In consideration of the compensation stated in **paragraph 2**, the Service Provider agrees to provide the City with the services as described in **Exhibit A, RFB #14-075**, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows:

Annual Contract for Concrete Curb, Gutter and Flatwork

2. Payment

In consideration of the Service Providers provision of the services in compliance with all terms and conditions of this Contract, the City shall pay the Service Provider according to the terms set forth in **Exhibit A, RFB #14-075**. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all services provided under this Contract may not exceed **\$617,860.00**.

3. Time of Performance

A. All work and services provided under this Contract must be completed according to the Scope of Services described in **Exhibit A, RFB #14-075**.

B. **Time is of the essence of this Contract.** The Service Provider shall be prepared to provide the services in the most expedient and efficient manner possible in order to complete the work by the times specified and described in **Exhibit A, RFB #14-075**.

4. Warranty, Indemnification, Release & Insurance

A. As an experienced and qualified Service Provider, the Service Provider agrees that the services provided by the Service Provider reflect the professional and industry standards, procedures, and performances. The Service Provider agrees the selection and supervision of personnel, and the performance of services under this Contract, will be pursuant to the standard of performance in the profession. The Service Provider agrees that the Service Provider will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Service Provider, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy, competency and quality of the services provided, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid services provided by the Service Provider, its employees, associates, agents, or subcontractors.

B. The Service Provider shall promptly correct any defective work furnished by the Service Provider at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of

the services hereunder itself shall in no way alter the Service Providers obligations or the City's rights hereunder.

C. In all activities or services performed hereunder, the Service Provider is an independent contractor and not an agent or employee of the City. The Service Provider and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Service Provider shall be responsible for the services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Service Provider shall supply all materials, equipment, and labor required for the services to be provided under this Contract. The Service Provider shall have ultimate control over the execution of the services. The Service Provider shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Service Provider or any of the Service Providers subcontractors.

D. The Service Provider must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Service Provider, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): Service Provider shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Service Provider's negligent performance of the work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Service Provider shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Service Provider's negligence.

F. **Release.** The Service Provider releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Service Provider or its employees and any loss of or damage to any property of the Service Provider or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Service Provider's negligent performance of the work. Both the City and the Service Provider expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

G. **Insurance.** The contractor agrees to maintain the coverage's, endorsements, and limits in accordance with and set forth by the Insurance Coverage & Limit Table below for the duration of this contract. The Contractor agrees to:

- Deliver to the City Certificate(s) of Insurance evidencing that such policies are in full force and effect not later than 5 business days after notification of the City's intent to award a contract, but in any event prior to commencement of work. If policy endorsements are necessary, satisfactory evidence of request to insurance carrier must accompany the Certificate(s) of Insurance. Failure to meet these requirements may cause

the bid to be rejected.

- Submit any policy endorsements within 30 days of the City's intent to award contract. No payment will be made and/or the City may stop work or terminate the contract if contractor fails to supply satisfactory evidence of policy endorsements.
- Allow the City the right to obtain complete, certified copies of all required insurance policies at any time.
- Clearly indicate contract name and contract number to which Certificate(s), endorsements, and policies apply.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Contractor, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Contractor.

INSURANCE COVERAGE & LIMIT TABLE

WORKERS' COMPENSATION INSURANCE & EMPLOYERS' LIABILITY INSURANCE – Statutory & \$500,000/\$500,000/\$500,000 Contractor agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Contractor shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor. Waiver of subrogation in favor of the City required. This requirement may be waived with satisfactory evidence that the contractor is sole proprietor(s)/has no employees.

COMMERCIAL GENERAL LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Contractors. Additional insured endorsement required.

BUSINESS AUTOMOBILE LIABILITY INSURANCE – Limit of liability not less than \$1,000,000 per occurrence Contractor agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned, and hired automobiles. Should the Contractor not own any automobiles and furnish satisfactory evidence of this, the business auto liability requirement shall be amended to allow the Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.

UMBRELLA or EXCESS LIABILITY Contractor may satisfy the minimum liability limits required for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. The annual aggregate limit shall not be less than the highest "each occurrence" limit. Contractor agrees to endorse City as an additional insured, unless the Certificate states the Umbrella or Excess Liability provides coverage on a pure "True Follow Form" basis.

CONTRACTOR'S INSURANCE TO BE PRIMARY Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising out of operations under the contract.

DEDUCTIBLES, COINSURANCE PENALTIES, & SELF-INSURED RETENTION Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition.

SUBCONTRACTOR'S INSURANCE Contractor shall agree to cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified, provided the Contractor's insurance does not afford coverage on behalf of the subcontractor.

CERTIFICATE OF INSURANCE Contractor shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-VI" or better and/or otherwise acceptable to the City. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. Contractor must provide minimum 30 days prior written notice to the City of Bryan of policy cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage.

Contractor must provide minimum 30 days prior written notice to the City of Bryan of policy cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage. If City is notified a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right to withhold payment to Contractor until coverage is reinstated. If the Contractor fails to maintain the required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Contractor's expense.

Certificates and notices should be provided to the City at the following address:

City of Bryan
Attn: Risk Management
P O Box 1000
Bryan, TX 77805

5. Termination

A. The City may terminate this Contract at any time upon **thirty (30)-calendar** days written notice. Upon the Service Provider's receipt of such notice, the Service Provider shall cease work immediately. The Service Provider shall be compensated for the services satisfactorily performed prior to the termination date.

B. If, through any cause, the Service Provider fails to fulfill its obligations under this Contract, or if the Service Provider violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Service Provider **five (5)** calendar days written notice. The Service Provider will be compensated for the services satisfactorily performed before the termination date.

C. No term or provision of this Contract shall be construed to relieve the Service Provider of liability to the City for damages sustained by the City because of any breach of contract by the Service Provider. The City may withhold payments to the Service Provider for the purpose of setoff until the exact amount of damages due the City from the Service Provider is determined and paid.

6. Miscellaneous Terms

A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan
Attn: Eric Zaragoza
P.O. Box 1000
Bryan, Texas 77805

The Service Provider:
Brazos Site Works, LP
9349 Dilly Shaw Tap Rd.
Bryan, Texas 77808

C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

D. This Contract represents the entire and integrated agreement between the City and the Service provider and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

E. This Contract and all rights and obligations contained herein may not be assigned by the Service Provider without the prior written approval of the City.

F. The Service Provider, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Service Provider must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

Janis K. Hampton, City Attorney

Date: _____

SERVICE PROVIDER:

(Service Provider - Corporate Seal)

By: _____
Printed Name: _____
Title: _____
Date: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the _____ day of _____, 2014,
by _____ on behalf of
_____.

Notary Public in and for the State of Texas