



205 East 28th Street, Bryan, TX 77803
PO BOX 1000, Bryan, TX 77805
979-821-5860 Fax: 979-821-5747
pmosley@btutilities.com

DATE ISSUED: January 26, 2012

BID Proposal No. 037-04-12

Description:

BTU Distribution Roof Replacement

**Emailed or Faxed Bid Proposals to Be Submitted By:
2:00 P.M. Tuesday, February 14, 2012**



Important Disclosure Requirements

Chapter 176 of the Texas Local Government Code mandates the public disclosure of certain information concerning persons doing business or seeking to do business with Bryan Texas Utilities, including affiliations and business and financial relationships such persons may have with Bryan Texas Utilities officers. An explanation of the requirements of Chapter 176, applicable forms and a complete text of the new law are available at: <http://www.btutilities.com/news/disclosure.aspx>.

If you are unable to obtain such information online, please contact the BTU Purchasing Agent at 821-5715 or mail to: BTUPurchasing@btutilities.com for further assistance regarding Chapter 176.

BY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH BRYAN TEXAS UTILITIES, YOU ACKNOWLEDGE THAT YOU HAVE BEEN NOTIFIED OF THE REQUIREMENTS OF CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE AND THAT YOU ARE SOLELY RESPONSIBLE FOR COMPLYING WITH THEM.

NOTICE TO BIDDERS

****Mandatory Pre-Bid Meeting** February 2, 2012 - 2:00 p.m. at 614 Atkins Street, Bryan TX 77801.**

Bid Proposal for Removal and Replacement of Roof at BTU Distribution located at 614 Atkins Street.

Emailed or Faxed bid proposals addressed to Bryan Texas Utilities, Attn: Phebe Mosley will need to be sent to pmosley@btutilities.com or fax 979-821-5747. All bid proposals will be received until 2:00 p.m., February 14, 2012.

Incomplete bid proposal forms will invalidate the bid proposal and the bid will be rejected and returned to the bidder upon request. The right to accept any bid proposal or to reject any or all bid proposals and to waive all formalities is hereby reserved by Bryan Texas Utilities.

A sample contract follows at the end of bid proposal as a notification of what will be required prior to service with awarded contractor.

Exhibit "A"
Scope of Work

BTU DISTRIBUTION ROOF REPLACEMENT

Roofing panels shall be profiled, precoated (white) galvanized steel sheets, 24 gauge minimum thickness, KYNAR 500 or equivalent.

The roof system shall be an exposed fastener roof system or approved equivalent.

All seams and areas of possible moisture penetration shall be liberally caulked with 35 year life caulk or sealed with the roofing manufacturer's standard sealing tape.

Roofing system shall be designed for the following live loads.

- 1) The greater lateral loads of wind based on 90 MPH basic wind speed Exposure B
- 2) Seismic loads as required by RUS Engineering Bulletin 1724-E300
- 3) 20 PSF minimum roof live load
- 4) Ice/snow load as required by ASCE 7

Remove existing roof panels and stack usable panels at designated location for BTU salvage .

Install new roof panels of 24 gauge R-panel (approximately 6500 square feet).

All roofing debris and unusable panels to be disposed of by contractor.

Bid Proposal No. 037-04-12

BID Proposal TOTAL: _____

Optional: Bidder may include a separate bid proposal sheet detailing cost

Exhibit B
GENERAL INSTRUCTIONS
FOR
BIDDING TO BRYAN TEXAS UTILITIES

INSTRUCTIONS: These instructions apply to all bids and become a part of the terms and conditions of any bid submitted, unless bidder takes exception in writing when submitting bid.

FORM: Bids must be submitted on this form only, in single copy, unless otherwise stated. All bids submitted must be itemized with prices extended when practical. **BIDDER MUST RETURN THE ENTIRE ORIGINAL BID DOCUMENT WITH BID OR PROPOSAL.**

BID RETURN: Bid must be received and to ensure proper recognition upon its arrival, list the Bid Number on the outside of your envelope.

LATE BIDS: Bids must be received at the location indicated in the bidding documents and received prior to the time indicated on their form. Late bids will not be opened and will be returned to the bidder upon written request.

ACCEPTANCE: Bryan Texas Utilities reserves the right to accept or reject any or all bids, to waive any informalities and technicalities, to accept the offer considered most advantageous in order to obtain the **best value** for Bryan Texas Utilities. All bidders are hereby notified that Bryan Texas Utilities shall consider all factors it believes to be relevant in selecting the offer that provides the best value for Bryan Texas Utilities including, but not limited to the purchase price, the proximity of the bidder as it relates to his ability to perform the contract for Bryan Texas Utilities, the delivery date, the reputation of the bidder and the bidder's goods or services, the quality of the bidder's goods or services, the bidder's past performance under contracts with Bryan Texas Utilities and bidder's compliance with City of Bryan's ordinances.

Bryan Texas Utilities reserves the right to reject the bid of any bidder who previously failed to perform properly, or complete on time, agreements of similar nature, or to reject the bid of a bidder who is not in a position to perform such an agreement satisfactorily.

Bryan Texas Utilities is committed to obtaining its goods, products and services at the lowest price possible which benefits all the citizens of Bryan. Therefore, in order to accomplish this objective/goal, it is not the intention of Bryan Texas Utilities neither to write out vendors or manufacturers nor to create restrictive situations in its request for bids and proposals. Any manufacturer's names, trade names, brand names, catalog numbers, technical data, etc. used in the specifications are there for the sole purpose of establishing and describing general performance, quality levels, type and dimensions and such references are not intended to be restrictive. Alternate bids on similar or comparable products and/or services of any manufacturer or vendor equal to the products and/or services described in the specifications are invited and will be given careful consideration provided the alternate will accomplish the same task. Bryan Texas Utilities shall be the sole judge whether the alternate product and/or service is similar to, equal to and in compliance with that specified. The decision of Bryan Texas Utilities shall be final.

"In literal compliance" in reference to standards and specifications shall mean the meeting or exceeding of all or nearly all of the said standards and specifications. If Bryan Texas Utilities determines that standards and specifications are in literal compliance where not all standards and specifications have been met or exceeded, Bryan Texas Utilities must base such a determination on its finding that any standards and specifications which have not been met or exceeded do not render the bidder product any less usable for the purpose for which it is intended.

ERROR-QUANTITY: Bids must be submitted on units of quantity specified. In the event of errors in extended prices, the unit price shall govern. Any suggested quantity to secure better prices is welcomed. When discrepancies occur between words and figures, the words shall govern.

F.O.B.-DAMAGE: Bids will not be considered unless bid F.O.B. delivered Bryan, Texas. If shipping costs are not included in the unit bid price, bidder must give exact delivery cost, which is to be prepaid or added to the invoice. Bryan Texas Utilities assumes no liability of goods delivered in a damaged or unacceptable condition.

FIRM PRICES: Bid prices must be firm for a minimum of 90 days from the date of bid opening. In the case Contract Request Bids, the prices must remain firm for the period as specified on the bid. "Discount from list" bids are not acceptable unless specifically requested.

AUTHORIZED SIGNATURE: Bids must show full firm name and mailing address of bidder and be manually signed by an authorized sales or quotation representative of the bidder. Firm name and authorized signature should appear on each page of bid where spaces are provided. Submission of a signed bid will be interpreted to mean that bidder has hereby agreed to all terms and conditions set forth in all of the sheets which make up this invitation.

WITHDRAWAL-ALTERATION OF BIDS: Bids cannot be altered after receiving time or opening time. No bid may be withdrawn after opening time without acceptable reason in writing and with the approval of Bryan Texas Utilities.

QUANTITIES: Bryan Texas Utilities has the right to adjust line item quantities up and down at least 5% without incurring any penalty from the vendor.

LUMP SUM BIDS: Lump sum bids will be considered only if unit prices are quoted also. However, the totals of such quoted unit prices and the lump sum bids will not be considered if the price quoted also involves prices of commodities requested on an entirely separate bid request.

ALL-OR-NONE BIDS: All-or-none bids will be considered only if bidder quoted prices on all items requested. All-or-none bids will not be considered if prices quoted involved prices of items and services requested on an entirely separate bid request.

AWARD OF CONTRACT:

In determining the best value Bryan Texas Utilities may consider:

- (1) Conformity to specifications;
- (2) the purchase price, including payment discount terms;
- (3) the reputation of the bidder and of the bidder's goods or services;
- (4) the quality of the bidder's goods or services;
- (5) the extent to which the goods or services meet Bryan Texas Utilities' needs;
- (6) the bidder's past relationship with Bryan Texas Utility;
- (7) delivery terms;
- (8) payment terms;
- (9) the impact on the ability of Bryan Texas Utilities to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
- (10) the total long-term cost to Bryan Texas Utilities to acquire the bidder's goods or services;
- (11) vendor's safety record; and
- (12) any relevant criteria specifically listed in the request for bids or proposals.

PAYMENT OF INVOICES: Invoices must be submitted by the successful bidder to Bryan Texas Utilities, Fiscal Services, P.O. 1000, Bryan, Texas 77805, (979) 821-5853. All invoices to be paid in full within thirty (30) days after satisfactory delivery and billing, whichever is the later.

PAYMENT

1. The determination of quantities of work acceptably completed under the terms of the contract, or as directed by the Project Manager in writing, will be made by the Project Manager.
2. The payment of any current or partial estimate prior to final acceptance of the work by the Owner shall in no way constitute an acknowledgment of the acceptance of the work, nor in any way prejudice or affect the obligation of the Contractor to repair, correct, or replace, at his own expense, any defects, imperfections, or damages resulting from defects or imperfections in the construction. The Project Manager shall be the sole judge of such defects, imperfections, or damage.

Any item of work not covered in the proposal will not be paid for directly, but shall be considered as subsidiary to a regular bid item.

3. Retainage

As security for the faithful and satisfactory completion of the work by the Contractor, the Owner may retain ten percent (10 %) of the total dollar amount of work completed on all contracts until acceptance by Owner's Representative.

Neither the final payment nor any part of the retained percentage shall become due until the CONTRACTOR, if required, shall deliver to BTU a complete release of all liens arising out of this Contract, or receipt in full in lieu thereof and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed; but the CONTRACTOR may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to BTU, to indemnify BTU against any lien. If any lien remains unsatisfied after all payments are made, the CONTRACTOR shall refund to BTU all moneys that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fees.

4. Final Acceptance

Whenever the improvement provided for by the contract shall have been completely performed on the part of the Contractor, the Contractor shall notify the Project Manager that the improvements are ready for final inspection. The Project Manager will then make such final inspection, and if the work is satisfactory and in accordance with the Specifications and Contract, he will give the Contractor a written Letter of Acceptance.

5. Final Payment

Whenever the improvements provided for by the contract shall have been completely performed on the part of the Contractor as evidenced by the Project Manager in the Letter of Acceptance, a final estimate showing the value of the work will be prepared by the Project Manager. All prior estimates upon which payments have been made are subject to necessary corrections or revisions in the final payment. The amount of this final estimate less any sums previously paid under the provisions of the contract, will be paid the Contractor within thirty (30) days after final acceptance provided the Contractor has furnished the Owner satisfactory evidence that all sum of money due for any labor, materials, apparatus, fixtures, or machinery furnished for and used in the prosecution of the work, or that the person or persons to whom the same may respectively be due have consented to such final payment. The acceptance by the Contractor of the last payment as aforesaid shall operate as and shall release the Owner from all claims and liabilities under

the contract or for any act or neglect of said Owner relating to or connected with the contract.

6. Guarantee of Work

The Contractor shall guarantee the work against defective materials and workmanship for a period of one (1) year from the date of a letter of final acceptance by the Owner. Should defective workmanship occur, the Contractor shall have seven (7) working days, after written notice of same is given to him by the Owner, to make any and all repairs at his own expense. If the Contractor fails to correct the defect within the seven (7) working days, the Owner may make the necessary repairs and charge the Contractor with the actual cost of all labor, materials and equipment time required.

CASH DISCOUNTS: Bidders may quote additional cash discount terms in the Cash Discount Column. If no discount is shown, prices are to be assumed net. Discount period to be started from the date of completion of entire order or date of receipt of invoice, whichever occurs last regardless of date of invoice.

TAXES: Bryan Texas Utilities is exempt from Federal Excise, State Sales and Transportation Taxes. TAX MUST NOT BE INCLUDED IN BID. Bryan Texas Utilities upon request will execute tax Exemption Certificates. Bryan Texas Utilities is statutorily exempt for State and Local Sales tax and a permit number is not required.

DELIVERY: Bids must show the number of consecutive calendar days required to deliver the materials, services or equipment under normal conditions. Failure to specify delivery time will be considered reason enough to cause the bid to be disregarded. Delivery time quoted will be given consideration in awarding orders. If delivery is not made by the date specified on bid, entire order may be canceled and bidder's name removed from mailing list. On time delivery of all materials and or services specified herein is of essence and will be a consideration in bid award. Should the Successful Bidder neglect, refuse, or fail to complete delivery of the material and or services within the times stated in the bid, then, in that event, BTU shall have the right to obtain material from alternate sources and the original bidder shall be liable for any differences in cost incurred by BTU from the original bid price.

All deliveries are to be made to Bryan Texas Utilities – Electrical Warehouse located at 2200 Fountain Avenue, unless otherwise specified in the Bid Request or Purchase Order. Deliveries will be accepted only during normal working hours on normal working days. Unless otherwise indicated, items received must be new and in first-class condition. Types of materials normally packaged for protection and convenience in storage shall be in the proper containers.

Should the Successful Bidder neglect, refuse, or fail to complete the project by the due date indicated, BTU shall have the right to deduct from and retain out of such moneys due, or which may become due and payable to the Bidder the sum of three hundred dollars (\$300) per work day for each and every work day that completion is delayed beyond the specified time, as liquidated damages and not as a penalty.

LIABILITY: The successful bidder shall be liable for all damages incurred while in the performance of services pursuant to this request.

MATERIAL SAFETY DATA SHEETS: MSDS's must be provided prior to or with receipt of order and then revised. Containers must be properly labeled and identified in accordance with the OSHA Hazard Communication Standard. Improperly labeled containers will result in refusal of the shipment and possible change in vendors.

PATENTS, FRANCHISES, ETC.: The successful bidder agrees to indemnify Bryan Texas Utilities from any claim involving patent right infringements, copyrights or sales franchises.

NO BIDS: If bidder is unable to quote, the bid form should be returned to the Procurement Office before opening time, and reason given for not bidding if bidder desires to bid on future purchases.

ADDENDA: In the event of a needed change in the requirements sent to the bidder, it is understood that all the foregoing terms and conditions shall apply to the addendum or addenda.

Indemnification Agreement

The Contractor agrees to indemnify, hold harmless and defend Bryan Texas Utilities, its officers, agents and employees, both past and present, from and against liability for any and all claims, liens, suits, demands, and actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, (including court costs, attorney's fees and other reasonable costs of litigation) arising out of or resulting from Contractor's work and activities conducted in connection with or incidental to this Contract and from any liability arising out of or resulting from intentional acts or negligence of the Contractor, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of Contractor, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

The Contractor further agrees that it shall at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, subcontractors, licensees, invitees and other persons, as well as their property, while in the vicinity where the work is being done. It is expressly understood and agreed that BTU/City shall not be liable or responsible for the negligence or other fault of the Contractor, its officers, agents, employees, subcontractors, licensees, invitees, or other person associated with the Contractor.

The Contractor agrees to indemnify and save Bryan Texas Utilities harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, material men, and furnishers of supplies, equipment, financing, or any other goods or services, tangible or intangible. When Bryan Texas Utilities so desires, the Contractor shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid discharged or waived.

Independent Contractor

Contractor acknowledges that Contractor is an independent contractor of Bryan Texas Utilities and that Contractor is not an employee, agent, official or representative of Bryan Texas Utilities. Contractor shall not represent, either expressly or through implication, that Contractor is an employee, agent, official or representative of Bryan Texas Utilities. Any income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.

Nothing contained in this Contract shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Contract.

I understand that the indemnification and Independent Contractor provisions are requirement of all Bryan Texas Utilities Contracts. I have read the provisions agree to the terms of these provisions.

Company Name

Title

Signature

Date

Any exception taken to the indemnification provisions of the contract by the Bidder may constitute sufficient basis for disqualification of the bid proposal.

DEVIATIONS FROM SPECIFICATIONS

The Bidder must itemize all deviations taken to the specifications. The specification, proposed deviation, and reason for the deviation shall be listed below. Additional sheets may be attached to the Bid as required. Unless otherwise stated by the Bidder in the space provided below or on any additional sheets, the Proposal or Bid will be considered as being in strict accordance with the specifications outlined herein.

| Specification | Proposed deviation from specification and reason |
|---------------|--|
|---------------|--|

Certification of Bid Proposal

Re: BID Proposal 037-04-12 – BTU Distribution Roof Replacement

I, the undersigned, hereby certify and represent that I am duly authorized to submit this bid on behalf of the firm identified herein and that this firm hereby agrees to be bound by and is willing, capable and does qualify to comply with all the provisions specified herein for completion of the services requested at the terms and conditions as quoted.

Representative's Name: _____
(Please print or type)

Representative's Signature: _____

Representative's Title: _____

Date: _____

Bidding Firm Name and Address: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Bid Approvals

Date:

BTU Buyer: _____

BTU Div. Mgr. _____

BTU Gen. Mgr. _____

BTU Board Chair _____



CONTRACT FOR DISTRIBUTION ROOF REPLACEMENT

Company name

This Contract is between **winning bid company name**, (hereby referred to as the Contractor) and the City of Bryan, Texas, a home rule municipal corporation which owns and operates a municipal electric utility known as "Bryan Texas Utilities", hereinafter referred to as "City" or "BTU", whereby the Contractor agrees to provide BTU with certain contractor services as described herein and BTU agrees to pay the Contractor for those services.

1. Scope of Services

In consideration of the compensation stated in paragraph 2, the Contractor agrees to provide BTU with the contract services as described in "Exhibit A", the Scope of Work in Bid Proposal # 037-04-12 which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: **Bid Proposal for Removal and Replacement of Roof at BTU Distribution located at 614 Atkins Street.**

2. Payment

In consideration of the Contractor's provision of the services in compliance with all terms and conditions of this Contract, BTU shall pay the Contractor according to the terms set forth in "Exhibit B". Except in the event of a duly authorized change order, approved by BTU in writing, the total cost of all contractor services provided under this Contract may not exceed **\$ Amount of bid.**

3. Time of Performance

A. All services provided under this Contract must be completed by **[MONTH, DAY, and YEAR]**.

B. **Time is an important and material consideration of this Contract.** The Contractor shall be prepared to provide the work and other services in an expedient and efficient manner in order to complete the work by the times specified in paragraph 3(A).

4. Performance Standards, Indemnification's & Release.

A. The Contractor shall conduct and provide services which reflect normal industry standards, procedures, and performances. The Contractor will exercise diligence and due care

and perform in a good and workmanlike manner all of the services pursuant to this Contract. BTU's approval shall not be deemed to be the assumption of responsibility by BTU for any defect by the Contractor, its employees, associates, agents, or subcontractors in performing the services hereunder.

B. The Contractor shall promptly correct any defective service by the Contractor at no cost to BTU. BTU's payment for all or any part of the Contractor's services hereunder shall in no way alter the Contractor's obligations or BTU's rights hereunder.

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

D. The Contractor must at all times exercise reasonable safety precautions and comply with all existing safety rules, regulations and procedures for site safety. The Contractor shall, likewise, be responsible to see that its agents, employees and subcontractors exercise reasonable safety precautions and are in compliance with all existing safety rules, regulation and procedures for site safety. It is expressly understood and agreed that BTU shall not be liable or responsible for the negligence of the Contractor, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): Contractor shall defend, indemnify and save harmless BTU and all its officers, agents, and employees from suits, actions, or claims brought for or on account of any injuries or damages received or sustained by any person or persons or property to the extent caused by the Contractor's negligent performance of the services, or by or on account of claims or amounts recovered under the Worker's Compensation Law or 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 to BTU. Contractor shall defend, indemnify and save harmless BTU, its officers, agents and employees in accordance with this indemnification clause regardless of whether the injury or damage is caused in part by BTU, its officers, agents or employee's, however such indemnification shall extend only to that portion of the damage caused by Contractor's negligence. BTU agrees, to the extent permitted by law, to defend, indemnify and hold the Contractor harmless from any suits, actions, or claims arising out of BTU's negligent performance of its obligations hereunder.

F. Release. The Contractor releases, relinquishes, and discharges BTU, 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 Contractor or its employees and any loss of or damage to any property of the Contractor or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Contractor's negligent performance of the services. Both BTU and the Contractor 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.

5. Contractor's Insurance

The Contractor agrees to maintain, on a primary basis, for the duration of this Contract the insurance coverages and limits as described below. The Contractor must deliver to BTU a certificate(s) of insurance evidencing that such policies are in full force and effect within 10 business days of notification of BTU's intent to award a Contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the contract to be rejected**. BTU reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as BTU'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 under this Contract.

- A. **Commercial General Liability Insurance** – with a limit of not less than \$1,000,000 per occurrence. CGL shall be written on a standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. No coverage shall be deleted from the standard policy without notification of individual exclusions and acceptance by BTU. CGL shall name the City of Bryan as an additional insured. Waiver of subrogation is required. No “claims made” policies are acceptable without prior approval of the City Attorney.
- B. **Automobile Public Liability Insurance** – with a \$1,000,000 Combined Single Limit on all self-propelled vehicles used in connection with this Contract, whether owned, non-owned or hired.
- C. **Statutory Workers' Compensation Insurance & Employers' Liability Insurance - in the amount of \$500,000.** 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.
- D. **Owner's Protective Liability** with a \$1,000,000 combined Single Limit naming the City of Bryan as the insured.
- E. **Waiver Of Subrogation** Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit

Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

- F. **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.
- G. **Certificate Of Insurance** Contractor shall furnish BTU 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-" or better and/or otherwise acceptable to BTU. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. The certificate(s) shall contain a provision that coverage under such policies shall not be cancelled or non-renewed until at least 30 days prior written notice is given BTU.

If the event BTU is notified that a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. BTU reserves the right, but not the obligation, to withhold payment to Contractor until coverage is reinstated. If the Contractor fails to maintain the required insurance, BTU shall have the right, but not the obligation, to purchase the required insurance at Contractor's expense.

Certificates and notices should be given to BTU at the following address:

**Bryan Texas Utilities
Attn: Purchasing Department
PO Box 1000
Bryan, TX 77805**

6. Termination

- A. BTU may terminate this Contract at any time upon **30** calendar day's written notice. Upon the Contractor's receipt of such notice, the Contractor shall cease work immediately. The Contractor shall be compensated for the services satisfactorily performed prior to the termination date.
- B. If, through any cause, the Contractor fails to fulfill its obligations under this Contract, or if the Contractor violates any of the agreements of this Contract, BTU has the right to terminate this Contract by giving the Contractor five (5) calendar days written notice

to the Contractor. The Contractor 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 Contractor of liability to BTU for damages sustained by BTU because of any breach of contract by the Contractor. BTU may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due BTU from the Contractor is determined and paid.

7. 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:

If intended for BTU, to the BTU Project Manager for this contract:

Name: Frank Boley
Title: Project Manager
Address: P.O. Box 1000
Bryan, Texas 77805
Office: 979-821-5958
Cell: 979-XXX-XXXX
Fax: 979-XXX-XXXX

If intended for the Contractor, to:

Name:
Title:
Address:

Office:
Fax:

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 BTU and the Contractor 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 Contractor without the prior written approval of BTU.

F. The Contractor, 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 Contractor 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.

BRYAN TEXAS UTILITIES:

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

Date: _____

APPROVED AS TO CONTENT:

Dan Wilkerson, BTU General Manager

Date: _____

ATTEST:

Date: _____

Sample

Contractor:

By: _____

Printed Name: _____

(Service Provider - Corporate Seal)

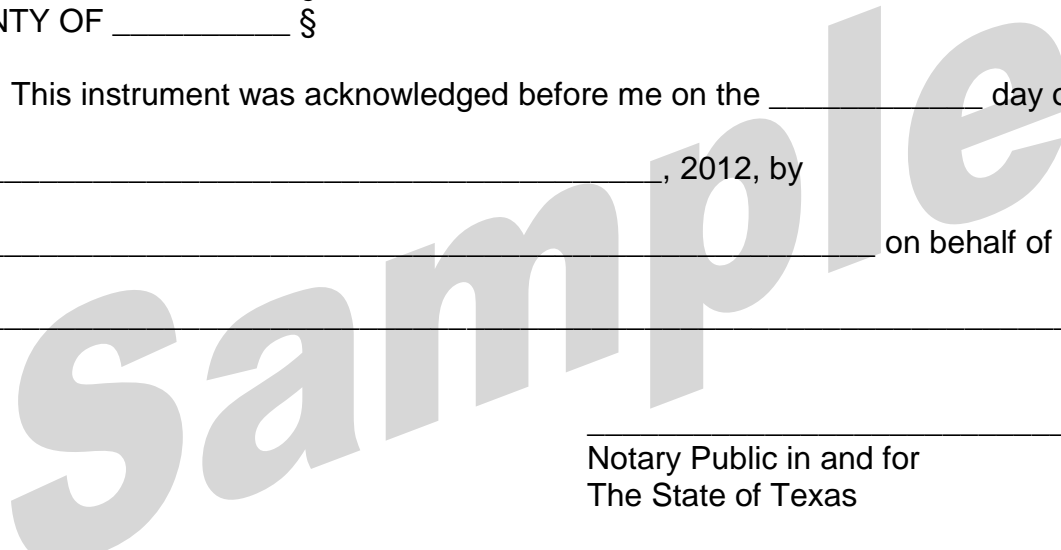
Title: _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the _____ day of
_____, 2012, by
_____ on behalf of



Notary Public in and for
The State of Texas