

REQUEST FOR PROPOSALS

COAHOMA CITY PARK SPLASH PAD

The City of Coahoma ("City"), and the Coahoma Development Corporation ("CDC"), hereinafter jointly referred to as ("Coahoma") are soliciting sealed proposals for a contractor to design-build and install at the Coahoma City Park, a water splash pad with above-ground and in-ground spray water features with a recirculation system, including all utility work, as more fully set out in the Statement of Work included hereto and incorporated herein as Exhibit A, to this Request for Proposals ("RFP"). An original and at least two (2) copies of each responsive proposal must be submitted in accordance with the instructions set out herein as follows:

Sealed Proposals shall be submitted to Coahoma Development Corporation; Attention: Kelly Seales, President, 122 N. First Street, Coahoma, TX 79511-0912 and shall be labeled **"RFP – SPLASH PAD PROPOSAL ENCLOSED – DO NOT OPEN."**

Proposals will be accepted until **October 7, 2022 at 4:00 P.M.** Contents of proposals will remain confidential during the negotiations period. Only the proposal and the identity of the Proposer(s) submitting the proposal will be made available to the public before award of the RFP. **Proposals received after the Proposal due date and time will not be considered.**

Faxed or emailed proposals will not be accepted. Proposals must be submitted in sufficient time to be received and time-stamped at the above location on or before the proposal due date and time. CDC will not be responsible for proposals delivered late by the United States Postal Service, or any other delivery or courier services. All proposals must remain open for one hundred twenty (120) days from the proposal due date pending acceptance by CDC.

Coahoma will award the bid pursuant to this RFP to a single respondent, multi-supplier award, or line item award based upon the evaluation of all proposals received. Coahoma reserves the right to accept or reject any proposal.

Questions about the RFP may be submitted to the **Project Manager, Ricky Crawford** at the address above or at rickycrawford_03@yahoo.com.

INSTRUCTIONS TO PROPOSERS

(PLEASE READ CAREFULLY)

The City and CDC are soliciting sealed proposals for the construction of a City Park Splash Pad as more fully set out in the Statement of Work, attached as Exhibit A, to this Request for Proposals ("RFP"). Please carefully review the following Instructions to Proposers and submit your proposal as directed for consideration.

1. Submit proposal on the Proposal Form attached as Exhibit "B" to this RFP in compliance with all conditions listed thereon.
2. Address all proposals to: Coahoma Development Corporation
Attention: Kelly Seales, President
122 N. First Street
Coahoma, TX 79511-0912
3. Proposals must be sealed in an envelope labeled "**RFP – SPLASH PAD PROPOSAL ENCLOSED – DO NOT OPEN.**" Include one "ORIGINAL" clearly marked that contains original signatures and two copies. The copies of the original must be labeled "COPY." Proposals will be received until **October 7, 2022 at 4:00 P.M.**
PROPOSALS RECEIVED AFTER THE STATED TIME WILL NOT BE ACCEPTED BUT WILL BE RETURNED TO THE PROPOSER UNOPENED.
4. It shall be the sole responsibility of the proposer to deliver personally or to mail the proposal to be received at the location stated above on or before the closing hour and date shown for receipt of proposals.
5. Quote net prices after deduction of trade discounts. Prices must be F.O.B. Coahoma, Texas. Proposer warrants by virtue of submitting a proposal that the prices quoted in the proposal will remain firm from the date of opening until completion of delivery and acceptance by Coahoma.
6. All proposers must furnish unit prices with extended totals and total sum of the proposal. In the event of conflict between unit price and total, the unit price shall be used to determine the successful proposer.
7. State manufacturer, brand name, model, price, etc, in the space provided on the attached specifications and include complete specification sheets for each item. This is a requirement for acceptance of your proposal.

8. All items must be new unless specifically exempted in the specifications. This provision excludes surplus products.
9. Be sure to read all conditions and verify amounts before submitting proposal. No changes or additions will be allowed after submission.
10. Guarantees and warranties should be attached as part of the proposal as they may be a consideration in awarding a contract.
11. Delivery or contract completion time must be shown as this date may determine the contract award, where time or delivery is a critical factor. **The Completion date must be within one hundred and fifty (150) days from the Notice to Proceed. The contract will provide for liquidated damages to be assessed for each day that completion is delayed beyond such date.**
12. The goods and/or services delivered under the contract shall remain the property of the contractor/seller until physical inspection is performed and material and/or services are accepted by Coahoma. Performance must comply with terms outlined in the specifications and be of the highest quality. In the event the products supplied to Coahoma are found to be defective or in non-conformance with the specifications, Coahoma reserves the right to cancel the contract by written notice to the contractor/seller and to return such material to the contractor/seller at the contractor's/seller's expense.
13. The successful proposer shall agree to defend, at his expense, all suits alleging infringement on any United States Patent by reason of the use or resale of any material furnished by the proposer and will save the CDC and the City of Coahoma harmless from all expense of defending suits and from all payments which may be assessed against the purchaser on account of such infringement.
14. Proposers must submit sealed proposals strictly in accordance with this RFP, the Statement of Work and Drawings. Any variations to the specifications must be specifically outlined in writing in the proposal. Slight variations to the specifications might be acceptable, however, Coahoma reserves the right to make the determination as to what variations will be acceptable.
15. Proposal Form, Insurance Requirements and Sample Contract form are Attached.

CONDITIONS FOR PROPOSAL

1. Signature: This proposal must be signed with the firm name and by an authorized officer, employee, or agent.
2. Deviations: Deviations from the specifications and alternate proposals must be clearly shown on the attached proposal form with complete information attached to the form. They may or may not be considered in the proposal award procedures.
3. Contract Documents: Each bidder shall thoroughly examine and be familiar with the Contract Documents. The submission of a bid shall constitute an acknowledgment that the bidder has thoroughly examined and is familiar with the contract documents. The failure or neglect of a bidder to receive or examine any of the contract documents shall in no way relieve contractor from any obligations with respect to the proposal or to the contract. No claim for extra or additional compensation will be allowed based upon a lack of knowledge of any contract document, and neither the City nor CDC will in any case be responsible for any loss or for unanticipated costs that may be suffered by the successful proposer as a result of conditions pertaining to the work.
4. Familiarization with Work: Before submitting a proposal, each prospective proposer shall familiarize himself with the project, local labor conditions and all laws, regulations, and other factors affecting performance of the project. Contractor shall carefully correlate those observations with requirements of the Contract Documents and otherwise satisfy itself of the expense and difficulties attending performance of the project. The submission of a proposal will constitute a representation of compliance by the proposer. There will be no subsequent financial adjustment for lack of such familiarization.
5. Subcontractors: Within 24 hours maximum after proposal are opened, the apparent low proposer, and any other proposer so requested, shall submit a list of all Subcontractors anticipated for the project.
6. Freight: Freight and other delivery charges to a destination at a designated Coahoma facility must be included in the proposal. Charges may not be added after proposal is opened.
7. Discounts: Show rate, total amount, and the latest day any discounts will be allowed after receipt of article and correct invoice.
8. Prices: If the unit price and extensions thereof do not coincide, Coahoma may accept the proposal for the lesser amount whether reflected by the extension or by the correct multiple of the unit price. The quantities (if any) named in the RFP or separately listed are approximate only, but these are to be used as a basis for the comparison of proposals and to determine the amount of the bonds. However, if a unit price appears to the Owner to be unbalanced to such an extent that changes in actual quantities required under the contract

might result in contract price adjustments which would increase payments to the Contractor excessively, then the Owner may take such a condition under consideration in making the award of the contract.

9. Taxes and Permits: All taxes that are lawfully assessed against the City, CDC or proposer (Contractor) in connection with the project shall be paid by Contractor. The bid prices shall include all such taxes and the costs of all required permits.
10. Firm Prices: All prices quoted will remain firm for one hundred twenty (120) days from the date and time of the proposal opening and will become the contract price at the time of the award of proposal, unless otherwise specified by Coahoma or the Proposer.
11. Identical Proposals: In the event of two (2) or more identical low bids, the contract may be awarded arbitrarily or for any reason to such bidders or split in any portion between the said two (2) or more bidders at the discretion of Coahoma.
12. Liquidated Damages: Liquidated damages shall be assessed beginning on the first day following the maximum delivery or completion time entered on the Proposal Form and/or provided for by the Statement of Work and Drawings.
13. Ambiguity in Proposals: Any ambiguity in any proposal as the result of omission, error, lack of clarity or non-compliance by the proposer with the specific instructions, and all conditions of proposal shall be construed in the light most favorable to Coahoma.
14. Bonds. **ALL PROPOSALS IN ORDER TO BE IN COMPLIANCE WITH TEXAS STATUTES SHOULD INCLUDE THE FOLLOWING BONDS, IF BID PRICE EXCEEDS MONETARY THRESHOLD.**

Performance Bond: If the amount of the contract is greater than \$100,000.00, the contractor shall provide a performance bond as follows:

- o Solely for the protection of the City of Coahoma;
- o In the amount of the contract; and
- o Conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents.

Payment Bond: If the amount of the contract is in excess of \$50,000.00, the contractor shall provide a payment bond as follows:

- o Solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the contractor or a subcontractor who provides labor or material; and
- o In the amount of the contract.

15. Coahoma reserves the right to reject any and all proposals and does not bind itself to accept the lowest bid or any proposal for this project or any part thereof and/or to accept part or all of any specific proposal or proposals.
16. Insurance Requirements. By submitting this proposal the proposer affirms it has reviewed the insurance and bonding requirements and confirms its ability to procure the required insurance and bonds upon award of this contract.
17. Contract. By submitting this proposal, the proposer affirms it has reviewed the attached contract and takes no exceptions. Should the proposer wish changes to the contract, those changes should be listed in the exceptions portion of the bid form below.

EXHIBIT A
STATEMENT OF WORK AND DRAWINGS

EXHIBIT A

RFP - COAHOMA CITY PARK SPLASH PAD

STATEMENT OF WORK

A. Project overview: The City of Coahoma (the "City") and the Coahoma Development Corporation (the "CDC"), jointly ("Coahoma") are requesting sealed proposals for the design-build and installation of a water splash pad with above-ground and in-ground spray water features with a recirculation system to include all utility work. The successful proposer (the "Contractor") must comply with all terms of the RFP, this Statement of Work, the attached drawings and the Construction Contract. The splash pad is to be constructed according to this statement of work, the RFP and the Contract. Responsive proposals should include the supply of materials and the furnishing of all labor, equipment and tools to complete the project. The sealed proposal must include a "Guaranteed Maximum Price" with allowances for components that have not been selected.

B. Project deliverables: The splash pad is to be designed and erected by a knowledgeable contractor on the site to be designated in the Coahoma City Park. The splash pad location will be marked out for site verification prior to the deadline for submitting proposals. The splash pad project is to be completed in a continuous manner unless work is stopped by Coahoma or by any governmental authority with jurisdiction over the work. The project must always be kept clean and safe. A construction barrier is to be installed and maintained during the entirety of the project. The barrier is to be no less than 4 feet in height and supported by a support post a minimum of every 10 feet. Coahoma has the right to inspect the property at will and stop all work if the minimum requirements are not being met. The Contractor is responsible for seeking and obtaining all necessary permits and inspections for the construction. The City of Coahoma shall have authority to inspect the property at will and stop all work if legal or permit requirements are not being met. Once the project is completed, a final walk through will be performed by the designated Project Manager who will sign off on work completed. Any remaining goods or personal property of Contractor must be removed from the premises upon completion. The job site is to be cleaned and free from any refuse prior to final payment.

C. Project scope:

The splash pad is to be designed and constructed in accordance with the following:

1.) The contractor will design- build and install a water feature that is a minimum of 1200 sq. ft. in size. The design of water feature should contain/include a minimum of five (5) above-ground features and a minimum of ten (10) in-ground nozzles (features). Design drawing must be approved by the Project Manager prior to construction.

- 2.) The contractor will furnish all labor and materials.
- 3.) All work is to be completed within one hundred and fifty (150) days from the Notice to Proceed. Liquidated damages for exceeding the completion date will be included in the Contract.
- 4.) The contractor will construct a splash pad with safety surface with at least 4000 psi concrete with fiber additive.
- 5.) All parts shall be adequately coated to resist rust and guard against degradation from UV exposure.
- 6.) Installation of activation sensor to be located at or near the splash pad.
- 7.) Equipment systems consist of the following components:
 - a. The control panel is used for on/off operation of water play activities and central power distribution. Panels are programmable, allowing for set hours of operation, set duration for spray/stream jet activities, and desire zoning or sequencing of spray features.
 - b. The water distribution manifold is pre-plumbed water delivery systems that feature pump skid to water play activities. Manifolds consist of manual flow control valves to regulate flow of each play element and optional electric control valves when sequencing or zoning water play activities.
 - c. Activation pad is a touch sensor device that allows patrons to turn on the water spray features. The activation pad is operated through the control panel and only operates during set hours of operation.
- 9.) The contractor will test the system for proper operation.
- 10.) The contractor will provide instructions on the proper operation of the new system.
- 11.) The contractor will provide the Project Manager with a list of all materials and products used.
- 12.) The contractor will provide two (2) sets of operations and maintenance manuals with drawings of the installed splash pad.

D. Project management: Payment will be made in accordance with the Construction Contract. All change orders must be presented to the Project Manager and agreed upon prior to any change in work beginning. The Contractor must have a construction superintendent available or on site whenever any work is ongoing at the construction location. No substitutions for materials will be allowed unless

approved in writing by the Project Manager before installation. All questions are to be directed to the Project Manager.

The initial Project Manager is **Ricky Crawford**, of the CDC, who may be contacted at: Ricky Crawford, 122 N. First Street, Coahoma, TX 79511-0912 or by email at rickycrawford_03@yahoo.com.

The designated Project Manager is subject to change at any time by Coahoma providing written notice to Contractor at the address provided for notice in the Construction Contract.

E. Required Proposal Contents:

- 1.) Each Proposer must submit one original and two copies of its proposal. The proposal must be sealed and labeled as provided in the RFP.
- 2.) Each Proposer must submit a construction schedule detailing the timeframe for the work being completed.
- 3.) Design schematics: Schematics will clearly show all design features.
- 4.) Completed Proposal Form and all other items required in the RFP.

F. Evaluation and Selection Criteria:

Coahoma will evaluate each proposal from the information at hand against the criteria established in the RFP and this Statement of Work, to determine if the proposal is responsive according to the solicitation requirements. Questions of a clarifying nature may be asked from bidders as needed. Proposals lacking any of the submission criteria may be determined non-responsive and may be removed from consideration, however, Coahoma reserves the right to waive any such criteria.

EXHIBIT B
PROPOSAL FORM

EXHIBIT B
RFP - COAHOMA CITY PARK SPLASH PAD

PROPOSAL FORM

USE THIS FORM ONLY

We, the undersigned, have read all requirements set forth in the RFP including the Statement of Work, specifications, instructions, conditions, and pertinent information regarding the labor and materials being proposed, and we agree to furnish the materials, labor and all required items at the prices stated below:

TOTAL COST:

\$ _____

Notes: _____

Allowed Discounts: Rate _____ **% Total** _____

Time allowed for discount: _____ **Calendar Days**

Maximum delivery or completion time after issuance of a Notice to Proceed by Coahoma. _____

Company Name and address: _____

Signature: _____

Printed Name: _____

Telephone No: _____

Title: _____

Fax No: _____

Date: _____

EXHIBIT C

CONSTRUCTION AGREEMENT

EXHIBIT C

FORM OF CONSTRUCTION AGREEMENT

AGREEMENT BETWEEN THE CITY OF COAHOMA, THE COAHOMA ECONOMIC DEVELOPMENT CORPORATION AND

FOR CONSTRUCTION OF THE COAHOMA CITY PARK SPLASH PAD

This Agreement is entered into as of the effective date set forth below, between the City of Coahoma, (hereinafter, "City"), the Coahoma Economic Development Corporation (hereinafter "CDC"), (hereinafter City and CDC may be collectively referred to as "Coahoma"), and _____, (hereinafter "Contractor") for Contractor to provide material, labor and services to construct a Splash Pad at the Coahoma City Park as set forth in this Agreement and in the Contract Documents, which are incorporated herein by reference as if set forth in full.

Section 1. Work to be Performed. Contractor shall perform all work described in the Contract Documents which are incorporated into this Agreement by reference for all purposes as if set forth in full herein (hereinafter "the Work"). The Contract Documents include, but are not limited to, this Construction Agreement, the Notice of Request for Proposals, the Request for Proposals ("RFP") and all Exhibits to the RFP, including but not limited to the Statement of Work ("SOW") and the drawings and specifications attached to the SOW which have been issued by Coahoma, and the insurance and bond requirements. All work shall be performed in strict compliance with the Contract Documents. The Work shall generally be described as construction of the Coahoma City Park Splash Pad.

Section 2. Consideration. Contractor shall perform the Work for the total lump sum amount of \$ _____.

Section 3. Project Manager. Coahoma has designated Ricky Crawford of the Coahoma Development Corporation as Project Manager and he shall have authority to oversee the project and completion of the Work in accordance with this Agreement. Coahoma reserves the right to designate a new Project Manager at any time immediately upon providing written notice to Contractor. Such appointment may include the appointment of an Engineer or other professional as the Project Manager as Coahoma deems necessary.

Section 4. Contract Times. Time is of the essence in this Agreement. All time limits included for completion and readiness for final payment are of the essence of this Agreement. Contractor agrees that the Work will be substantially complete within one hundred and twenty (120) calendar days after the date of issuance of the Notice to Proceed and that the Work will be

completed and ready for final payment in accordance with this Agreement within one hundred and fifty (150) Calendar days of issuance of the Notice to Proceed.

Section 5. Liquidated Damages. Contractor and Coahoma recognize that time is of the essence of this Agreement and that Coahoma will suffer financial loss if the Work is not completed within the times specified in this Agreement. The Parties also recognize that delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by Coahoma if the Work is not Completed on time. Accordingly, in stead of requiring any such proof, Coahoma and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay to Coahoma \$100.00 for each day that expires after the time specified in Paragraph 4 for substantial completion until the Work is substantially complete. After substantial completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 4 for the Work to be completed and ready for final payment, absent a proper extension granted by Coahoma for completion, then Contractor shall pay to Coahoma \$250.00 for each day that expires after the time specified. Notwithstanding the foregoing, the Contractor shall document any bad weather days that interfere with work at the site and will notify Project Manager in writing within 24 hours of such occurrence. If the number of documented Bad Weather days exceeds ten (10) the project completion date shall automatically be extended by the number of additional days documented.

Section 6. Termination. Coahoma or Contractor may terminate this Agreement: (a) for a breach of any term in this Agreement upon thirty (30) days prior written notice to the other party if the other party fails to perform any material obligation under this Agreement, and such failure is not cured within thirty (30) days of receipt of written notice of the default; or (b) by the mutual written consent of Coahoma and Contractor. All work and services under the Agreement shall be suspended upon termination of Agreement becoming effective.

Section 7. Contractor's Duties. By way of expansion and not limitation to any other terms described in this Agreement, Contractor shall be responsible for the following:

7.1 Unless otherwise stipulated in this Agreement, Contractor shall furnish all labor, materials, supplies, machinery, equipment, tools, insurance, bonds, water, light, power, fuel, mechanical workmanship, transportation, equipment and all other facilities and services necessary for completion of the Work and to conduct the construction required under this Agreement in an efficient manner. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words which so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

7.2 Contractor shall, at its expense, obtain all permits and licenses necessary for the performance of this Agreement and pay all fees and taxes required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the Agreement, including all environmental laws and regulations, whether federal, state, or local.

7.3 Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes.

7.4 Warranty. The Contractor agrees to remedy all defects appearing in the Work or developing in the materials furnished and the workmanship performed under this Agreement during the warranty period of two (2) years after the date of final acceptance of the Work by Coahoma, and further agrees to indemnify and save the City and CDC from any costs or expenses of any nature encountered in remedying any defects in materials and workmanship in the Community Center.

Section 8. Release and Indemnification. CONTRACTOR HEREBY RELEASES, INDEMNIFIES AND AGREES TO DEFEND, AND SHALL CAUSE ITS INSURERS AND SUBCONTRACTORS TO RELEASE, INDEMNIFY AND DEFEND, THE CITY AND CDC, THEIR PAST, PRESENT AND FUTURE ELECTED AND APPOINTED OFFICIALS, EMPLOYEES AND THEIR AGENTS AND ASSIGNS FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION WHICH CONTRACTOR, ITS INSURERS, AND/OR ITS SUBCONTRACTORS MIGHT OTHERWISE POSSESS RESULTING IN OR FROM OR IN ANY WAY CONNECTED WITH ANY LOSS COVERED OR WHICH SHOULD HAVE BEEN COVERED BY INSURANCE MAINTAINED AND/OR REQUIRED TO BE MAINTAINED BY CONTRACTOR AND/OR ITS SUBCONTRACTORS PURSUANT TO THIS AGREEMENT, EVEN IF SUCH CLAIMS OR CAUSES OF ACTION ARISE FROM OR ARE ATTRIBUTED TO THE SOLE OR CONCURRENT NEGLIGENCE OF ANY RELEASED PARTY OR FROM STRICT LIABILITY.

CONTRACTOR SHALL FURTHER INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND CDC AND EACH OF THEIR OFFICERS, AGENTS, COUNCILMEMBERS, BOARD MEMBERS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEYS' FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY ACT OF OMISSION OR COMMISSION OR NEGLIGENT ACT OF THE CONTRACTOR, ITS AGENTS OR EMPLOYEES OR ANY SUBCONTRACTOR, ITS AGENTS OR EMPLOYEES IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR CDC OR ANY OF THEIR OFFICERS, AGENTS, COUNCILMEMBERS, BOARD MEMBERS OR EMPLOYEES, INCLUDING ATTORNEYS' FEES.

Section 9. Insurance. See insurance clauses attached as Exhibit D to the RFP and incorporated herein for all purposes.

Section 10. Coahoma's Duties.

10.1 Inspections. The Project Manager or other City or CDC representatives may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. Such persons will not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. Neither the Project Manager nor any City or CDC representative will be responsible for Contractor's failure to perform the work in accordance with the Agreement.

10.2 Payment. After a properly completed Application for Payment and approval by the Project Manager in accordance with Section 11 below Coahoma shall remit payment to Contractor.

10.3 Change Order. Any increase or decrease in the amount of the Agreement shall not exceed twenty-five percent (25%) of the amount of the Agreement. If there is any increase or decrease in the cost of materials or labor due to an unforeseen circumstance, Contractor must obtain written authorization from Coahoma in the form of a written Change Order before performing the work that involves the increased cost. Coahoma shall not be obligated to pay for any increased costs not approved by a valid change order. Refusal of Coahoma to approve any requested Change Order shall not relieve Contractor of its obligations to complete the project and comply with this Agreement.

10.4 Allowance Items. The Project Manager will have all allowance items selected within 30 days of signing the Construction Agreement. The Project Manager will be notified in writing of any specified item's unavailability and the Contractor will substitute items of like kind and quality.

Section 11. Progress Payments.

11.1 Application for Payment. Contractor shall submit Applications for Payment in a form acceptable to the Project Manager. Progress payments for cost-based Work will be based on the documented cost of the work completed by Contractor during the pay period. On or about the 25th of the month Contractor shall submit an Application for Payment covering the work that has been completed as of the date of the Application and accompanied by such supporting documentation as is necessary to establish the completed work. If payment is requested on the basis of materials and equipment not incorporated into the Work but delivered and stored at the worksite or at another location, the Application for Payment shall also include a copy of an invoice or other documentation that the materials and equipment are received and free from liens and are adequately protected by insurance coverage.

11.2 Affidavit of Payment. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous payments received by Contractor for the Work were applied to discharge Contractor's obligations to subcontractors and suppliers associated with such previous application.

11.3 Retainage. As security for faithful completion of the Work by the Contractor, Coahoma shall retain ten (10) percent of the total dollar amount of work done as evidenced by the Application for Payment. When the work is ninety (90) percent complete, Coahoma may at its option reduce the retainage to five (5) percent.

11.4 Withholding from Payments. In addition to the retainage referenced above, the Project Manager may withhold from any payment otherwise due to the Contractor, such amount he determines is necessary to protect Coahoma's interest due to:

- Unsatisfactory progress of the work not caused by conditions beyond Contractor's control;
- Defective work not corrected;
- Contractor's failure to follow instructions of Project Manager;
- Reasonable doubt that the contract can be completed
- Work not in accordance with the contract documents;
- A claim filed against the Contractor or evidence of such a claim;
- Failure of the Contractor to make payments to a subcontractor or supplier;
- Unsafe working conditions allowed to continue after notice.

Once any of the above concerns are resolved Coahoma shall immediately pay the withheld payments to Contractor. Contractor shall not be liable for any interest on withheld payments or Retainage.

11.5 Review of Applications. Project Manager shall within ten days after receipt of an Application for Payment, including any additional documentation requested, indicate in writing a recommendation of payment and process the payment to be made to Contractor, or recommend withholding the payment and provide written notice to Contractor of such decision. A recommendation for payment **does not represent that the quality or quantity of work has been inspected in detail or that there are not other matters or issues that may need to be resolved regarding such work at a later date or prior to final payment.**

11.6 Payment. Within ten days after a recommendation for payment by the Project Manager, the CDC shall pay such recommended amount (less any retainage) to Contractor unless any valid reasons to withhold such payment become known to Coahoma prior to such payment.

11.7 Substantial Completion.

a. When Contractor considers the Work ready for its intended purpose, Contractor shall notify the Project Manager in writing that the entire Work is substantially complete and request

that the Project Manager issue notice of substantial completion. Contractor shall at the same time submit an initial punch list of items to be completed before final payment.

b. The Project Manager and any City permit officials or other officials requested by the Project Manager shall make an inspection of the Work to determine the status of completion. If the Project Manager does not agree that the Work is substantially complete he will notify the Contractor and provide reasons it is not substantially complete. If the Project Manager in consultation with other inspection officials determines that the Work is substantially complete, he will indicate in writing and add any items to the initial punch list of items to be completed.

c. Upon a written notice of substantial completion by the Project Manager, Coahoma shall pay an amount sufficient to increase the total payments to the Contractor of 95% of the Agreement price, less the amount he believes necessary to complete the punch list items and any withheld items under 11.4 above.

11.8 Final Acceptance. Whenever the Community Center Project shall have been completely performed on the part of the Contractor, the Contractor shall notify the Project Manager who shall perform a final inspection (and including any additional city or other officials the Project Manager requests to perform final inspection). If the work is satisfactory and in accordance with the Contract Documents, the Project Manager shall issue a Certificate of Acceptance to the Contractor and authorize final payment.

11.9 Final Payment. Once a Certificate of Final Acceptance is issued to the Contractor he shall submit a Final Payment Application including any withheld amounts for punch list items and retainage. He shall also submit a Consent of Surety from the surety that issued the performance and payment bonds for the project and an affidavit and satisfactory proof that all indebtedness connected with the project and all money due for labor, materials, machinery, etc. used in the performance of the Work have been paid or otherwise satisfied. The acceptance by the Contractor of Final Payment shall operate as a release to Coahoma from all claims or liabilities under the Contract Documents including any subcontractor claims, for anything done or furnished related to the Work or connected with the Contract Documents.

All warranties and guarantees shall commence from the date of the Certificate of Acceptance. No interest shall be due to the Contractor on any partial or final payment or on the retainage.

Section 12. Independent contractor. In Contractor's performance under this Agreement, the Contractor acts and will act as an independent contractor, and not as an agent or employee of Coahoma.

Section 13. Entire contract. This Agreement, the Contract Documents and the Exhibits referenced herein or attached hereto constitute the entire Agreement between the parties and may not be waived or modified except by written agreement between the parties.

Section 14. Assignment. This Agreement and any rights, duties and obligations hereunder may not be assigned without the prior written consent of all the parties hereto and in the event of an attempted assignment by one party to this Agreement without the express prior written consent of all other parties, such attempted assignment shall be void and without effect.

Section 15. Binding effect. This Agreement shall be binding upon and inure solely to the benefit of the Contractor, the City and CDC, and their respective successors, employees, legal representatives, and permitted assigns, and no other person shall have any legal or equitable rights, remedies, or claims under or in respect of or by virtue of this Agreement or any provision herein contained.

Section 16. Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision. This Agreement will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

Section 17. Choice of Law/Venue. This Agreement is governed by and construed in accordance with the laws of the State of Texas. Venue for any action brought under or arising out of this Agreement shall be in Howard County, Texas.

Section 18. Remedies. The remedies provided to the parties by this Agreement are not exclusive or exhaustive but are cumulative of each other and in addition to any other remedies the parties may have.

Section 19. Attorneys' Fees and Costs. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

Section 20. Notices. All notices contemplated and/or required herein shall be in writing and shall be delivered in person or sent via certified mail, return receipt requested, unless specifically provided otherwise.

Notices to Contractor shall be sent to:

Notices to Coahoma shall be sent to:

Coahoma Development Corporation
Attention: Ricky Crawford, Project Manager
122 N. First Street
Coahoma, TX 79511-0912

Section 21. No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to the parties hereto, their past or present council members, board members, officials, officers, employees or agents or employees, nor to create any legal rights or claim on behalf of any third party. Neither party waives, modifies or alters to any extent the availability of the defense of governmental or official immunity under the laws of the State of Texas and of the United States.

Section 22. Disclosure of Interested Parties. The Texas Ethics Commission has approved a Certificate of Interested Persons form, which must be filled out, signed, and notarized by the Company and submitted to the City at the time of execution of this Agreement, along with the certification of filing generated from the Commission's website at <https://www.ethics.state.tx.us/tec/1295-Info.htm> . The Certificate of Interested Persons form is available on the Commission's website and the Company must follow the Commission's filing process adopted pursuant to the statute.

Section 23. Boycott of Israel. Texas law requires that prior to the effective date of this Contract, Company has submitted to the City of Coahoma the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270).

Section 24. Force Majeure. No party to this Agreement shall be deemed in violation if it is prevented from timely performing any of its obligations by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority, or other circumstances for which the party is not responsible, or which is not in its control.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement effective of the last date set forth below.

COAHOMA DEVELOPMENT CORPORATION

By: _____
Kelly Seales, President

Dated: _____

ATTEST:

_____, Secretary

CITY OF COAHOMA

By: _____
Jay Holt, Mayor

Dated: _____

ATTEST:

Tammy Griffith, City Secretary

CONTRACTOR - _____

By: _____

Printed Name and Title

Corporate Acknowledgment:

STATE OF TEXAS §
 §
COUNTY OF HOWARD §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of _____, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as an act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2022.

Notary Public, State of Texas

EXHIBIT D
INSURANCE REQUIREMENTS

EXHIBIT D

RFP - COAHOMA CITY PARK SPLASH PAD

INSURANCE REQUIREMENTS

1. INSURANCE REQUIREMENTS: Without limiting any of the other obligations or liabilities of the Contractor, the Contractor and each subcontractor, at their own expense, shall, during the term of the contract, purchase and maintain the hereinafter stipulated minimum insurance with companies duly authorized to do business in the State of Texas and satisfactory to Coahoma. Certificates for each of the required Contractor's policies and each subcontractors' workers compensation policy shall be delivered to the Project Manager, who will in turn forward same to Coahoma for approval by the City Attorney's Office before any work is started:

(a) Workers' compensation as required by Texas law, with the policy endorsed to provide a waiver of subrogation as to the City and CDC.

(b) Comprehensive general liability insurance, including independent contractor's liability, completed operations/products liability, premises/operations liability, and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this contract, fully insuring Contractor's (or subcontractor's) liability for personal injury, bodily injury to or death, and for damage to property of third parties, with the following limits for each occurrence:

Injury or Death	\$1,000,000 per occurrence
Property Damage	\$500,000 per occurrence

(c) comprehensive automobile and truck liability insurance, covering owned, hired and non-owned vehicles, with minimum limits of \$500,000 per occurrence for bodily injury or death, and \$200,000 per occurrence for property damage, or a combined single limit of \$500,000, such insurance to include coverage for loading and unloading hazards.

(d) Professional Services Professional Liability Insurance (if applicable) with a minimum of \$1 Million Dollars per occurrence and \$1 Million Dollars aggregate.

2. POLICY ENDORSEMENTS AND SPECIAL CONDITIONS: Each insurance policy to be furnished by Contractor shall include the following conditions by endorsement to the policy, proof of which shall be noted on the certificate of insurance provided to Coahoma:

(a) the City and CDC shall both be named as an additional insured;

(b) the City and CDC shall be provided with a waiver of subrogation in its favor;

(c) the City and CDC shall be provided with 30 days written notice prior to the cancellation, nonrenewal or reduction in coverage (all "endeavor to" and similar language of reservation must be stricken from the cancellation section of certificate).

Concerning insurance to be furnished by Contractor, it is a condition precedent to acceptability thereof that:

(a) any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by Contractor.

(b) all policies are to be written through companies duly authorized to transact that class of insurance in the State of Texas and rated at least "A" by AM Best or other equivalent rating service.

(c) the term "Coahoma," "City," or "CDC" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of such entities and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the entity;

(d) the policy phrase "other insurance" shall not apply to Coahoma, the City or CDC where such is an additional insured on the policy.

Contractor agrees to the following:

(a) Contractor hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against Coahoma (the City and CDC), it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies;

(b) companies issuing the insurance policies and Contractor shall have no recourse against Coahoma, the City or CDC for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Contractor;

(c) approval, disapproval or failure to act by Coahoma, the City or CDC regarding any insurance supplied by the Contractor (or any subcontractors) shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the Contractor from liability; and

(d) no special payments shall be made for any insurance that the Contractor and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

The insurance requirements set out in this section are independent from all other obligations of Contractor under this contract and apply whether or not required by any other provision of this contract.

EXHIBIT E
PERFORMANCE AND PAYMENT BONDS

EXHIBIT E

RFP - COAHOMA CITY PARK SPLASH PAD

PERFORMANCE BOND FORM

KNOW ALL MEN BY THESE PRESENT that:

(Name of Contractor or Company)

(Address)

a (Corporation/Partnership) hereinafter called the Principal, and _____
(Name of Surety Co.) _____, (Address)

hereinafter called Surety, are held and firmly bound unto the **City of Coahoma, Texas**
_____, Coahoma, TX 7_____ hereinafter
called the Owner, in the penal sum of _____ Dollars
____ (\$_____) in lawful money of the United States, for the payment of which sum will and

truly to be made, we bind ourselves, successors, and assigns, jointly and severally firmly in these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER dated this day ____ of, 2022, a copy of which is hereto attached and made a part hereof for the construction of

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties in all the undertakings, covenants, terms, conditions and agreements of said contract during the original terms thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligations on this BOND and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the contract, or to the Work or to the SPECIFICATIONS.

PROVIDED FURTHER that no final settlement between the Owner, and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in counter-parts each one of which shall be deemed an original, this the _____ day of _____, 2022.

PRINCIPAL

By: _____

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

ATTEST: _____

SURETY

By: _____

(Witness as to Surety) (Attorney in Fact)

(Address)

NOTE: Date of Bond must not be prior to the date of the Contract. If Contractor is partnership, all partners should execute Bond. IMPORTANT: Surety Companies executing Bonds, must appear on the Treasury Department's most current list, (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

NOTE: Attach Power of Attorney

PAYMENT BOND FORM

KNOW ALL MEN BY THESE PRESENT that:

(Name of Contractor or Company)

(Address)

A _____ (Corporation/Partnership), hereinafter called Principal,

And _____ (Name of Surety Company)

(Address)

hereinafter called Surety, are held and firmly bound unto the City of Coahoma, Texas _____, Coahoma, TX 7 _____ hereinafter called OWNER, in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER dated the _____ day of _____, 2022, a copy of which is hereto attached and made a part hereof of the construction of the Coahoma Community Center.

NOW, THEREFORE, if the Principal shall promptly make payments to all persons, firms, SUB-CONTRACTORS, and Corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs of machinery, equipment and tools, consumed or used in connection with the construction of such WORK and all insurance premiums on said work and for all labor, performed in such work whether by SUB-CONTRACTOR or otherwise, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the contract or to the work or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counter-parts, each one of which shall be deemed an original, this the _____ day of _____, 2022.

PRINCIPAL

By: _____

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

_____ (Address)

ATTEST: _____

SURETY

By: _____

(Witness as to Surety)

(Attorney in Fact)

(Address)

NOTE: Date of Bond must not be prior to the date of the Contract. If Contractor is partnership, all partners should execute Bond. IMPORTANT: Surety Companies executing Bonds, must appear on the Treasury Department's most current list, (Circular 570 as amended) and be authorized to transact business in the state where the project is located.