



**WEBB COUNTY'S OFFICIAL NOTICE TO PROCEED**

**"Webb County Pueblo Nuevo Paving Project (ITB#2019-002)  
Texas Community Development Block TX-CDBG #7217491  
Bid Proposal, Plans & Technical Specifications "**

June 27th, 2019

ALL-IN-CONSTRUCTION, LLC.  
John Clark, Vice-President  
1450 N. Flores St., 2nd Floor  
San Antonio, TX. 78212  
Ph. (210) 401-9000  
[john@allintx.com](mailto:john@allintx.com)

**Re: "Webb County Property Pueblo Nuevo Paving Project, Invitation to Bid  
(ITB#2019-002), Texas Community Development Block Grant TX-CDBG #7217491**

Dear Mr. Clark:

Please consider this your official Notice to Proceed from Webb County, Texas on the project named above. You are hereby authorized to proceed with construction as of **JUNE 27th, 2019 and construction shall commence not later than 10 calendar days from said date.** Contract time will begin to be counted on the start date. The Work shall be completed within **SIXTY (60) CALENDAR DAYS** as specified in the contract documents.

The amount of this construction contract is **\$304,332.69**

The following instruments that are required under the construction contract have been delivered by Contractor to Webb County, Texas/Owner.

- XX** Payment Bond - (**YES**) (No) Contract Amt. \$25k+ **Mandatory Texas Statute**
- XX** Performance Bond - (**YES**) (No) (N/A) **Contract Amt. \$100k+ Mandatory Texas Statute**
- XX** Public Liability Insurance - (**YES**) (No)
- XX** Worker's Comp. Insurance - (**YES**) (No)
- Builder's Risk Insurance - (Yes) (No) (**N/A**)
- XX** Automobile Insurance - (**YES**) (No)

James Flores, Director  
Webb County Economic Development Dept.

Date: June 27, 2019



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Texas Community Development Block TX-CDBG #7217491  
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A handwritten signature in black ink, appearing to read "Joe Lopez", written over a horizontal line.

Joe Lopez, Purchasing Agent  
Webb County Purchasing Dept.      Date: June 27th, 2019

A handwritten signature in black ink, appearing to read "Ray Rodriguez", written over a horizontal line.

Ray Rodriguez, Asst. General Counsel  
Webb County Civil Legal Division      Date: June 27th, 2019

A handwritten signature in black ink, appearing to read "Guillermo B. Cuellar", written over a horizontal line.

Guillermo Cuellar  
Webb County Engineering Dept.      Date: June 27th, 2019

Please ensure that all submittals required by the Contract Documents have been submitted and reviewed by the Webb County Engineering Dept. prior to ordering any related materials or completing any related work. Work cannot begin until all applicable submittals have been reviewed, which means that contract time will be counted but no work will be allowed.

Mr. Luis Perez-Garcia, P.E., the Webb County Engineer and/or Mr. Guillermo Cuellar, P.E., from the Webb County Eng. Dept. shall be your two points of contact for Webb County for this project.

If you have any questions, please contact me at (956) 523-4054 or via e-mail at [lperezgarcia@webbcountytx.gov](mailto:lperezgarcia@webbcountytx.gov).

Sincerely,

Webb County Engineering Dept.

A handwritten signature in black ink, appearing to read "Luis Perez-Garcia", written over a horizontal line.

Luis Perez-Garcia, P.E.  
Webb County Engineer  
Dated: June 27th, 2019

**Accepted and Received:**

All-In-Construction, LLC., a  
Texas Limited Liability Company.

By: A handwritten signature in black ink, appearing to read "John Clark", written over a horizontal line.

John Clark John Clark, Vice-President  
Date: June 27th, 2019

**INDEPENDENT CONTRACTOR AGREEMENT  
“WEBB COUNTY PUEBLO NUEVO PAVING PROJECT (ITB#2019-002)”**

STATE OF TEXAS \*

**KNOW ALL MEN BY THESE PRESENTS:**

COUNTY OF WEBB \*

This Agreement is made this the 27th day of JUNE, 2019 by and between **WEBB COUNTY, TEXAS**, a Political Subdivision of the State of Texas (hereinafter “Owner”) and **ALL-IN- CONSTRUCTION, LLC**, a Texas Limited Liability Company, (hereinafter “Contractor”).

**WITNESSETH**, that for and in consideration of the mutual covenants herein set forth, and other good and valuable consideration, the Parties hereby mutually agree as follows:

**ARTICLE 1. Statement of Work.** The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for the construction of the Improvements embraced in the Project; namely, **“Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/ Webb County. Texas Invitation to Bid (ITB#2019-002), Bid Proposal and Contractor’s Responsive Bid Proposal, Plans & Technical Specifications”** for the Pueblo Nuevo Paving Project Texas Community Development Block Grant (TxCDBG) project, all in strict accordance with the contract documents including all addenda thereto, numbered as set forth in Article 3 and/or Article 24 herein, dated June 27<sup>th</sup>, 2019, and the construction plans dated April 8, 2019, as prepared by Webb County Engineer and/or the Webb County Engineering Dept., acting and in these contract documents preparation, referred to as the *“Engineer”*. Contractor agrees that all work shall be performed in a good and workmanlike manner.

*Special Notes:*

*This paving project shall be for the pavement of public roadway right-of-way including grading, and asphalt paving of approximately 4000 linear ft. of roadway asphalt paving, in the Pueblo Nuevo Subdivision.*

**ARTICLE 2. The Contract Price.** The City/County will pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed at the *unit prices* stipulated in the Bid for the several respective items of work completed subject to additions and deductions as provided in *alternative pricing Article 2, as set forth herein-below\*\*\*.*

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**Alternate Pricing Techniques:** In the event the statutory provisions require the contract price to be a fixed sum, in the absence of an approved form, the following should be substituted for Article 2 above.  
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**“ARTICLE 2. The Contract Price.\*\*\*** The County will pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in *Section 109 hereof*, the sum of Three Hundred Four Thousand Three Hundred Thirty-Two and 69/100 Dollars (\$304,332,69).”

b.) Any and all payments/disbursements by Webb County shall be made payable to contractor based on an numbered and itemized payment application for percentage of completion of the various base bid item(s) for the project as agreed to and made by Contractor to Owner, which shall be approved by Luis Perez-Garcia, P.E., Webb County Engineer, Webb County Engineering

Dept., the Project Engineer, after inspecting the progress of completed work and materials on site at the Premises. Said approvals shall not be unduly withheld or delayed.

c.) Owner shall make final payment (including the costs and expenses incurred due to change order(s) completed during this project and completion of the Work and then release the **Five percent (5%) retainage** that Owner previously retained) to Contractor on the day the Project is completed and approved by **Luis Perez-Garcia, P.E., Webb County Engineer, Webb County Engineering Dept., the Project Engineer**, or its designated and authorized representative, on behalf of Owner. Said approvals shall not be unreasonably withheld or delayed.

**d.) It is hereby expressly acknowledged, consented and agreed to by Contractor that the final payment due for the services rendered pursuant to this Agreement shall not be issued to Contractor until Contractor has signed and sworn to the Final Bills Paid Affidavit confirming payment to each of its subcontractors, laborers, suppliers, and materialmen in full for all labor and materials to Contractor for or in connection, renovation, or repair of improvements on or relating to the subject project/property or any portion thereof, pursuant to and in accordance with Sections 53.085 and 53.259 of the Texas Property Code, and that the intentional, knowing, or reckless making of a false or misleading statement in the Affidavit constitutes a criminal offense under said sections cited herein-above and is a Class A Misdemeanor.**

**ARTICLE 3. The Contract.** The executed contract documents shall consist of the following components:

- |  |  |
|--|--|
| a. This Agreement (pgs. 1-12)                        | f. General Conditions, Part I                                |
| b. Addenda (n/a)                                     | g. Special Conditions (n/a)                                  |
| c. Invitation for Bids; <i>(ITB 2018-004)</i>        | h. Technical Specifications                                  |
| d. Instructions to Bidders; <i>(ITB 2018-004)</i>    | i. Drawings ( <i>as listed in the Schedule of Drawings</i> ) |
| e. Signed Copy of Bid ( <i>All-In-Const., LLC.</i> ) | j. Appendix's A-E  |

**ARTICLE 4. Performance.** Work, in accordance with the Contract dated JUNE 27th, 2019, shall commence on or before Ten (10) calendar days from the issuance of the Official Webb County Notice to Proceed being JUNE 27th, 2019 and Contractor shall complete the WORK within SIXTY (60) consecutive calendar days thereafter. The date of completion of all WORK is therefore set for SIXTY (60) calendar days after the commencement date of this construction project, on or about SEPTEMBER 4, 2019.

This Agreement, together with other documents enumerated in this ARTICLE 3, and/or ARTICLE 24, herein, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

**5. RETAINAGE:** OWNER shall withhold from each installment payment to CONTRACTOR a retainage of FIVE percent (5%). The retainage shall be paid to CONTRACTOR upon final completion of the work. Completion of the work shall be considered final upon written approval by OWNER's designated representative.

**6. CHANGE ORDERS** - In the event either party requests a change from the agreed Scope of Work or Quote in this Agreement, a written change order making such a request shall be prepared by

Contractor in accordance with the proposed change. If the Owner or Third-Party Inspector (“Inspector”) requests a change be executed, Owner or Inspector shall, in a timely manner, inform Contractor (via email) of the request. Contractor shall then prepare a written change order in accordance with said request and submit to Owner for Owner’s approval and signature. As soon as Owner signs the change order approving the proposed change, Owner shall submit, via email, the approved/signed order to Contractor. Contractor shall begin performance in accordance with change order only after Contractor receives the written and approved/signed change order. If Contractor requests a change order, Contractor shall prepare a written change order, submit it to Owner for its approval and signature, and the resultant change only will begin on the approved change after Contractor receives the signed change order. Change orders may increase the payment the Owner must pay to Contractor. **IN NO EVENT MAY THE TOTAL COST OF CHANGE ORDERS EXCEED TWENTY-FIVE PERCENT (25%) OF THE TOTAL AMOUNT OF THIS AGREEMENT.**

7. **NOTICES/CONTACT PERSONS:** Any notice or communication required or permitted hereunder shall be sufficiently given if sent via electronic transmission to the contact persons for CONTRACTOR and/or OWNER as follows:

To Contractor at: ALL-IN-CONSTRUCTION, LLC., attn.;  
John Clark, Vice-President  
1450 N. Flores St., 2nd Floor  
San Antonio, TX. 78212  
Ph. (210) 401-9000  
[john@allintx.com](mailto:john@allintx.com)

To Owner at: WEBB COUNTY, TEXAS  
Luis Perez-Garcia, P.E./Webb County Engineer  
Webb County Engineering Dept.  
(956) 523-4054  
[lperezgarcia@webbcountytx.gov](mailto:lperezgarcia@webbcountytx.gov)

8. **INCORPORATION OF INVITATION TO BID/PROPOSAL-QUOTE:** The terms, project specifications, requirements and/or any and all conditions contained in the, “**Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/ Webb County. Texas Invitation to Bid (ITB#2019-002), Bid Proposal and Contractor’s Responsive Bid Proposal, Plans & Technical Specifications**”, together with and including any and all addendums to the ITB”, together with and also including the Contractor’s Responsive Bid Proposal submitted by and awarded to All-In-Construction, LLC., to said “ITB 2018-004” are hereby incorporated herein by reference as fully written out as set forth and attached hereto for all intents and purposes.

9. **DATE OF COMMENCEMENT:** Within **TEN (10) calendar days** of being issued a Notice to Proceed from the County, **but in no event shall the commencement date be later than JUNE 27th, 2019, being TEN (10) CALENDAR DAYS, from the date of the issuance of the Official Webb County Notice to Proceed.**

10. **SUBSTANTIAL COMPLETION:** Substantial Completion is the stage in the progress of the completion of the work covered by this Agreement where the work at the Premises is sufficiently complete in accordance with the work specified in "Scope of Work" as set forth in , "Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/ Webb County. Texas Invitation to Bid (ITB#2019-002), Bid Proposal and Contractor's Responsive Bid Proposal, Plans & Technical Specifications", including completion of all post-construction clean-up on and about the Premises, which shall be required to be confirmed in writing as being substantially completed, by the execution and issuance of a Certificate of Substantial Completion that is dated and signed by both the Project Engineer and Owner, so that the Owner (or Owner's tenant) can occupy and/or utilize the Premises for the intended use.

11. **DATE FOR SUBSTANTIAL COMPLETION/LIQUIDATED DAMAGES:** The date of substantial completion of this construction project shall be **SIXTY (60) CALENDAR DAYS (Monday-Friday excluding federal holidays)**, after the date of commencement of construction as set forth in the written and dated Official Webb County Notice to Proceed issued by Owner to Contractor.

The time set forth in the proposal for the completion of the Work is an essential element of the Agreement. For each working day under the conditions described in the preceding Paragraph that any work shall remain uncompleted after the expiration of the working days specified in the Agreement, together with any additional working days allowed, the amount per day given in the following schedule will be deducted from the money due or to become due the Contractor, not as a penalty but as liquidated damages.

Said Contractor further agrees to begin the work on or before the **TENTH (10<sup>th</sup>) calendar day** following the date set by the Owner's written notice to proceed, **but in no event shall the commencement date be later than JUNE 27th, 2019.**

Contractor agrees to **CONTINUOUSLY PURSUE AND COMPLETE THE WORK WITHIN SIXTY (60) CALENDAR DAYS from date of commencement of construction (Monday-Friday excluding state/federal holidays).**

**Contractor and Owner do hereby acknowledge that "actual damages are uncertain and would be difficult of ascertainment" and therefore both parties do hereby mutually agree that the following stipulated sum of per diem liquidated damages is a reasonable amount. The parties further express and acknowledge that the amount of liquidated damages is meant to be "compensatory" and not "punitive", and Contractor further agrees to pay, as liquidated damages, the sum of FOUR HUNDRED DOLLARS (\$400.00) for each consecutive working day there-in-after the date of substantial completion, as herein provided above in Section 11.**

12. **OWNER'S RIGHT TO TERMINATE:** Owner may terminate this Agreement upon thirty (30) days prior written notice. If Owner terminates this Agreement, then Contractor shall only be paid for the work performed or expenses incurred prior to the receipt of the notice of termination.

**13. INSURANCE: Contractor and Subcontractor Insurance:** The financial integrity of Contractor is of interest to the Owner, therefore, subject to the right of Contractor to maintain reasonable deductibles in such amounts as are approved by the Owner. Contractor shall obtain and maintain in full force and effect for the entire duration of this agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company (Best's Key Insurance Company Rating Guide, current edition and/or as amended) and/or otherwise acceptable to Webb County/Webb County Risk Manager, the following types and amounts:

The Contractor shall not commence work under this Agreement until it has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, or shall the Contractor allow any subcontractor to commence work on its Subcontract until the insurance required of the Subcontractor has been so obtained and approved.

a. Compensation Insurance: The Contractor shall procure and shall maintain during the life of this Contract Workers' Compensation Insurance as required by applicable State or Territorial law for all of his/her employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workers' Compensation Insurance. In the case where any class of employees engaged in hazardous work on the project under this Contract and is not protected under the Workers' Compensation Statute, The Contractor shall provide and shall cause each Subcontractor to provide adequate employee's liability insurance for the protection of such of his/her employee as are not otherwise protected.

b. Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the amount of not less than \$1,000,000 for bodily injury, including accidental death, to any one person and an amount not less than \$1,000,000 on account of any one occurrence: Property Damage in the amount not less than \$100,000 per occurrence and \$200,000 aggregate; and Vehicle Liability of \$100,000 for any one person or \$200,000 for each occurrence.

c. The Contractor shall procure and shall maintain during the life of his Contract, insurance in the amounts listed in Subparagraphs a and b.

d. Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The Contractor shall either (1) require each of his/her Subcontractor to procure and shall maintain during the life of his /her Subcontractor, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amount specified in Subparagraph b. above or, (2) insure the activities of his/her Subcontractors in his/her policy specified in Subparagraph b, above.

e. Scope of Insurance and Special Hazards: The insurance required under Subparagraph a and b, above, shall provide adequate protection for the Contractor and his/her Subcontractor's,

respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by any one directly or indirectly employed by him/her and also against any of the special hazard which may be encountered in the performance of this Contract.

f. Builder's Risk Insurance (Fire and Extended Coverage): The Contractor shall procure and shall maintain during the life of this Contract Builder's Risk Insurance (Fire and Extended Coverage on a 100 percent (100%) completed value basis on the insurable portion of the project. The Owner, the Contractor, and Subcontractor (as their interests may appear), shall be named as the Insured.

g. Proof of Carriage of Insurance: The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall also contain substantially the following statement: "The Insurance covered by this certificate will not be cancelled or materially altered, except after ten (10) days written notice has been received by the Owner."

The Owner, the Contractor, and Subcontractor (as their interests may appear), shall be named as Insureds or Additional Insureds.

h. Webb County, Texas, a political subdivision of the State of Texas shall be named as an additional name insured party with respect to General Liability, Builder's Risk, Fire and/or Automobile Liability. A blanket waiver of subrogation in favor of Webb County, Texas, a political subdivision of the State of Texas shall be contained in the Workers' Compensation, and all liability policies.

**14. PAYMENT AND PERFORMANCE BONDS:** A performance bond is required for construction work if the contract is in excess of \$100,000 and a payment bond is required if a construction contract is in excess of \$25,000. Contractor shall supply the required payment and/or performance bonds to the Webb County Purchasing Director within ten (10) days of execution of this Agreement or not later than Two (2) working days prior the date of the scheduled pre-construction meeting which shall be the "DEADLINE" for compliance herewith and which both parties have mutually agreed to as an "Express Condition Precedent" to this contract. Bonds must be issued by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company (Best's Key Rating Guide, current Edition, and as amended) and/or otherwise acceptable to the Owner.

**\*\* THE NOTICE TO PROCEED SHALL NOT BE ISSUED TO THE CONTRACTOR BY WEBB COUNTY WITHOUT THE DELIVERY OF ALL REQUIRED PERFORMANCE AND/OR PAYMENT BONDS AND/OR PROOF OF ALL REQUIRED INSURANCE POLICIES TO WEBB COUNTY BY CONTRACTOR AS PER SECTION 7 "NOTICES" NOT LATER THAN TWO (2) WORKING DAYS PRIOR THE DATE OF THE SCHEDULED PRE-CONSTRUCTION MEETING "DEADLINE". IF THE CONTRACTOR FAILS TO PROVIDE SAID BONDS OR INSURANCE POLICIES BY THE DEADLINE SHALL CONSTITUTE A DEFAULT OF YOUR CONTRACT AND WEBB COUNTY SHALL AT**



**THEIR SOLE OPTION AWARD THE CONTRACT TO THE NEXT LOWEST BIDDER OR RE-ADVERTISE THIS PROJECT FOR NEW BIDS/PROPOSALS.\*\***

15. **RELATIONSHIP OF PARTIES:** Contractor is engaged under this Agreement as an “***INDEPENDENT CONTRACTOR***” and not as an agent or employee of Owner. Contractor is not entitled to benefits of any kind to which Owner’s employees are entitled, including but not limited to unemployment compensation; workers’ compensation, health insurance, or retirement benefits. Contractor assumes full responsibility for payment of all federal, state and local taxes or contributions, including but not limited to, unemployment insurance, social security, Medicare, and income taxes with respect to Contractor and Contractor’s employees. This Agreement does not create a partnership or a joint venture between the parties hereto, nor does it authorize either party to serve as the legal representative or agent of the other. Neither party has any right or authority to assume, create, or incur any liability or any obligation of any kind, express or implied, against, or in the name of, or on behalf of the other party.

16. **SUCCESSORS AND ASSIGNS:** This Agreement may not be assigned or subcontracted, in full or in part, by either party without first obtaining written consent of the other party. The parties shall not be relieved of its full responsibility for completion of work because of subletting of any portion of the work. This Agreement shall be binding upon and shall ensue to the benefit of the parties hereto and their respective successors, transferees, and assigns.

17. **INDEMNITY:** CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY AND ALL LOSS, EXPENSE, COST, OR LIABILITY (INCLUDING REASONABLE LEGAL FEES AND EXPENSES), ARISING FROM ANY CLAIM OR CAUSE OF ACTION FOR ANY LOSS OR DAMAGE CAUSED BY OR ARISING FROM THE PERFORMANCE OF CONTRACTOR’S OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE CONDUCT OF CONTRACTOR’S EMPLOYEES AND/OR ANY ACTS PERFORMED UNDER THIS CONTRACT AND THAT RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. IN CASE OF ANY SUCH CLAIM, CONTRACTOR, UPON NOTICE FROM OWNER, COVENANTS TO DEFEND ANY SUCH ACTION OR PROCEEDING. THE CONTRACTOR SHALL ALSO SAVE AND HOLD HARMLESS THE OWNER FROM AND AGAINST ANY AND ALL EXPENSES, COURT COSTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEY’S FEES THAT MIGHT BE INCURRED IN LITIGATION OR OTHERWISE DEFENDING OR PROSECUTING THE CLAIMS.

18. **COMPLIANCE WITH LAWS:** Contractor agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities, including, but not limited to, those pertaining to safety, and shall obtain all licenses, registrations, or other approvals required in order to fully perform its obligations hereunder. Contractor represents and warrants that all improvements made to the property shall comply with the Americans with Disabilities Act and all other applicable codes, regulations, and laws.

19. **SEVERABILITY:** Should any part of this Agreement be rendered or declared invalid by a court of competent jurisdiction of the State of Texas, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions thereof, and they shall remain in full force and effect.

20. **GOVERNING LAW/VENUE:** This agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas, without regard to choice of law rules of any jurisdiction. The parties hereby further agree that for any litigation regarding this agreement that venue lies exclusively in Webb County, Texas.

21. **DEFAULT AND TERMINATION:** In the event either party interferes with the general progress of this Project intentionally, or by negligence, or intentional or negligent delay, the non-defaulting party may complete the same or cause the same to be completed and charge all sums of money so expended for the completion of this Agreement against the defaulting party, and the defaulting party shall reimburse the non-defaulting Party for any loss sustained thereby.

22. **ATTORNEY'S FEES:** In the event either party breaches any of the terms of this Agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney's fees incurred by such other party.

23. **ENTIRE AGREEMENT:** This Agreement and its Exhibits shall constitute the complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representations, agreements, promises or statements, either oral or written, by and between the parties. Any modifications to this Agreement must be in writing and signed by the party sought to be bound.

24. **EXHIBITS:** The following documents are attached hereto and fully incorporated herein by reference and made a part of this agreement as if fully set forth herein:

1. "Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/ Webb County. Texas Invitation to Bid (ITB#2019-002), Bid Proposal Plans & Technical Specifications" & Scope of Work
2. Contractor All-In Construction, LLC.'s Bid Proposal awarded in response to "Webb County Property Parking Lot Project, Invitation to Bid (ITB#2019-002), Plans & Technical Specifications."
3. Payment Bond (Must be provided by Contractor Prior to Issuance of Notice to Proceed).
4. Performance Bond. (Must be provided by Contractor Prior to Issuance of Notice to Proceed).
5. Insurance Coverages, Liability, Worker's Comp., Builder's Risk, etc. (To be provided by Contractor Prior to Issuance of Notice to Proceed).

6. Webb County's General Conditions
7. City of Laredo Technical Standards Specifications as listed on parking lot construction plans.
8. Construction Plans/Drawings, as submitted by Guillermo B. Cuellar, P.E., and dated APRIL 8, 2019.
9. Contractor's Application for Payment
10. Webb County's Notice to Proceed Letter
11. Change Order form
12. Form 1295-Texas Ethics Commission Disclosure of Interested Parties
13. Webb County Ethics Policy

25. **OMISSIONS:** If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any portion of this Agreement shall be omitted here-from, then it is hereby declared that such omission was unintentional and that the omitted element shall be included in order to give meaning, validity, and/or effect to any portion of this Agreement.

26. **MATERIALMEN/SUPPLIERS:** Contractor within 10 days from the date of the execution of this agreement shall provide an updated and current listing of all Subcontractors and/or Materialmen or Suppliers, and all laborers, used by the Contactor to Webb County and Contractor shall notify the Owner in writing whenever changes occur, and Contractor shall provide the Owner with an updated listing within FIVE (5) working days of upon request for an updated listing. Contractor will immediately notify the Owner in writing of any Subcontractors and/or Materialmen or Suppliers, and all laborers, independent contractors, and/or other such materialmen and/or suppliers services that are discontinued and/or that have been added to their workforce.

27. **REQUEST FOR PAYMENT SUBMISSION:** All request for payments are to be made payable to Contractor by dated and signed invoice(s). Said invoice and/or request for progress payments shall be submitted in writing to both **Luis Perez-Garcia, P.E., Webb County Engineer, Webb County Engineering Dept., the Project Engineer**, or its' designated and authorized representative, on behalf of Owner for review and approval of same. Upon review and approval of the request for payment by **Luis Perez-Garcia, P.E., Webb County Engineer, Webb County Engineering Dept., the Project Engineer** on behalf of Owner, the Webb County Engineer shall then forward the approved request for the payment amount **less Five percent (5%) retainage** to the Webb County Business Office to process the progress payment request. Payment will be mailed to Contractor or made available for pick up at the Webb County Business Office.

28. **COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES:** Contractor agrees to comply at all times with all federal, state, county, and/or City of Laredo building, development codes, city building permits, rules, regulations, ordinances and laws, and Contractor shall not permit the Premises or any part thereof to be used for (a) any offensive, noisy, or dangerous activity that would pose a health or safety risk; (b) the creation or maintenance of a public nuisance,

(c) anything which is against public regulations or rules of any public authority at any time applicable to the Premises; or (d) any purpose or any manner which will obstruct, interfere with, or infringe on the rights of other tenants or adjoining properties.

29. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

30. **AMENDMENT:** No amendment, modification, or alteration of the terms of this Agreement hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and approved by the Webb County Commissioner's Court and duly executed by both of the parties hereto.

31. **TIME OF ESSENCE:** Time is of the essence of this Agreement and each and every covenant, condition, and provision herein contained.

32. **ADDITIONAL PROVISIONS:**

**Inconsistencies.** Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.

**Entire Agreement.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.

**Confidentiality.** Any confidential information provided to or developed by Consultant in the performance of this Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual or organization without the prior approval of **WEBB COUNTY**.

**Headings.** The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

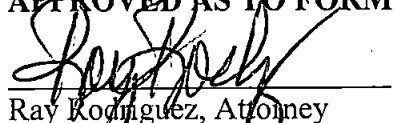
**Waiver.** The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

**Consequential Damages.** Neither party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their





**APPROVED AS TO FORM:**

  
Ray Rodriguez, Attorney

Webb County Civil Legal Division


\*By law, this office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

Passed and approved by the Webb County Commissioners Court on  
May 28th, 2019; Item No. 32 Approval of Paving Contract  
(ITB-2019-002.

**Corporate Certifications**

I, John Clark, do hereby certify that I am the Vice-President of the Limited Liability Company named as Contractor herein; that I am the duly authorized corporate offices, who signed this Agreement on behalf of the Contractor, as then Vice-President of said company; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

**ALL IN CONSTRUCTION, LLC.**  
A Texas Limited Liability Company

By:   
JOHN CLARK, V.P.

Title: Vice-President

Date: June 27th, 2019

Corporate  
Seal

\_\_\_\_\_  
(Corporate Secretary)

ALL-IN-CONSTRUCTION, LLC.  
John Clark, Vice-President  
1450 N. Flores St., 2nd Floor  
San Antonio, TX. 78212  
Ph. (210) 401-9000  
[john@allintx.com](mailto:john@allintx.com)







Bond No. S012207

### PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That We, All In Construction, LLC

1450 N. Flores St., 2nd Floor, San Antonio, TX 78212

(hereinafter called "Principal"), as Principal, and the EMPLOYERS MUTUAL CASUALTY COMPANY, a corporation organized and existing under the laws of the State of Iowa with its principal office in the CITY OF DES MOINES, IOWA,

and authorized to transact business in the State of Texas as Surety, are held and firmly

bound unto Webb County

(hereinafter called "Obligee"), in the penal sum of Three Hundred Four Thousand Three Hundred Thirty Two & 69/100's

DOLLARS (\$ 304,332.69 ), good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally firmly by these presents.

SEALED, with our seals and dated 13th day of June, 20 19.

WHEREAS, the above bounden Principal has entered into a certain written contract with the above named Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, providing for the construction or supply of, Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/Webb County, Texas Invitation to Bid (ITB#2019-002

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein for the purpose of explaining but not of varying or enlarging the obligation.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bounden Principal shall well and truly keep, do and perform, each and every, all and singular, the matters and things in said contract set forth and specified to be by the said Principal kept, done and performed at the time and in the manner in said contract specified, and shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal, then this obligation shall be void; otherwise, to be and remain in full force and effect.

PROVIDED, HOWEVER, this bond is executed by the Surety, upon the express condition that no right of action shall accrue upon or by reason hereof, to or for the use or benefit of any one other than the Obligee named herein; and the obligation of the Surety is and shall be construed strictly as one of suretyship only.

WITNESS: \_\_\_\_\_

All In Construction, LLC  
Principal [Seal]

(If Individual or Firm)

By: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**Employers Mutual Casualty Company**

(If Corporation)

Surety [Seal]  
By: John W. Schuler Attorney-in-Fact

**Questions regarding this bond should be directed to the EMC H.O. Bond Department at 515-345-2689.**



Employers Mutual  
Casualty Company

Bond No. S012207

### PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That We, All In Construction, LLC

1450 N. Flores St., 2nd Floor, San Antonio, TX 78212

(hereinafter called "Principal"), as Principal, and the EMPLOYERS MUTUAL CASUALTY COMPANY, a corporation organized and existing under the laws of the State of Iowa and authorized to transact business in the State of

Texas (hereinafter called "Surety"), as Surety, are held and firmly bound unto the Webb County, Texas

(hereinafter called "Obligee"), in the penal sum of Three Hundred Four Thousand Three Hundred Thirty Two

& 69/100's DOLLARS, (\$ 304,332.69 ), good and lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has entered into a certain written contract with the above named Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, providing for the construction or supply of, Pueblo Nuevo Paving Project, Texas Community Development Block Grant TX-CDBG #7217491/Webb County, Texas Invitation to Bid (ITB#2019-002

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

NOW, THEREFORE, IF the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, then this obligation to be void; otherwise to remain in full force and virtue.

SIGNED and sealed this 13th day of June, 20 19.

WITNESS:

\_\_\_\_\_  
(If Individual or Firm)

ATTEST:

\_\_\_\_\_  
(If Corporation)

All In Construction, LLC

By: [Signature] Principal [Seal]

Employers Mutual Casualty Company

By: [Signature] Surety  
John W. Schuler Attorney-in-Fact

**Questions regarding this bond should be directed to the EMC H.O. Bond Department at 515-345-2689.**



P.O. Box 712 • Des Moines, Iowa 50306-0712

# POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

- |   |  |
|---|--|
| 1. Employers Mutual Casualty Company, an Iowa Corporation     | 4. Illinois EMCASCO Insurance Company, an Iowa Corporation   |
| 2. EMCASCO Insurance Company, an Iowa Corporation             | 5. Dakota Fire Insurance Company, a North Dakota Corporation |
| 3. Union Insurance Company of Providence, an Iowa Corporation | 6. EMC Property & Casualty Company, an Iowa Corporation      |

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

**JOHN W. SCHULER**

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute the following Surety Bond(s):

<b>Surety Bond</b>	<b>Principal:</b>	<b>Obligee:</b>
Number	All in Construction LLC	Webb County

S012207

In an amount not exceeding Twenty Five Million Dollars .....\$25,000,000.00

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

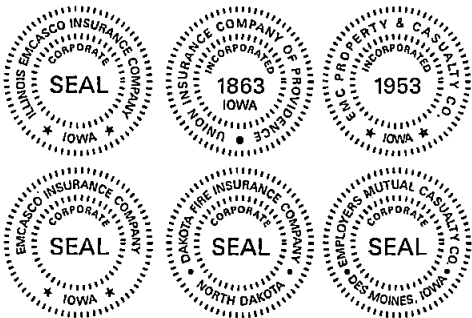
## AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at the first regularly scheduled meeting of each company duly called and held in 1999:

**RESOLVED:** The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof; and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS THEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 1st day of July, 2018.

Seals



*Bruce G. Kelley*

Bruce G. Kelley, CEO, Chairman of Companies 2, 3, 4, 5 & 6; President of Companies 1, 2 & 6; Treasurer of Companies 1, 2, 3, 4 & 6

*Todd Strother*

Todd Strother  
Senior Vice President

On this 1st day of July, 2018 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Todd Strother, who, being by me duly sworn, did say that they are, and are known to me to be the CEO, Chairman, President and Treasurer, and/or Senior Vice President, respectively, of each of the Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Todd Strother, as such officers, acknowledged the execution of said instrument to be their voluntary act and deed, and the voluntary act and deed of each of the Companies.

My Commission Expires October 10, 2019.

*Kathy Loveridge*

Notary Public in and for the State of Iowa



## CERTIFICATE

I, James D. Clough, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on 1st day of July, 2018, are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 13th day of June, 2019.

*J. D. Clough*

Vice President



**IMPORTANT NOTICE**

To obtain information or to make a complaint:

You may call EMC Insurance Companies' toll free telephone number for information or to make a complaint at:

**1-800-223-0562**

You may also write to EMC Insurance Companies at:  
P.O. Box 1739  
Wichita, KS 67201-1739

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

**1-800-252-3439**

You may write the Texas Department of Insurance:

P.O. Box 149104  
Austin, Texas 78714-9104  
FAX: (512) 490-1007  
Web: [www.tdi.texas.gov](http://www.tdi.texas.gov)  
E-Mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

**PREMIUM OR CLAIM DISPUTES:**

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

**ATTACH THIS NOTICE TO YOUR POLICY:**

This notice is for information only and does not become a part or condition of the attached document.

**AVISO IMPORTANTE**

Para obtener información o para presentar una queja:

Usted puede llamar al número de teléfono gratuito de EMC Insurance Companies' para obtener información o para presentar una queja al:

**1-800-223-0562**

Usted también puede escribir a EMC Insurance Companies:

P.O. Box 1739  
Wichita, KS 67201-1739

Usted puede comunicarse con el Departamento de Seguros de Texas para obtener información sobre compañías, coberturas, derechos, o quejas al:

**1-800-252-3439**

Usted puede escribir al Departamento de Seguros de Texas a:

P.O. Box 149104  
Austin, Texas 78714-9104  
FAX: (512) 490-1007  
Sitio web: [www.tdi.texas.gov](http://www.tdi.texas.gov)  
E-Mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

**DISPUTAS POR PRIMAS DE SEGUROS O RECLAMACIONES:**

Si tiene una disputa relacionada con su prima de seguro o con una reclamación, debe comunicarse con el agente primero. Si la disputa no es resuelta, usted puede comunicarse con el Departamento de Seguros de Texas.

**ADJUNTE ESTE AVISO A SU PÓLIZA:**

Este aviso es solamente para propósitos informativos y no se convierte en parte o en condición del documento adjunto.

MARGIE R. IBARRA  
COUNTY CLERK  
FILED

2019 JUL -2 AM 10:27

WEBB COUNTY, TEXAS

BY   *JK*   DEPUTY