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**REQUEST FOR PROPOSALS**  
Pursuant to O.C.G.A. § 36-91-20 et. seq.

**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD**

**LIBERTY COUNTY GEORGIA**

**NOVEMBER 2024**

**2022-42**

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REQUEST FOR PROPOSALS  
FOR  
WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS

Sealed proposals will be received by the Liberty County Board of Commissioners at 112 North Main Street Hinesville, Georgia 31313 until 2:00 P.M. local time on Thursday, November 21, 2024, at which time and place they will be publicly opened and read. No submitted proposals may be withdrawn after the scheduled closing time for receipt of proposal for a period of sixty (60) days.

A mandatory pre-proposal meeting will be held at the Liberty County Board of Commissioners at 112 N Main Street Hinesville, Georgia 31313 at 2:00 November 7, 2024.

The work to be done consists of the installation of approximately 3,900 feet of 12" PVC water main, approximately 6,500 feet of 10" PVC water main, approximately 7,900 feet of 8" PVC water main, fire hydrants, railroad and roadway bores, service laterals and appurtenances.

Please note that Liberty County may award all or part of this project depending on the funding available.

Proposals for the complete work in one or more general contracts shall be made on the proposal form provided and shall contain prices in words and figures for the work proposal. All proposals shall be accompanied by a Proposal Security drawn in favor of the Liberty County Board of Commissioners, in the amount of at least five percent (5%) of the lump sum proposal for the complete work; such Proposal Security representing that the offeror, if awarded the contract will promptly enter into a contract and furnish Performance Bond and Payment Bond as provided by law and approved by the Attorney for the Liberty County Board of Commissioners. Each bond shall be equal to one hundred percent (100%) of the contract amount. The Proposal Security shall be forfeited to the Liberty County Board of Commissioners as liquidated damages if the Offeror fails to execute the contract and provide Performance and Payment Bonds within ten (10) days after being notified that he has been awarded the contract.

Drawings and Specifications are open to public inspection at the office of the Liberty County Board of Commissioners and at the offices of T. R. Long Engineering, P.C.

Copies of the plans and specifications must be obtained from T. R. Long Engineering, 114 North Commerce Street, Hinesville, Georgia, 31313, upon receipt of \$250.00. Such fees represent reproduction cost and are non-refundable. Proposers must purchase a Proposal Packet to be a registered proposer. Only proposals from registered proposers will be opened.

The M/WBE goal for this project is 10% MBE and 3% WBE, for a total M/WBE participation of 13%. All M/WBE documents must be submitted in a separate sealed envelope, otherwise the proposal may be rejected.

The Owner reserves the right to reject any or all proposals and to waive informalities.

**REQUEST FOR PROPOSALS**  
**Liberty County Board of Commissioners**  
**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD**  
**Liberty County, Georgia**

**1. THE PROJECT**

The Liberty County Board of Commissioners is seeking proposals from qualified firms for the Water System Improvements project. The work will include the extension of the Liberty County Water System west of CSX Railroad. The project includes the installation of approximately 3900 feet of 12" PVC water main, approximately 6500 feet of 10" PVC water main, approximately 7900 feet of 8" PVC water main, fire hydrants, railroad and roadway bores, service laterals and appurtenances.

Any and all transactions made necessary by this RFP, as well as the Proposal Documents, shall be subject to the approval of the Liberty County Board of Commissioners (the "Board").

**2. A. GENERAL INFORMATION ABOUT THE SERVICES**

The successful Proposer will assume responsibility for the project by issuing a lump sum proposal for the services which shall constitute a contractual obligation. The Proposer shall be required to prepare a project schedule and will be responsible for all methods of construction, safety, and coordination of all construction work and contracts related to insure successful project completion. Minimum requirements for work to be performed are attached as **Exhibit F & Section D & E**.

**B. PERMITS, INSPECTIONS, TESTING AND INSURANCE**

All materials and construction shall conform to the requirements of all building codes and sanitary laws in effect in the City and/or County in which the work is performed. The Contractor shall obtain and pay for all necessary permits, inspections, tests and insurance required by law, except the cost of any permit issued by the City and/or County in which the project is performed, shall be at no cost to the contractor or the project. In addition, if applicable to this project, the Owner shall pay for all utility connection fees, tap fees, impact fees and any other fees associated with utility connection/service to this project as well as Land Disturbance/Notice of Intent fees."

**3. DEFINED TERMS**

In addition to the terms defined elsewhere in this RFP, the following terms shall have the meanings indicated below, which are applicable to both the singular and plural thereof.

- (a) **Addenda** - Graphic or written documents issued by the Owner prior to the opening of Proposals intended to clarify, revise, add to, or delete information in the original Proposal Documents or in previous addenda.
- (b) **Offeror** - One who submits a Proposal directly to Owner as distinct from a sub-offeror or sub-bidder, who submits a proposal to an Offeror.
- (c) **Proposal** - A complete and properly signed offer to perform the services for the prices stipulated in the form submitted by the Offeror in accordance with the Proposal Documents.
- (d) **Proposal Documents** – Shall collectively refer to this RFP, the Project Program, and any and all contracts, instruments, or other documents specifically made a part of this RFP or otherwise contemplated to be entered into between the Owner and the Successful Offeror in connection with the Project.

- (e) **Successful Offeror** - The responsible and responsive Offeror whose Proposal the Owner determines to be most advantageous to Owner (on the basis of Owner's evaluation as hereinafter provided) and to whom Owner makes an award.

Additionally, for purposes this RFP, "herein," "hereby," "hereunder," hereof, "hereinbefore," "hereinafter" and other equivalent words refer to this RFP and not solely to the particular portion thereof in which any such word is used, and "including" or "include" means including without limitation.

#### 4. RESTRICTED COMMUNICATION

From the issue date of this RFP until a Successful Offeror is selected and the selection is announced and Proposal Documents are executed, Offerors are not allowed to communicate for any reason with any employees of the Owner, the Board, or members of the Selection Committee with respect to this RFP or the Project, except for (i) submission of questions as authorized by this RFP, (ii) during the pre-proposal conference, (iii) during scheduled and authorized interviews for purposes of evaluation, and (iv) during authorized negotiations following opening of the Proposals. For violation of this provision, the Owner reserves the right to reject the Proposal of the offending Offeror.

#### 5. SCHEDULE OF RFP EVENTS

The following Schedule of Events represents the Owner's best estimate of the schedule that will be followed. All times indicated are prevailing times in Hinesville, Georgia. The Owner reserves the right to adjust the schedule as it deems necessary or convenient.

<b>Deadline to register and qualify for proposal</b>	<b>November 7, 2024,</b>	<b>5:00 PM</b>
<b>Mandatory pre-proposal meeting</b>	<b>November 7, 2024,</b>	<b>2:00 PM</b>
<b>Deadline for submission of questions</b>	<b>November 14, 2024,</b>	<b>5:00 PM</b>
<b>Deadline for submission of proposals</b>	<b>November 21, 2024,</b>	<b>2:00 PM</b>
<b>Selection committee concludes evaluations</b>	<b>November 26, 2024,</b>	<b>2:00 PM</b>
<b>Project award</b>	<b>December 3, 2024,</b>	<b>5:00 PM</b>

**NOTE:** Offerors are hereby advised that a Mandatory pre-proposal conference will be conducted at the office of the Liberty County Board of Commissioners, 112 North Commerce Street, Hinesville, Georgia 31313 on August 15, 2023, at 2:00 p.m., local prevailing time. Attendance by offerors is required, and any proposal received from an offeror who did not attend the pre-proposal conference will not be considered.

#### 6. PROPOSAL FORM AND CONTENT

All Proposals shall be prepared in accordance with this RFP, and shall include the following (i) a Statement of Qualification (see Sec. 16 below); (ii) a Proposal Form (see Ex. A); (iii); an Authorization to Investigate (see Ex. B); (iv) a Statement Pursuant to O.C.G.A. § 36-91-21(d) (see Ex. C); (v) Contractor Affidavit and Agreement (see Ex. D); (vi) Affidavit of Certification (see Ex. E); (vii) and (viii) any and all other items or documents required or authorized by this RFP. Offerors must be sure to execute all required exhibits specifically A-D of this package. Offerors must provide one (1) original, and six (6) hard copies of the completed Proposal for a total of seven **(7) sets** of the Proposal. Each such set shall be identical and include a transmittal letter. Proposals must be typed on standard (8 ½" x 11") paper. All Proposals shall be prepared simply, succinctly and economically, to provide a straightforward and concise description of the matters requested. Emphasis must be on completeness, relevance, and clarity of content. To expedite the review of Proposals, it is essential that Offerors follow the format and instructions set forth herein. The Proposal shall be signed as follows:

- (a) A Proposal submitted by a *partnership* shall list the names of all partners and shall be signed in the partnership name by one of the authorized members of the partnership. If there is no partner who is a Georgia resident, the name and address of an entity designated to receive service of process for the partnership in Georgia must be provided.
- (b) A Proposal submitted by a *corporation, limited liability Company*, or other legal entity not a partnership shall be signed under the legal name of the entity by the officer, manager, or other person(s) duly

authorize to bind said entity. The name of each person signing the proposal shall be typed or printed below the signature. If not a Georgia Corporation, there must also be evidence that the corporation is authorized to transact business in Georgia.

- (c) A Proposal from an *individual* who is not a Georgia resident shall provide the name and address of an entity in Georgia with the authority to accept service of process for the individual.
- (d) All names must be typed or printed in ink below the signature.
- (e) The address, email address, facsimile and telephone number for communications regarding the Proposal must be shown.

## **7. EXAMINATION OF PROPOSAL DOCUMENTS, OTHER DATA, AND PROJECT SITE:**

- (a) It is the responsibility of each Offeror before submitting a Proposal:
  - (i) To examine and study thoroughly the Proposal Documents and other related data identified in the Proposal Documents.
  - (ii) To visit the Project Sites to ascertain by inspection pertinent local conditions such as location, character and accessibility of the site, including existing surface conditions in the work area, availability of facilities, location and character of existing work within or adjacent thereto, labor conditions, etc.
  - (iii) To become familiar with and satisfy Offeror as to all federal, state, and local laws and regulations that may affect cost, progress, or performance of the services requested.
  - (iv) To obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examination investigations, explorations, tests, studies, and data concerning conditions at the Project Site which may affect cost, progress, or performance or the services requested or which relate any aspect of the means, methods, techniques, sequences, and procedures to be employed by Offeror, including any specific means, methods, techniques, sequences, and procedures of construction expressly required of the Proposal Documents, and safety precautions and programs incident thereto;
  - (v) To study and carefully correlate Offeror's knowledge and observations with the Proposal Documents and such other related data; and
  - (vi) To promptly notify Owner of all conflicts, errors, ambiguities or discrepancies which Offeror has discovered in or between the Proposal Documents and such other related documents.
  - (vii) To agree at the time of submitting its Proposal that no further examinations, investigations, explorations, tests, studies or data are necessary for the determination of its Proposal for performance of the services requested at the price proposal and within the times and in accordance with the other terms and conditions of the Proposal Documents.
  - (viii) To determine that the Proposal Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the services requested.
- (b) The submission of a Proposal will constitute an incontrovertible representation by Offeror that Offeror has complied with every requirement of this Section 7, that without exception, the Proposal is premised upon performing and furnishing the services and materials required by the Proposal Documents and applying any specific means, methods, techniques, sequences, and procedures that may be shown or indicated or expressly required by the Proposal Documents; that Offeror has given the Owner written notice of all conflicts, errors, ambiguities, and discrepancies that Offeror has discovered in the Proposal Documents and the written resolutions thereof by Owner are acceptable to Offeror; and that the Proposal

Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

## 8. INTERPRETATIONS AND ADDENDA

- (a) All questions about the meaning or intent of the Proposal Documents are to be directed to the project architect. The Offeror shall do so in writing or by e-mail and be responsible for its prompt delivery. Interpretations or clarifications considered necessary by the architect in response to such questions will be issued by Addenda mailed or otherwise delivered (e.g., electronic mail, posting on website, facsimile, etc.) to all prospective Offerors having received the Proposal Documents. Only questions answered by formal written Addenda will be binding. The Owner nor project Architect will be responsible for any oral instructions and oral or other interpretations or clarifications not issued in writing as specified herein will be without legal effect.
- (b) Subject to O.C.G.A. §36-91-20(d), the Owner expressly reserves the right to revise, amend or otherwise change, at any time, any and all of the terms and requirements for Proposals set forth herein as deemed advisable by the Owner.
- (c) Questions about any aspect of the Proposal Documents or the Project shall be submitted in writing (e-mail is preferable) to:

**T. R. Long Engineering, P.C.**  
**ATTN: Trent R. Long, P. E.**  
**114 North Commerce Street**  
**Hinesville, Georgia 31313**  
[trlong@trlongeng.com](mailto:trlong@trlongeng.com)

- (d) It shall be the Offeror's responsibility to confirm that it has received all Addenda issued by the Owner pursuant to this RFP, notwithstanding any failure in delivery or notification of said Addenda to Offeror. By submitting its Proposal, Offeror shall be deemed to have received all such Addenda and be fully apprised of their contents.

## 9. PROPOSAL SECURITY

- (a) Each Proposal must be accompanied by appropriate security (the "Proposal Security") made payable to the Owner in an amount of five percent (5%) of Offeror's maximum estimated construction price and in the form of a proposal bond (on form attached, if a form is prescribed) issued by a surety company licensed in Georgia with an "A" minimum rating of performance. In lieu of said proposal bond, the Owner will accept a cashier's check, certified check or cash in an amount determined in accordance with the preceding sentence, payable to and for the protection of the Owner. Any Proposal submitted without said proposal bond (or an approved alternate) shall be ineligible for consideration and shall be returned to Offeror.
- (b) Offerors will be required to honor their Proposals for a minimum of sixty (60) days following opening of such Proposals; provided that any Offeror that is determined by the Owner to be unlikely of being selected for award of the contract opportunity shall be released from its Proposal as soon as practicable; and the security deposited by such unsuccessful Offerors will be returned no later than sixty (60) days following opening of the Proposals, without interest or profit of any kind.
- (c) If this proposal is accepted within sixty (60) days after the date set for the opening of sealed proposals and the undersigned fails to execute the contract within ten (10) days after written notice of such acceptance or if he fails to furnish both Performance and Payment Bonds from the undersigned, the obligation of the Proposal Security will remain in full force and effect and the money payable thereon shall be paid into the funds of the Owner as liquidated damages for such failure; otherwise, obligation of the bond will be otherwise null and void.



## 10. SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- (a) Offerors are required to furnish to the Owner a listing of all subcontractors proposed to be used by said Offeror in conjunction with the project. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such subcontractor if requested by the Owner. If the Owner has reasonable objection to any proposed subcontractor the Owner may, before an award is made, request the apparent Successful Offeror to submit a substitute, in which case the apparent Successful Offeror shall submit an acceptable substitute, and said Offeror's Proposal price will be increased (or decreased) by the difference in cost occasioned by such substitution, and the Owner may consider such price adjustment in evaluating Proposals and making the contract award.
- (b) If the apparent Successful Offeror declines to make any such substitution, the Owner may award the Contract to the Offeror who submitted the next most advantageous offer to the Owner that proposes to use acceptable subcontractors in connection with the Project. Any subcontractor so listed and against which the Owner makes no written objection prior to awarding the subject contract will be deemed acceptable to the Owner, subject to revocation of such acceptance after execution of all of the Proposal Documents as provided therein.
- (c) The Successful Offeror shall not be required to employ any subcontractor against whom the Successful Offeror has reasonable objection.

## 11. SUBMITTAL OF PROPOSALS

- (a) Proposals shall be submitted at the offices of the Board located at 112 North Main Street, Room 2200, Hinesville, Georgia 31313 prior to the time specified in the Schedule of RFP Events (Section 5), and shall be enclosed in a sealed, opaque envelope, marked with the Project title, and name and address of the Offeror, and other required documents. If the Proposal is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "**PROPOSAL ENCLOSED-WATERSYSTEM IMPROVEMENTS WEST OF CSX RAILROAD**" on the face of it. If proposals are delivered by U.S. Postal Services or other delivery services should be mailed to the Liberty County Board of Commissioners located at 112 North Main Street
- (b) **Each Offeror is responsible for seeing that its Proposal is received by the Owner not later than the advertised time set for the submission deadline for the Proposals.**

## 12. MODIFICATION AND WITHDRAWAL OF PROPOSALS

- (a) Proposals may be modified or withdrawn by an appropriate document duly executed (in the manner that a Proposal must be executed) and delivered to the place where Proposals are to be submitted at any time prior to the opening of proposals.
- (b) Once Proposals have been opened, Proposals may only be withdrawn for appreciable error in accordance with (and as limited by) O.C.G.A. § 36-91-52, and only upon duly signed, written notice actually received by the Owner prior to award of the contract and not later than 48 hours after the opening of the Proposals, excluding Saturdays, Sundays, and legal holidays. Thereafter, that Offeror will be disqualified from further consideration.

## 13. OPENING OF PROPOSALS

Sealed Proposals will be opened immediately following the time required for receipt of such Proposals at the offices of the Board physically located at 112 N. Main Street, Hinesville, Georgia 31313. All sealed proposals shall be opened so as to avoid disclosure of contents to competing Offerors. **Unless otherwise stipulated by the Owner by appropriate Addendum, the attendance of Offerors at the Proposal opening shall not be required.**

#### 14. STATEMENT OF QUALIFICATIONS

A Statement of Qualifications shall be included and made a part of the Proposal and shall be formatted as provided in Section 6 above and the other provisions of this RFP. The content of said Statement of Qualifications **must be categorized and numbered as outlined below**, and responsive to all requested information:

##### A. Description and Resources of Firm

- A1. Basic Company Information. Provide company contact information including e-mail address, and company website (if available). Identify the location of the office from which services will be managed and this office's proximity to the Project Site. Provide form of ownership, including state of residency or incorporation, and number of years in business. Identify whether the firm is a sole proprietorship, partnership, corporation, limited liability corporation (LLC), joint venture, or other legal organizational structure.
- A2. Firm History. Describe the history and growth of the firm. Provide general information about the firm's history, including disciplines and numbers and classifications of employees, and locations and staffing of offices.
- A3. Litigation History. Has the firm been involved in any litigation in the past ten (10) years with clients where the firm was found responsible or paid settlement charges? List any active or pending litigation and explain its nature and current status. List any active claims against your firm or against clients where your firm is named.
- A4. Involuntary Terminations. Provide information as to whether or not the firm, or member thereof, has ever been involuntarily removed from a contract or failed to complete a contract as assigned.
- A5. Confirming Statement. The Offeror will issue the following statement asserting that the firm meets the minimum qualifications required to properly and adequately provide the services contemplated hereby (supporting information is requested further into the process). The signed statement shall include the following categories and read as shown below:

a.	We certify that our firm has sufficient bonding capacity as described in the RFP.
b.	Our firm has a current Commercial General Liability Insurance policy, and our firm is insurable in the following minimum amounts: Bodily injury, including death- limits of \$1,000,000 for each accident. Property damage- limits of \$500,000 for each accident and \$1,000,000 for the aggregate of operations.
c.	Our firm will maintain Worker's Compensation insurance as required by the State of Georgia Workers Compensation statutes.

- B. Provide information on the firm's experience providing services for projects and clients of similar size, function, and complexity. Describe no more than five (5) and no less than three (3) projects, in order of most relevant to least relevant, which demonstrate the firm's capabilities to perform the scope at hand. For each project, the following information shall be provided:

a.	Owner's and user's name, location and dates of project.
b.	Description of services provided.
c.	Information on successes achieved by your firm.
d.	Respective owner's and user's stated satisfaction in service from your firm. Provide any client-written letters of reference/recommendation about the firm's performance.
e.	Owner's and user's contact information (current address and phone number).

### C. Statement of Suitability

- C1. Provide any information that may serve to differentiate the firm from other firms in suitability for the services contemplated in this RFP. Include all unique qualifications the firm feels are especially relevant to the Project.
- C2. Provide information on current and projected workloads of the firm and any potential impact to the services to be provided in connection with the Project.
- C3. Provide evidence of your firm's ability to deliver the Project within the completion dates specified in this RFP with the least risk of delay or dispute.
- C4. Provide information on any special, relevant, innovative or unique qualifications for the requested scope of services.
- C5. Provide information on any management techniques or methodologies offered by the firm that may be particularly suitable for the required services.

### D. Local Preference

Offers may be eligible to receive credit for local preference in contracting as part of this project provided that certain criteria are met. Liberty County's Local Preference in contracting requirements is included as an attachment to this request for services. Proposers attempting to claim credit under these criteria **must** be able to fully demonstrate full compliance with the policy and must execute certification of this compliance as part of the proposal package.

**Please note: Execution of the certificate if not fully qualified to do so shall be grounds for automatic rejection of the proposal.** (Appendix A – Local Vendor Preference Policy)

## 15. M/WBE PARTICIPATION

This project will require minority participation. Reference the "Liberty County Minority/Women Business Enterprise Policy" (**Appendix B**) for compliance and documents required.

1. Offerors shall submit with their proposal **a separate sealed envelope** containing all requested M/WBE forms and documentation listed in the M/WBE Policy.
2. Forms for minority participation program are enclosed at the end of **Appendix B**.
3. The project is required to minimally achieve a participation goal with respect to MBE firms of 10% and participation goal with respect to WBE firms of 3%, with a combined desired minimum participation goal for W/MBE of 13%. Contract goals will be expressed as a percentage of the total dollar amount of contract. **Proposers should pay special attention to this policy and forms provided therewith. Liberty County's MWBE compliance officer is Ms. Delisa Clift who may be reached at (912)-368-3471 or [delisa@strategicbiz.co](mailto:delisa@strategicbiz.co) concerning questions and policy application.**

**16. EVALUATION AND AWARD OF CONTRACT.** The owner shall evaluate Proposals in order to obtain the most advantageous Proposal from said responsive and responsible offers. The Owner will award the contract in accordance with this procedure.

### (a) **Rating of Evaluations**

Following the opening of the sealed Proposals, The Owner will evaluate all Proposals based on criteria set forth in Section 16 of this RFP, final cost associated with completion of the project and estimated time for completion. In making such evaluation, the maximum points which the Owner may assign to the evaluation criteria shall be as follows: (i) Description and Resources of Firm (up to **10 points**); (ii) Experience and Qualifications (up to **15 points**); (iii) Statement of Suitability (up to **10 points**); (iv) construction cost (up to **50 points**); (v) Project completion time (up to **15 points**) for a total possible

maximum of 100 points. An additional **10 points** maybe added for Qualified Local Vendor Preference, if applicable.

- (b) Evaluation of the Proposals described in the preceding paragraph will be undertaken by the Owner through a selection panel consisting of representatives of the Owner. As soon as practicable following said evaluations, the members of the Owner, taking into consideration those same criteria relied upon by the Selection Panel, shall consider and confirm (in writing) which Proposal is the most advantageous to Owner (in its sole judgment), and, subject to its right to reject any such Proposal, the Owner will award the Proposal to such Offeror, subject to the execution and delivery by the Owner of the Project Contract.
- (c) Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Proposal and to establish the responsibility, qualifications and financial ability of Offerors, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the services contemplated by this RFP.
- (d) The submission of Proposals hereunder shall invest offeror with no interest, right or claim of any kind with respect to the contract to be awarded. Furthermore, the Owner reserves the right to reject all Proposals in its absolute discretion for any reason whatsoever, with or without cause, and thereafter re-advertise the contract opportunity.
- (e) **The Owner, in its absolute judgment, reserves the right to waive any technicality, noncompliance, or informality in evaluating Proposals or otherwise in administering the RFP process.**

#### **17. OWNER NOT BOUND**

This RFP is not an offer to contract or a solicitation of proposal, and any Proposal submitted in response hereto, regardless of whether the Proposal is determined to be the most advantageous Proposal (or is in fact awarded), is not binding upon the Owner, and does not obligate the Owner to procure or contract for any services. Neither the Owner, nor any Successful Offeror, will be bound unless and until all Proposal Documents required by the Owner are negotiated and fully approved and accepted by the Owner, and the Successful Offeror, as evidenced by said parties' signature and delivery of the Proposal Documents.

#### **18. CONTRACT SECURITY/BONDING**

When the Successful Offeror delivers the executed contract to the Owner, it must be accompanied by appropriate payment and performance bonds approved by the owner. These bonds, equal to one hundred percent (100%) of the contact sum shall be issued by a surety company licensed in Georgia with an "A" minimum rating of performance. In lieu of said bonds, the owner may accept a cashier's check, certified check, letter of credit or cash made payable to the owner in an amount equal to one hundred percent (100%) of the contract sum.

#### **19. SIGNING THE PROPOSAL DOCUMENTS**

When the Owner gives a conditional notice of award to the Successful Offeror, it will be accompanied by the required number of unsigned counterparts of the Proposal Documents required by the Owner in connection with the Project. Unless otherwise extended by the Owner, the Contractor shall, within fifteen (15) calendar days from the receipt of such documents, sign and deliver the same to the Owner, accompanied by the required payment and performance bonds.

#### **20. LAWS AND REGULATIONS**

The Successful Offeror and its subcontractors shall comply with local, State and Federal regulations, rules, order, and laws applicable to the Project.

**21. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**

The Successful Offeror shall not commence work under the Proposal Documents until it has obtained all the insurance required by said Proposal Documents.

**22. CONFLICT**

Any conflict between the public notice advertising this RFP and the Proposal Documents made available to Offerors following such advertisement shall be controlled by the latter.

**23. COSTS INCURRED BY OFFEROR**

All costs incurred by Offeror in connection the Proposal, of whatever amount and nature, direct or indirect, shall be borne exclusively and completely by Offeror, and neither the Owner nor the Agency shall have absolutely no liability or obligation of any kind for such costs. **All Proposals upon receipt by the Owner shall become the property of the Owner.**

**24. PUBLIC RECORDS**

Subject to O.C.G.A. 36-91-21(c)(2), Offerors are advised that the contents of any Proposal and all documents and information submitted in connection therewith may be subject to disclosure as required by The Georgia Open Records Act and any and all other applicable laws, and the Offeror does hereby release and forever discharge the Owner and the Agency, and its members, officers, employees, representatives, and agents from any damage, suit, costs, or other liabilities of whatever kind arising from such disclosure. Without limiting the foregoing, Offerors are specifically advised that labeling information provided in Proposals "proprietary" or "confidential", or any other designation of restricted use will not protect the information from public view.

**25. SUBJECT TO PROVISIONS OF ACT**

This RFP is made expressly subject to, and is qualified in its entirety by, all applicable provisions of the Georgia Local Government Public Works Construction Law, O.C.G.A. § 36-91-1 et seq. (the "Act"). To the extent any portion of this RFP directly conflicts with the provisions of the Act, this RFP shall be deemed modified so as to comply with said Act.

**26. INTERPRETATION OF DRAWINGS AND SPECIFICATIONS:**

If any person contemplating submitting a proposal for the proposed contract is in doubt as to the true meaning of any part of -the Drawings, Construction Specifications and other documents, and as to the scope of any part of the work, he must submit to the Engineer a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery in ample time for an interpretation to be issued before the proposal opening date. Interpretations of the Project Documents will be made only by Addendum; a copy of each Addendum will be mailed or delivered to each person receiving a set of the Project Documents. The Engineer will not be responsible for other interpretations of the Project Documents.

**27. COMPLETE WORK REQUIRED:**

The Construction Specifications, Drawings and all other documents are essential parts of the contract; requirements occurring in one are as binding as though occurring in all. Documents are intended to be cooperative, and to describe and provide for a complete work. In case of discrepancies on the Drawings, figured dimensions shall govern. In case of omissions from the Construction Specifications as to items of equipment, and materials or quantities therefore, the Drawings shall govern. It shall be the responsibility of the Offeror to call to the attention of the Engineer obvious omissions of those magnitudes which would affect the strength, adequacy, function, completeness (and cost of any part of the work, and in ample time for amendment by Addendum prior to the proposal opening date).

## **28. DRAWINGS:**

The character, location, and essential details of the work are shown upon a set of Drawings, entitled:

**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS**

The Drawings and Specifications shall form a part of the contract for the work. The Drawings shall be supplemented by working drawings as necessary. All authorized alterations affecting the requirement and information given on the Drawings shall be in writing.

## **29. NOTICE OF SPECIAL CONDITIONS:**

Attention is particularly called to those parts of the Contract Documents and Specifications which deal with the following:

- A. Inspection and testing of material.
- B. Insurance requirements

## **30. POWER OF ATTORNEY:**

Attorneys-in-fact who sign Proposal Bonds or Contract Bonds must file with each bond a certified and effectively dated copy of their Power of Attorney.

## **31. AUTHORITY TO SIGN:**

If a proposal is made by an individual, his name and Post Office address must be shown. If made by a firm, or partnership, the name and Post Office address of each member of the firm or partnership must be shown. If made by a corporation, the person, or persons, signing the proposal must show the name of the State under the laws of which the Corporation is chartered and his or their, authority for signing same, and the names, titles and addresses of the President Secretary and Treasurer, and the Corporate Authority for doing business in this state.

## **32. WORKING DRAWINGS:**

Working drawings for any structure shall consist of such detailed plans as may be required for the prosecution of the work but not included in the plans. All necessary working drawings shall be furnished by the Contractor. They shall include shop details, erection plans, masonry layout diagrams, and bending diagrams for reinforcing steel, approval of which by the Engineer must be obtained before any work involving these plans may be performed. Plans for false work, centering and form work may also be required and such cases shall be likewise subject to approval by the Engineer.

It is expressly understood, however, that approval by the Engineer of the Contractor's working drawings does not relieve the Contractor of any responsibility for accuracy of dimensions and details. The Contractor shall be responsible for agreement and conformity of his working drawings with the Drawings and Specifications.

The contract price shall include the cost of furnishing all working drawings and the Contractor will be allowed no extra compensation for such drawings.

## **33. COOPERATION OF CONTRACTOR:**

The Contractor will be supplied with five (5) copies of the Drawings and Specifications. The Contractor shall have available on the work, at all times, one (1) copy of each of said Drawings and Specifications. He shall give the work the constant attention necessary to facilitate the progress thereof and shall cooperate with the Engineer and with other contractors in every way possible. The Contractor shall at all times have a

Superintendent, satisfactory to the Engineer, capable of acting as his agent on the work, who shall receive instructions from the Engineer or his authorized representatives. The superintendent shall have full authority to execute the orders or directions of the Engineer without delay and to promptly supply such materials, tools, plant equipment and labor as may be required.

#### **34. CONSTRUCTION STAKES:**

Subsidiary lines and grades shall be laid out by the Contractor from the controlling lines and benchmarks furnished by the Engineer or from measurements shown on the Drawings. All lines and grades shall be subject to checking by the Engineer, but this checking shall in no way relieve the Contractor from responsibility for their correctness.

The Contractor shall provide such stakes, materials, and such labor and assistance as the Engineer may require in laying out work, establishing benchmarks and checking and measuring the work.

#### **35. AUTHORITY AND DUTIES OF INSPECTOR:**

Inspectors shall be authorized to inspect all work done and materials furnished, including preparation, fabrication and manufacture of the materials to be used. The Inspector shall not be authorized to alter or waive any requirements of the Specifications. He shall call the attention of the Contractor to any failure of the work or materials to conform to the Specifications and Contract. He may reject materials or suspend the work until any questions at issue can be referred to and decided by the Engineer.

The presence of the Inspector shall in no way lessen the responsibility of the Contractor. The Contractor in no way relieves himself of responsibility for adequacy of the work by following the directives of the Inspector.

#### **36. INSPECTION:**

The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the work performed, and materials used are in accordance with the requirements and intent of the Specifications and Contract. No work shall be done, or materials used without suitable supervision or inspection by the Engineer or his representative. Failure to reject any defective work or materials shall not in any way prevent later rejection when such defect is discovered or obligate the Owner to final acceptance.

All materials furnished and work done when not in accordance with the Specifications and Contract will be rejected and shall immediately be removed and other work done, and materials furnished in accordance therewith. If the Contractor fails to remove the work and materials as above ordered, within forty-eight (48) hours, then the Engineer shall have the right and authority to stop the Contractor and his work at once and to supply men and material at the cost and expense of the Contractor to remove said work and materials.

#### **37. DEFECTIVE WORK AND MATERIALS:**

The inspection of the work shall not relieve the Contractor of any of his obligations to fulfill his Contract and defective work shall be made good, notwithstanding that such work and materials have been previously inspected by the Engineer and accepted or estimated for payment. The failure of the Engineer to condemn improper materials or workmanship shall not be considered as a waiver of any defect which may be discovered later, or as preventing the Owner at any time subsequently from recovering damages for work actually defective. All work shall be guaranteed against defects in workmanship or materials for a period of one year after final acceptance.

#### **38. CORRECTIONS:**

Should any portions of the Drawings and Specifications be obscure or in dispute, they shall be referred to the Engineer and he shall decide as to the true meaning and intent. He shall also have the right to correct any errors or omissions at any time when such corrections are necessary for the proper fulfillment of said Drawings and Specification.

#### **39. DISAGREEMENT:**

Should any disagreement or difference arise as to the estimated quantities or classifications or as to the meaning of the Drawings or Specifications, on any point concerning the character, acceptability and nature of the several kinds of work, any materials and construction thereof, the decisions of the Engineer shall be final and conclusive and binding upon all parties to the Contract.

#### **40. WEATHER:**

During unseasonable weather, all work must stop when the Engineer so directs, and all work must be suitably protected.

#### **41. RIGHT OF WAY:**

The necessary land for the construction of the work will be furnished by the Owner. The Contractor is directed to the Owner for right-of-way actually acquired. The Owner will provide no right-of-way over other property. The contractor shall take every possible precaution to inconvenience as little as possible the owners and tenants of adjacent property. Public highways shall not be obstructed in such a way as to cut off traffic. The Contractor shall, at his own expense, repair any damage or injury to either public or private property during the progress of the work. Wholesale cutting of trees on the right-of-way will not be permitted except as necessary for construction.

#### **42. CONSTRUCTION SCHEDULE:**

A construction schedule showing the work in the order proposed by the Contractor and the time required to complete each phase will be required and shall be submitted to the Engineer for approval. Approval of the construction schedule is required prior to receipt of the notice to proceed. This schedule shall include the dates for beginning and completion of all phases of the work. If, in the opinion of the Engineer, the Contractor falls behind in his schedule or will not be able to complete the project in the time limits, he may require the Contractor to revise his schedule and put additional equipment on the job as so ordered.

#### **43. ORDER OF WORK:**

The order or sequence of the work shall be as provided herein or as approved by the Engineer, which approval shall in no way affect the responsibility of the Contractor.

#### **44. COMPETENT LABOR:**

The Contractor shall employ only competent and skilled personnel on the work. The Contractor shall at all times have a Superintendent satisfactory to the Engineer, capable of acting as the Contractor's agent on the work and who shall receive instructions from the Engineer or his authorized representative. The Superintendent shall have full authority to execute the orders and directions of the Engineer without delay, and to promptly supply the materials, tools, plant equipment, and labor as may be required. The Contractor shall upon demand by the Engineer, immediately remove that Superintendent, Foreman, and Workman whom the Engineer may consider to be incompetent or undesirable, or both.

#### **45. LAWS AND REGULATIONS:**

The Contractor shall keep himself fully informed of all laws, ordinances, and regulations of State and County in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in this Contract, or in the Drawings or Specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same in writing to the Owner. He shall at all times himself observe and comply with all such existing and future laws, ordinances and regulations, and shall protect and indemnify the Owner and its agents against any claims or liability arising from or based on the violation of any such law, ordinance, regulation, order of decree, whether by himself or by his employees.



#### **46. PROTECTIVE WORKS:**

The Contractor shall furnish and install all necessary temporary works for the protection of the work, including barricades, warning signs, and lights at night.

#### **47. SAFETY AND OSHA REGULATIONS:**

The performance of work under this Contract shall comply with safety regulations prescribed by the Owner, those of the National Occupational Safety and Health Act of 1970. (PL 91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL 91-054), and the requirements of the State where project is located. Each offeror shall satisfy himself as to the character and extent of such regulations.

#### **48. SANITARY REGULATIONS:**

Necessary sanitary conveniences for the use of the laborers on the work shall be erected and maintained by the Contractor in such a manner and at such points as shall be approved by the Engineer. Their use shall be strictly enforced.

#### **49. STORAGE FACILITIES:**

Should the Contractor so desire, he may build storage facilities or other structures for housing men, tools, machinery and supplies, but they will be permitted only at approved places, and their surroundings shall be maintained at all times in a sanitary and satisfactory manner. On or before the completion of the work, all such structures shall be removed, together with all rubbish and trash, at the expense of the Contractor.

#### **50. WATER SUPPLY:**

The water for the Contractor's use shall be supplied by the Contractor. The Contractor shall make his own arrangements for obtaining a water supply for his construction operations.

#### **51. ACCESS ROADS:**

Streets, roads and drives used by the Contractor for access to and from the site of his work shall be protected from damage in connection with construction work. Any such damage done shall be repaired immediately and left in good condition at the end of the construction period.

#### **52. ALLOWABLE TIME FOR COMPLETION:**

The time allowed for completion on all work to be done under this contract shall begin after notification by the Engineer to proceed with the work. Such notification will be issued upon completion of the contract arrangements, and in accordance with approved construction schedule, arranged to be within the contract time for completion. The time allowed for completion of the work shall be established in the proposal.

#### **53. LIQUIDATED DAMAGES:**

The Contractor shall pay to the Owner as liquidated damages the sum of **FOUR HUNDRED (\$400.00)** dollars for each calendar day that he shall be in default of completing the work in his Contract within the time limit named therein.

#### **54. SALES TAX AND/OR USE TAX:**

Offerors shall include in proposal amounts an allowance for payment of state Sales Tax and/or Use Tax on taxable materials specified to be furnished by the Contractor and incorporated into the work under this Contract.

#### **55. MUTUAL RESPONSIBILITY OF CONTRACTORS:**

If, through acts of neglect of the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement of arbitration if such other Contractor or subcontractor shall assert any claims against the Owner, on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall indemnify and save harmless the Owner against such claim.

#### **56. EMERGENCY WORK:**

The Contractor shall at all times (nights, weekends or holidays) have a responsible man available to act in case of emergency repairs who the Owner may contact. Upon notification of emergency work necessary, the Contractor's representative shall immediately take steps to make such repairs.

#### **57. FLOOD HAZARD INSURANCE:**

The Contractor will be required to acquire and maintain during the life of the contract any flood insurance made available under the National Flood Insurance Act of 1968, as amended. The insurance shall be in an amount at least equal to the contract amount costs, excluding cost of uninsurable improvements, or to the maximum limit of coverage made available under the National Flood Insurance Act of 1968, as amended, whichever is less.

#### **58. BUILDING PERMITS AND BUSINESS LICENSE:**

The Contractor shall be required to obtain applicable Building Permits and Business Licenses as required by Liberty County, Georgia.

#### **59. OPTIONAL ITEMS:**

The items shown in the schedule of items as "optional" may be removed from the contract to meet funding constraints.

#### **60. SCOPE OF WORK CHANGE:**

The scope of work may be reduced to meet available funding. Optional items will be considered first then the length of the project along highway 84 may be reduced. The contract amount will be reduced by using the cost shown in the proposal.

#### **61. SUBCONTRACTORS, SUPPLIERS, AND OTHERS:**

- A. Bidders are required to furnish to the Owner, as a part of their Bid, a listing of all subcontractors (including subcontractors' final proposal amounts) proposed to be used by said Bidder in conjunction with the project. If the Owner has reasonable objection to any proposed subcontractor the Owner may, before an award is made, request the apparent Successful Bidder to submit a substitute, in which case the apparent Successful Bidder shall submit an acceptable substitute, and said Bidders Proposal price will be increased (or decreased) by the difference in cost occasioned by such substitution, and the Owner may consider such price adjustment in evaluating Bids and making the contract award.
- B. If the apparent Successful Bidder declines to make any such substitution, the Owner may award the Contact to the Bidder who submitted the next most advantageous bid to the Owner that proposes to use acceptable subcontractors in connection with the Project. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any subcontractor so listed and against which the Owner makes no written objection prior to awarding the subject contract will be deemed acceptable to the Owner, subject to revocation of such acceptance after execution of all of the Bid Documents as provided therein.
- C. The Successful Bidder shall not be required to employ any subcontractor against whom the Successful Bidder has reasonable objection.



County Board of Commissioners  
112 N. Main Street  
Hinesville, Georgia 31313  
Tele: (912) 876-2164

**PROPOSAL FORM**  
Water System Improvements West  
of CSX Railroad

**MANDATORY PROPOSAL FORM:** This form must be submitted and returned to the County at its offices located at 112 North Main Street, Courthouse Annex, Room 201, Hinesville, Liberty County, Georgia 31313, prior to the Submission Deadline (i.e., **2:00 p.m. on, November 21, 2024**, unless changed by Addenda), and must be accompanied by the following documents:

- (a) The Request for Proposals, and any and all other forms, documents, materials, and other information (e.g., State of Qualifications pursuant to Sec. 16, listing of subcontractors pursuant to Sec. 12, etc.) required to be made a part of this Proposal, as indicated herein or in the Proposal Documents.

The above materials must be submitted in a sealed envelope in the manner provided in the Proposal Documents. If this form is not fully and accurately completed and submitted to the County, together with the other documents listed above, as required in the Proposal Documents, the County may (in its sole and absolute discretion) reject the Proposal.

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**SECTION I – Terms of Proposal**

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This Proposal is submitted in accordance with the Proposal Documents and made subject to the following:

- (a) The undersigned Offeror agrees, if this Proposal is accepted, to enter into with the County such contract(s) and warranties collectively as is necessary or appropriate for the subject Project in the form included in the Proposal Documents (or if not included, in such form as may be reasonably prescribed by the County) and to fully perform and observe the obligations and terms on its part to be performed therein. Said Agreement shall be executed by Offeror in the manner indicated therein and returned to the County within three (3) business days from Offeror's notification of acceptance of the Proposal. Failure to execute the Agreement in the time prescribed may result in disqualification of the Offeror.
- (b) Offeror accepts all of the terms and conditions set forth in the Proposal Documents, including without limitation those dealing with the disposition of the Proposal Security. This Proposal will remain subject to acceptance for sixty (60) days following the Submission Deadline, or for such longer period of time that Offeror may agree to in writing upon request of the County.
- (c) In submitting this Proposal, the Offeror represents, as maybe more fully set forth in the Proposal Documents, that:
  - (1) Offeror has read, examined, and carefully reviewed the Proposal Documents and any and all other materials made available by the County in connection with this Proposal and the Project, and fully understands the same and freely and voluntarily submits this Proposal pursuant to the terms contained in the Proposal Documents.
  - (2) Offeror further acknowledge receipt of any and all Addenda issued by the County in connection with this Proposal and the Project.
  - (3) Offeror has visited the Project Site and become familiar with its condition and had an opportunity to conduct any additional or supplementary examinations and investigations deemed necessary or appropriate by Offeror in connection with this Proposal.

- (4) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation. Offeror has not, directly or indirectly, (i) induced or solicited any other Offeror to submit a false or sham Proposal; (ii) solicited or induced any Person to refrain from submitting a Proposal; or (iii) sought by collusion to obtain for itself any advantage over any other Offeror or over the County.
- (5) If the Offeror is not a natural person, that it has the full and complete right, power and authority to submit this Proposal and perform the terms of the Agreement (if accepted by the County), and the same has been duly and validly authorized by all necessary action on the part of the Offeror, and no additional authorization, consent or permit is required.
- (6) If the Offeror is not a natural person, the individual or individuals signing this Proposal on behalf of the Offeror has or have the right, legal power and actual authority to bind the Offeror to the terms and conditions of this Proposal.

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SCHEDULE OF ITEMS  
WATER SYSTEM IMPROVEMENTS, WEST OF RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS

Item	Description	Quantity	Units	Unit Price	Item Price
1	Connect to Existing Water Main	1	EA		
2	Clearing and Grubbing	8.02	AC		
3	12" PVC WATERMAIN	4,200	LF		
4	10" PVC Watermain	9,450	LF		
5	8" PVC Watermain	2,560	LF		
6	2" PVC Watermain	2,050	LF		
7	12" FPVC Watermain Directional Bore	215	LF		
8	10" FPVC Watermain Directional Bore	290	LF		
9	2" HDPE Directional Bore	1120	LF		
10	4" HDPE Directional Bore	560	LF		
11	24" Steel Casing Jack & Bore (Railroad)	155	LF		
12	20" Steel Casing Jack & Bore (Hwy 84)	100	LF		
13	18" Steel Casing Jack & Bore (Hwy 84)	100	LF		
14	12" G.V.w/BOX	9	EA		
15	10" G.V.w/BOX	15	EA		
16	8" G.V. w/Box	12	EA		
17	2" G.V. w/BOX	6	EA		
18	Fire Hydrant Assembly	31	EA		
19	Ductile Iron Fittings	4	TN		
20	2" Blow Off w/Jumbo Meter Box	6	EA		
21	12"x1" Service Connection	11	EA		
22	12"x2" Service Connection	2	EA		
23	10"x1" Service Connection	24	EA		
24	10"x2" Service Connection	5	EA		
25	8"x1" Service Connection	10	EA		
26	8"x2" Service Connection	3	EA		
27	2"x1" Service Connection	13	EA		

SCHEDULE OF ITEMS  
WATER SYSTEM IMPROVEMENTS, WEST OF RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS

Item	Description	Quantity	Units	Unit Price	Item Price
28	1" Service Tubing	1,630	LF		
29	1" Roadway Service Bore	120	LF		
30	2" Roadway Service Bore	60	LF		
31	2" Meter w/Conc. Vault	2	EA		
32	Radio Read Meter W/Box	73	EA		
33	Asphalt Pvmt. Rem. & Repl.	370	SY		
34	Concrete Pvmt. Rem. & Repl.	10	SY		
35	6" GAB Driveway Rem. & Repl.	100	SY		
36	Aggr Surface Course (Optional)	100	TON		
37	Roadway/Parking Striping	1	SUM		
38	Construction Exit - Co	1	EA		
39	Type-S Silt Fence	5,500	LF		
40	Haybale Check Dam - Cd-Hb	35	EA		
41	Temporary Grassing	8.02	AC		
42	Permenant Grassing	8.02	AC		
43	Mulching	8.02	AC		
44	Traffic Control	1	SUM		
45	Mobilization (Max 3%)	1	SUM		
			<b>Subtotal</b>		
	<b>Optional McIntosh Lake Road (Dirt Section)</b>				
1	8" PVC Watermain	3,250	LF		
2	8" G.V. w/Box	5	EA		
3	Fire Hydrant Assembly	5	EA		
4	Ductile Iron Fittings	1	TN		
5	8"x1" Service Connection	1	EA		
6	1" Service Tubing	100	LF		
7	Radio Read Meter W/Box	1	EA		

SCHEDULE OF ITEMS  
WATER SYSTEM IMPROVEMENTS, WEST OF RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS

Item	Description	Quantity	Units	Unit Price	Item Price
8	Temporary Grassing	1.42	AC		
9	Permenant Grassing	1.42	AC		
10	Mulching	1.42	AC		
	<b>Subtotal</b>				
	<b>Optional Brights Lake Road</b>				
1	8" PVC Watermain	2,440	LF		
2	Fire Hydrant Assembly	3	EA		
3	Ductile Iron Fittings	1	TN		
4	8" G.V. w/Box	3	EA		
5	8"x1" Service Connection	14	EA		
6	1" Service Tubing	560	LF		
7	1" Roadway Bore	280	LF		
8	Radio Read Meter W/Box	14	EA		
9	Conn Service to Ex. Household	14	EA		
10	Asphalt Pvmt. Rem. & Repl.	40	SY		
11	Concrete Pvmt. Rem. & Repl.	40	SY		
12	6" GAB Driveway Rem. & Repl.	50	SY		
13	Temporary Grassing	1.08	AC		
14	Permenant Grassing	1.08	AC		
15	Mulching	1.08	AC		
	<b>Subtotal</b>				
	<b>Grand Total</b>				
<b>Grand Total in Words:</b>					

COMMENCEMENT OF WORK

Undersigned agrees to commence actual physical work on the site with an adequate force and equipment within ten days of a date to be specified in a written order of the Owner and to substantially complete work in 180\*consecutive calendar days from and including said date. Number of days after substantial completion to 100% completion including deficiency list shall not exceed twenty (20) days.

(\* ) Contractor fill in proposed number of consecutive calendar days.

OFFEROR:

If an individual(s):

Name(s): \_\_\_\_\_

Signature(s): \_\_\_\_\_

If a legal entity not an individual(s):

Name: \_\_\_\_\_,  
a limited liability company/corporation/other

By: \_\_\_\_\_  
(signature)

Name/Title: \_\_\_\_\_

Offeror's Address: \_\_\_\_\_

\_\_\_\_\_

Offeror's Tele/Fax: \_\_\_\_\_ / \_\_\_\_\_

Offeror's Email: \_\_\_\_\_



LIBERTY COUNTY, GEORGIA

**SURETY REQUIREMENTS**

A Proposal Bond for five percent (5%) of the amount of the proposal amount is required to be submitted with each proposal.

A Performance Bond for one hundred percent (100%) of the contract amount will be required of the successful Offeror.

The Offeror certifies that he/she has examined all documents contained in this request for proposals, and is familiar with all aspects of the request for proposal and understands fully all that is required of the successful Offeror. The Offeror further certifies that his/her proposal shall not be withdrawn for ninety (90) days from the date on which the proposal is publicly opened and read.

The Offeror agrees, if awarded this contract, he/she will:

- A. Furnish, upon receipt of an authorized Liberty County Board of Commissioners Purchase Order or Notice of Award, all items indicated thereon as specified in this proposal for the proposal amount, or;
- B. Enter a contract with Liberty County Board of Commissioners to do and/or furnish everything necessary to provide the service and/or accomplish the work as stated and/or specified in this proposal, and;
- C. Furnish, if required, a Performance Bond, and acknowledges the right of the Liberty County Board of Commissioners to require a Performance Bond of a specific kind and origin, and;
- D. Forfeit the amount of the Proposal Bond as liquidated damages if he/she fails to enter a contract with the Liberty County Board of Commissioners as stated in (B) above, within ten (10) days of the date on which he/she is awarded the contract, and/or;
- E. Forfeit the amount of the Performance Bond as liquidated damages if he/she fails to execute and fulfill the terms of the contract entered. The amount of forfeiture shall be:
  - 1. The difference between his/her proposal and the next lowest, responsible proposal that has not expired or been withdrawn, or;
  - 2. The difference between his/her proposal and the amount of the lowest, responsible proposal received as a result of a subsequent request for proposals, including all costs related to the request for proposals.

COMPANY \_\_\_\_\_

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

LIBERTY COUNTY, GEORGIA

**PROPOSAL BOND**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_ (hereinafter called the Principal) and \_\_\_\_\_ (hereinafter called the Surety), a Corporation chartered and existing under the laws of the State of Georgia with its principal offices in \_\_\_\_\_ and authorized to do business in the State of Georgia, are held and firmly bound unto LIBERTY COUNTY, GEORGIA in the full and just sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) good and lawful money of the United States of America, to be paid upon demand of LIBERTY COUNTY, GEORGIA, to which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns jointly and severally and firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, LIBERTY COUNTY, GEORGIA, a Proposal for furnishing materials, labor and equipment for:

WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
THE LIBERTY COUNTY BOARD OF COMMISSIONERS

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified proposer's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the Proposal be accepted, the Principal shall within ten (10) days after receipt of notification of the acceptance, execute a Contract in accordance with the Proposal and upon the terms, conditions, and prices set forth in the form and manner required by LIBERTY COUNTY, GEORGIA, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to LIBERTY COUNTY, GEORGIA, each in an amount of 100% of the total contract price, in form and with security satisfactory to said LIBERTY COUNTY, GEORGIA, and otherwise, to be and remain in full force and virtue in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to LIBERTY COUNTY, GEORGIA, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

IN TESTIMONY THEREOF, the Principal and Surety have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Surety (SEAL) Principal (SEAL)

BY: \_\_\_\_\_ BY: \_\_\_\_\_

**CONTRACT AGREEMENT**

THIS AGREEMENT made and entered into as of the (Date) \_\_\_\_\_, 2024, by and between LIBERTY COUNTY, GEORGIA, (Party of the First Part, Hereinafter called the County) and \_\_\_\_\_ (Contractor Name) (Party of the Second Part, Hereinafter called the Contractor).

WITNESSETH: That the said Contractor has agreed, and by these presents does agree with the said County, for and in consideration of \_\_\_\_\_ (\$\_\_\_\_\_) and other good and valuable consideration, and under the penalty expressed in Bonds hereto attached, to furnish all equipment, tools, materials skill, and labor of every description necessary to carry out and complete in good, firm, and substantial, and workmanlike manner, the Work specified, in strict conformity with the Drawings and the Specifications hereinafter set forth, which Drawings and Specifications together with the proposal made by the Contractor, General Conditions, Special Provisions, Detailed Specifications, and this Agreement, shall all form essential parts of this Contract. The Work covered by this Contract includes all Work indicated on Plans and Specifications and listed in the proposal entitled:

**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS**

The Contractor shall commence the Work with adequate force and equipment within (10) ten days from receipt of Notice to Proceed from the Liberty County Board of Commissioners, and shall complete the Work within 180 calendar days.

The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any and all persons, including the Contractor's agents, servants, and employees, and in addition thereto, for any and all damages to property caused by or resulting from or arising out of any act or omission in connection with this Contract or the prosecution of Work hereunder, whether caused by the Contractor or the Contractor's agents, servants, or employees, or by any of the Contractor's subcontractors or suppliers.

This Contract, executed in triplicate, constitutes the full agreement between the parties, and the Contractor shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm or corporation without the previous consent of the Liberty County in writing.

**CONTRACT AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto, acting through their duly authorized agents, have signed and sealed this agreement.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

LIBERTY COUNTY, GEORGIA

ATTEST: \_\_\_\_\_  
(SEAL) Administrator, Liberty County

BY: \_\_\_\_\_  
Chairman, Liberty County

**CONTRACTOR**

ATTEST: \_\_\_\_\_  
(SEAL)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
Attorney  
Liberty County, Georgia

**CONTRACT PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_  
(hereinafter called the Principal) and \_\_\_\_\_  
(hereinafter called the Surety) are held and firmly bound unto LIBERTY COUNTY, GEORGIA (hereinafter known as the Owner), for the use of said oblige and all persons doing work or furnishing skill, tools, machinery, supplies, or material under or for the purpose of the Contract hereinafter referred to, in the full and just sum of \_\_\_\_\_  
\_\_\_\_\_ (\$ \_\_\_\_\_) lawful money of the United States of America, to be paid to said Owner, its successors, and assigns to which payment well and truly to made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bound Principal has entered into a contract or contracts with the said OWNER, bearing date of \_\_\_\_\_, 2024, for furnishing material, labor and equipment for:

**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS**

WHEREAS, it was one of the conditions of the award by said Owner pursuant to which said Contract was entered into, that these presents shall be executed.

NOW THEREFORE, the conditions of this obligation are such that if the above bound Principal shall in all respects fully comply with the terms and conditions of said Contract and his obligation thereunder, including the Specifications and Proposal, therein referred to and made a part thereof, and such alterations as may be made in said Specifications as therein provided for, and including one-year guarantee period from date of final acceptance, and shall indemnify and save harmless the Owner against and from all costs, expenses, damages, injury or loss, to which the said Owner may be subjected by reason of any wrongdoing, misconduct, want of care or skill, negligence, or default, including patent infringement, on part of said Principal, his agents, or employees, in the execution or performance of said Contract, and shall promptly pay all just claims for damages or injury to property and for all work done, or skills, tools, and machinery, supplies, labor, and materials furnished and debts incurred by said Principal in our about the construction or improvement contracted for this obligation to be void; otherwise, in full force and effect.

And the said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extensions of time, alterations, or additions to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the Work or the Specifications.

**CONTRACT PERFORMANCE BOND**

This Bond shall be for the use of all persons doing Work or furnishing skill, tools, machinery, or materials under or for the purpose of this Contract, in accordance with the provisions of the Official Code of the State of Georgia, as amended, and is intended to be and shall be construed to be a bond in compliance with the requirements thereof.

The life of this Bond extends through the life of the Contract including the sixty-day maintenance period, and until one year after the final acceptance of the Work by the Owner.

IN TESTIMONY THEREOF, the Principal and Surety have caused these presents to be duly signed and sealed in triplicate, this \_\_\_\_ day of \_\_\_\_\_, 2024.

**CONTRACTOR**

\_\_\_\_\_  
(Company Name)

Attest: \_\_\_\_\_  
(Seal)

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**SURETY**

\_\_\_\_\_  
(Company Name)

Attest: \_\_\_\_\_  
(Seal)

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

BY: \_\_\_\_\_  
(Local Agent's Signature)

\_\_\_\_\_  
(Name - Printed or Typed)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Address)

Executed in Triplicate

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_  
(hereinafter called the Principal) and \_\_\_\_\_  
(hereinafter called the Surety) are held and firmly bound unto LIBERTY COUNTY, GEORGIA (hereinafter known as the Owner), in the full sum of \_\_\_\_\_ (\$ \_\_\_\_\_) for the use and protection of said Owner and all subcontractors and all persons supplying labor, materials, and machinery, and equipment for the performance of the Work provided for in the contract hereinafter referred to, for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

WHEREAS, the above bound Principal has entered into a Contract or Contracts with the said OWNER, bearing date of \_\_\_\_\_, 2024, for furnishing material, labor and equipment for:

**WATER SYSTEM IMPROVEMENTS WEST OF CSX RAILROAD  
FOR  
LIBERTY COUNTY BOARD OF COMMISSIONERS**

WHEREAS, it was one of the conditions of the award by the Liberty County Board of Commissioners pursuant to which said Contract was entered into, that these presents shall be executed.

NOW, THEREFORE, the conditions of this obligation are such that if the above bound Principal shall promptly pay all subcontractors and all other persons supplying labor, materials, machinery, and equipment furnished for the performance of the Work provided for by said Contract, and such alterations or additions as may be made therein or in the Plans and Specifications, then this bond to be void; otherwise, in full force and effect, and

The surety to this bond, for value received, agrees that no change, extensions of time, alterations or additions to the terms of the Contract or the Work to be performed thereunder of the Specifications accompanying the same shall in any way affect its obligation on this bond, and alterations or additions to the terms of the Contract or the Work or to the Specifications. It is agreed that this bond is executed pursuant to and in accordance with the provisions of the Official Code of the State of Georgia, as amended, and is intended to be and shall be construed to be a bond in compliance with the requirements thereof.

**PAYMENT BOND**

IN WITNESS WHEREOF, the Principal and Surety have caused these presents to be duly signed and sealed in triplicate, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**CONTRACTOR**

\_\_\_\_\_  
(Company Name)

Attest: \_\_\_\_\_  
(Seal)

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**SURETY**

\_\_\_\_\_  
(Company Name)

Attest: \_\_\_\_\_

By: \_\_\_\_\_ (Seal)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

BY: \_\_\_\_\_  
(Local Agent's Signature)

\_\_\_\_\_  
(Name - Printed or Typed)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Address)

Executed in Triplicate





**Exhibit A**



**Project: Water System Improvements West of CSX Railroad**

**AUTHORIZATION TO INVESTIGATE**

The undersigned Offeror consents to and authorizes the full investigation by the Liberty County Board of Commissioners, Liberty County, Georgia, or its related departments and agencies, of the information given in connection with the proposal submitted by the undersigned in connection with the above referenced project, and consents to representatives and agents of said Liberty County Board of Commissioners contacting the named references, named financial institutions, and such other persons and entities as may be needed to confirm such information or evaluate the merits of the subject proposal, and waives any right the undersigned may have for such information to remain confidential. The furnishing of false or misleading information or the intentional withholding of material facts (as determined by the Liberty County Board of Commissioners in their sole discretion), shall be a reason for rejection of any proposal submitted by the undersigned in connection with the Project and may further subject the undersigned to forfeiture of any proposal security and additional civil liability and/or criminal prosecution.

Date: \_\_\_\_\_

Offeror: \_\_\_\_\_  
(Print Name)

Authorized Signature: \_\_\_\_\_

**Exhibit B**



**Project: Water System Improvements West of CSX Railroad**

**STATEMENT PURSUANT TO O.C.G.A. § 36-91-21(d)**

The undersigned Offeror affirms that it has not prevented or endeavored to prevent any other person or entity from submitting a competing sealed proposal by any means whatsoever, or otherwise caused or induced another to withdraw a proposal from consideration. The below Offeror further affirms and covenants that it will make an oath confirming the foregoing (as required by O.C.G.A. § 36-91-21(e)) prior to commencing any work, should it be awarded the contract which is the subject of the above referenced proposal.

Date: \_\_\_\_\_

Offeror: \_\_\_\_\_  
(Print Name)

Authorized Signature: \_\_\_\_\_

**Exhibit C**

**E-VERIFY CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Liberty County has registered with and is participating in a federal work authorization program [Employment Eligibility Verification (EEV) / Basic Pilot Program, operated by the U.S. Citizens and Immigration Services Bureau of the U. S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA)] in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Liberty County, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form provided by Liberty County. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to Liberty County at the time the subcontractor(s) is retained to perform such service.

**RE: Contract:** \_\_\_\_\_

**Contractor:** \_\_\_\_\_

**Contractor E-Verify Number:** \_\_\_\_\_

\_\_\_\_\_  
Contractor Name

BY: \_\_\_\_\_  
Authorized Officer or Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**Exhibit D**

**AFFIDAVIT OF CERTIFICATION**

*This form must be signed and notarized for **each** local vendor of which local status is claimed*

\_\_\_\_\_ (full name printed), swear or affirm under penalty of law that I am  
\_\_\_\_\_ (title) of applicant firm \_\_\_\_\_ (firm name) and that **I have read and understood all of the requirements** set forth in the requirements for local preference contracting and hereby certify that **I/we are eligible** to receive local preference points as set forth in said requirements. I further understand that should this declaration be determined to be false, that I/we shall be deemed to be "non-responsive" and shall not be considered for award of the applicable contract.

Executed on \_\_\_\_\_ (date)

Signature \_\_\_\_\_  
Owner

Notary Public

\_\_\_\_\_ my commission expires on \_\_\_\_\_

**\*\*\*\*Please note: Execution of this certificate if not fully qualified to do so shall be grounds for automatic rejection of the proposal. (see Appendix A – Local Vendor Preference Policy)\*\*\*\***

**Exhibit E**

Scoring Analysis Sheet  
Liberty County Board of Commissioners

**Water System Improvements West of CSX Railroad**

- |      |   |                   |
|------|---|-------------------|
| I.   | Description and resources of firm       | (10 points) _____ |
| II.  | Experience & qualifications             | (15 points) _____ |
| III. | Statement of suitability                | (10 points) _____ |
| IV.  | Guaranteed construction cost            | (50 points) _____ |
| V.   | Project completion time                 | (15 points) _____ |
|      | Score                                   | _____             |
| VI.  | Local vendor preference (if applicable) | (10 points) _____ |
|      | Total Score                             | _____             |

**Appendix A**  
**Local Vendor Preference Policy**

**Local preference in contracting.**

(a) Local Preference. Except as otherwise required by applicable state or federal law, in the contracting for goods and services of all kinds and description, when such goods and/or services are to be obtained, whether through an invitation for bids or a request for competitive sealed proposals, local preference shall be given to:

- (1) Businesses having a business location within the geographic boundaries of Liberty County; and
- (2) Businesses where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County; and
- (3) Businesses where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County.

(b) Definitions. For purposes of this section:

- (1) The term "business location" means that the business has a staffed, fixed, physical, place of business located within Liberty County and has had the same for at least one year prior to the date of the business' submission of its proposal or bid, as applicable and has had held a valid business license from Liberty County for the business at a fixed, physical, place of business, for at least one year prior to the date of the business' submission of its proposal or bid, as applicable.
- (2) The term "local business" shall mean a business described in subsection (1), (2), or (3) of section (a) above.
- (2) The term "residents of Liberty County" means persons whose residence is within the geographic boundaries of Liberty County; and
- (3) The residence of any person shall be such person's present, permanent home where that individual intends to stay indefinitely and to which that individual returns following periods of temporary absence.

(c) Proposal Method. Whenever goods or services of any kind or description are to be obtained through the solicitation of competitive sealed proposals, local preference shall be included as an evaluation criterion to be considered by the vendor selection committee. In this regard, ten (10%) percent of the total points available to each offeror shall be awarded on the basis of whether the offeror is a local business. Offerors who are a local business shall be entitled to and shall receive the local preference points provided for in this section. The foregoing shall only apply to proposals which are expressly and specifically governed by the Georgia Local Government Public Works Construction Law, O.C.G.A. §§ 36-91-1 et seq., or other applicable state or federal law, and shall not apply to Exempt Procurement Opportunities (as defined below).

(d) Exempt Procurement Opportunities. With respect to the procurement of goods or services which are not specifically and expressly governed by O.C.G.A. §§ 32-4-42 et seq. or the Georgia Local Government Public Works Construction Law, O.C.G.A. §§ 36-91-1 et seq., or other applicable state or federal law (collectively, "Exempt Procurement Opportunities"), Liberty County shall be free to contract with such contractors and vendors as it determines appropriate in accordance with applicable local ordinances, policies, and practices.

(e) Subject to State and Federal Law. Nothing herein shall be interpreted to mean that Liberty County is relieved from observing and complying with applicable state and federal laws, including, without limitation, O.C.G.A. §§ 32-4-42 et seq. and the Georgia Local Government Public Works Construction Law, O.C.G.A. §§ 36-91-1 et seq. In the event of a direct conflict between any such applicable state and/or federal laws and the provisions of this policy, said state and/or federal laws shall in all instances govern. Additionally, this policy shall not restrict or limit the right of Liberty County to award contracts for goods and services in accordance its local ordinances, policies, and practices (as Liberty County determines appropriate) to the extent that the same are not subject to the provisions of said state and federal laws.

(f) Partnership; Joint Venture. Whenever a proposal or bid is submitted by a partnership, or joint venture, the local preference provided for in this section shall be awarded if a local business is a signatory to the partnership or joint venture agreement and has at least a fifty-one (51%) percent ownership interest (or its equivalent), as determined by the vendor selection committee, in the offeror or bidder. No local preference shall be given on the basis of the business location, the percentage of owners of the business who are residents of Liberty County, or the percentage of employees of the business who are residents of Liberty County of any affiliated business, subcontractor, or consultant.

(g) Certification. Each business seeking local preference points hereunder shall certify under oath that it is eligible to receive the local preference points as set forth above as a part of the submission of its proposal or bid to Liberty County and, in the event the affidavit or other declaration under oath is determined to be false, such business shall be deemed "non-responsive" and shall not be considered for award of the applicable contract.



# Appendix B

## Minority/Woman Business Enterprise Policy

### I. POLICY STATEMENT

It is the policy of the Board of Commissioners of Liberty County (BOARD) to provide minority and women owned and operated business enterprises (M/WBE or MWBE) with equal opportunity in connection with the BOARD's procurement and contracting activities, consistent with federal, state, and local laws. In furtherance of such policy, this Minority/Woman Business Enterprise Policy (Policy) is adopted.

### II. OBJECTIVES

The objectives of this Policy are as follows:

- A. To the extent resources will permit, to advocate for the successful development of M/WBE firms by providing information, education, and continuous training.
- B. To provide initiatives, processes, and programs that will maximize the inclusion of M/WBE firms in the procurement and contracting activities of BOARD.
- C. To ensure that this Policy and resulting programs and initiatives are narrowly tailored in accordance with applicable law.
- D. To ensure that all participating M/WBE firms have been certified by a BOARD recognized certifying agency.
- E. To make every reasonable effort to remove barriers to the participation of M/WBEs in BOARD contracts and projects.
- F. To assist the development of M/WE firms that can compete successfully in the marketplace; and
- G. To make every reasonable effort to maximize the level of contracting between the BOARD and M/WBE firms as prime contractors, subcontractors, or suppliers.

### III. DEFINITIONS

In addition to any terms that may be defined elsewhere in this Policy, the following terms shall have the meaning set forth below:

**Best Value Contracting** – A procurement method that provides the BOARD the opportunity to consider factors in addition to price in awarding a contract.

**Bid** - A written quotation, proposal or offer by a bidder to perform or provide labor, materials, equipment, supplies or services to the BOARD, submitted in response to a competitive bidding solicitation issued by the BOARD. Without limiting the foregoing, the term "bid" shall include any bid or proposal contemplated under the Georgia Local Government Public Works Construction Law, O.C.G.A. § 36-91-1.

**Bidder** – A business enterprise that submits a bid as defined herein.

**Business Enterprise** – A natural person or legal entity, including but not limited to a corporation, partnerships, limited liability companies, sole proprietorships, joint stock companies, joint ventures or any other private, legally recognized entity; provided, however, that this Policy shall not apply to contracts entered into with governmental entities (as identified by the BOARD).

**Certification** – The process by which M/WBEs verify their status to the BOARD in order to be considered an M/WBE. Certification is a requirement of all M/WBEs that are registered with the BOARD and is a prerequisite to participation by M/WBEs under this Policy.

**County and County Limits** – Liberty County, Georgia, and the incorporated and unincorporated areas thereof.

**Compliance** – The condition or status of a contractor whose bid demonstrates that it complies with this Policy and the goals and requirements promulgated and establish pursuant hereto.

**Construction** – The process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

**Contract** – Any and all agreements, regardless of what they may be titled, for the procurement of supplies, services, or construction.

**Contract Compliance Officer-** The BOARD employee, agent, or designee responsible for insuring compliance with and adherence to M/WBE goals in a given contract.

**Contractor** – Any business enterprise that has entered into a contract with the BOARD.

**Control or Controlled** – As used in this Policy, this term refers to an individual's relationship with a M/WBE and shall mean to actually possess and exercise the legal authority and power to manage business assets and/or daily operations of the business and to actively and continuously exercise such managerial authority and power in determining the policies and directing the operations of the business, as opposed to a nominal relationship existing only to create the appearance of minority or woman ownership.

**Exclusive Prime/Subcontractor Relations** – Agreements made between a Contractor and an M/WBE in which the M/WBE promises not to provide subcontracting quotations to other bidders or potential bidders in exchange for preferential treatment from the Contractor. Such practice is prohibited by the BOARD. Contractors engaging in such practice risk suspension or debarment from performing or bidding on future BOARD contracts.

**Goal** – The percentage of M/WBE participation on a given project. Goals are established on a per contract basis based, among other factors, on trade types involved and the historical participation of M/WBEs relative to their market share.

**Joint Venture** – An association of an M/WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the venture will be recognized as partially M/WBE (based on the proportion of M/WBE ownership and participation in the joint venture).

**Minority** – A citizen of the United States or a lawfully admitted resident alien, who is a member of any of the following groups:

- A. African American – All persons having origins in any of the Black racial groups of African descent as well as those identified as Jamaican, Trinidadian, and West Indian.
- B. Asian or Pacific Islander – All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.
- C. Asian-Indian – All persons whose origins are from India, Pakistan and Bangladesh.
- D. Hispanic – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
- E. American Indian and Alaskan Native – All persons having origins in any of the original peoples of north America, and who maintain cultural identification through tribal affiliation or community; to include Aleuts and Eskimo; and
- F. Other – All persons belonging to an ethnic or minority group identified by the Georgia or

U.S. Supreme Court as a “discrete and insular” minority, or “suspect class” afforded special protection under the Equal Protection Clause of the U.S. Constitution because of inherent personal characteristics.

**Minority Business Enterprise or MBE** – An entity or institution that is certified as at least 51% owned and controlled by one or more minority individuals, or, in the case of a publicly owned business, at least 51% of the stock is owned by one or more minority individuals. The ownership interest must be real and continuous, and not created solely to meet the requirements of this Policy. This definition shall include educational and other non-profit entities designated as such under section 501(c) of the U.S. Tax Code, that have a recognized historical association with a minority.

**MWBE Contractor** - The contractor responsible for the management and administration of this Policy. The MWBE Contractor is responsible for implementing all aspects of this Policy to the extent set forth herein and in the contract between the BOARD and said contractor. In the event that the BOARD elects not to contract out such services, reference to MWBE Contractor herein shall mean the person employed by the BOARD to perform the functions of the MWBE Contractor hereunder.

Duties and responsibilities of the MWBE include, but are not necessarily limited to, the following:

- A. Gathers and reports statistical data and other information as required.
- B. Reviews third party contracts and purchase requisitions for compliance with this Policy.
- C. Works with the BOARD to set overall goals.
- D. Ensures that bid notices and requests for proposals are available to M/WBEs in a timely manner.
- E. Identifies ways to better achieve and improve the objectives of this Policy.
- F. Analyzes the BOARD’s progress toward goal attainment.
- G. Participates in pre-bid meetings in connection with all contract opportunities subject to this Policy.
- H. Advises the BOARD on M/WBE matters and achievements.
- I. Chairs the M/WBE advisory committee, which may now exist or hereafter be established by the BOARD.
- J. Participates with legal counsel, the Contract Compliance Officer, and any responsible committee(s) to determine contractor compliance with good faith efforts.
- K. Provides M/WBEs with information and assistance in preparing bids, obtaining bonding insurance, and compliance with this Policy.
- L. Plans and participates in M/WBE training seminars; and
- M. Provides outreach to M/WBEs and community organizations to advise them of opportunities.

**Non-Compliance** – The status of a bid or bidder who fails to comply with the M/WBE contract goals upon submission of a bid or proposal.

**Non-Discrimination Statement** – The statement made by a bidder relating to its conduct prior to submission of a bid, as well as after the award of a contract, that the bidder agrees to: (a) follow the policies of BOARD relating to the participation of M/WBEs; (b) undertake measures to ensure the maximum practicable participation by M/WBEs; and (c) not engage in discriminatory conduct against M/WBEs inconsistent with this Policy; as said statement may be amended or restated by the BOARD or its legal counsel from time to time. The discrimination statement shall also be consistent with any additional requirements imposed by federal or state funding programs in which the BOARD may participate, all as approved by legal counsel for the BOARD.

**Non-Responsive Bidder** – A bidder who has submitted a bid, which does not conform in all material respects to the requirements set forth in the invitation for bids to which such bidder is responding.

**Procurement** – The process of buying, renting, leasing or otherwise obtaining or acquiring any real or personal property, supplies, materials, equipment or services.

**Professional Services** – Services which require licensure as a prerequisite to participation for a profit and which involve predominantly mental or intellectual labor and skills, including but not limited to, architects, engineers, surveyors, doctors, attorneys, and accountants.

**Proposed Schedule of Minority Participation** – A formal bid document that expresses how a contractor will meet the M/WBE goals of a contract by listing the proposed M/WBE subcontractors and/or suppliers it will use on a BOARD project on which it is bidding.

**Purchasing** – The buying, renting, leasing or otherwise obtaining or acquiring any real or personal property, supplies, materials, equipment or services.

**Responsible Bidder** – A bidder who has the capacity, in all respects, to fully perform the contract and all of its requirements and the demonstrated experience, reliability, facilities, equipment and credit to reasonably assure performance.

**Responsive Bidder** – A bidder that has submitted a bid, which conforms in all material, respects to the requirements set forth in the invitation for bids.

**Subcontract** – An agreement between the contractor (prime) and another business enterprise (subcontractor) for the performance of work that is part of the prime contractor's contract with the BOARD.

**Vender Services** – Services furnished by a business enterprise not qualifying as either professional services or construction.

**Verification** – The process by which business enterprises are determined to be a MBE or WBE pursuant to this Policy. For the purposes of bidding on BOARD contracts, the bidder must verify the subcontractor's claimed status as a MBE or WBE.

**Women-Owned Business Enterprise or WBE** – A business enterprise that is certified as at least 51% owned and controlled by one or more women who are not members of a Minority group, or in the case of a publicly owned business, at least 51% of the stock is owned by one or more women who are not members of a minority group and certified as such. The ownership interest must be real, and continuous, and not created solely to meet the woman-owned business or contractor provisions of this Policy. This definition shall include educational and other non-profit entities, designated as such under section 501(c) of the U.S. Tax Code, that have a recognized historical association with women.

#### **IV. BOARD NONDISCRIMINATION POLICY**

The BOARD will not exclude any business enterprise from participation in, deny any business enterprise of the benefits of, or otherwise illegally discriminate against anyone in connection with the award and performance of any contract.

In administering this Policy, the BOARD will not, directly or through contractual or other arrangement, use criteria or methods of administration that are intended to negatively impact the effectiveness of this Policy.

#### **V. BOARD RECOGNIZED M/WBE CERTIFICATION AGENCIES**

The BOARD, in coordination with the M/WBE Contractor, will establish a procedure for the review and certification of business enterprises desiring to qualify as an MBE or WBE for purposes of this Policy. Additionally, the BOARD reserves the right to review M/WBE certifications issued by other public bodies

or agencies, and to accept the same (with or without conditions) for purposes of certification under this Policy; provided, however, that the BOARD shall be under no obligation to accept any such third-party certifications. Without limiting the foregoing, and as of the date of this Policy, the BOARD will favorably consider certifications from the following public bodies and agencies for purposes of this Policy (it being noted that the BOARD may deny or condition acceptance of any such third-party certification for any reason it deems appropriate, and that acceptance of the same as of the date of this Policy does not guarantee continued acceptance of said certifications for any period of time under this Policy):

- Liberty County Industrial Authority
- City of Savannah
- Chatham County
- City of Atlanta
- DeKalb County
- Fulton County
- Georgia Dept. of Transportation
- Georgia Minority Supplier Development Council (GMSDC)
- Savannah-Hilton Head International Airport
- U.S. Small Business Administration 8(a) Program
- Veteran Owned Small Business (VOSB)
- Woman Owned Small Business (WOSB)

A listing of third-party certifications that may be accepted by the BOARD for purposes of this Policy will be maintained by the M/WBE Contractor and the contract compliance officer. The BOARD requires that all M/WBE firms identified for participation in any bid be certified in accordance with this Policy by the date and time of the bid closing.

## **VI. SERVICES PROVIDED PURSUANT TO THIS POLICY**

The BOARD, through the M/WBE Contractor or its employees, will endeavor to provide the following services and assistance to better ensure the recognition and utilization of MBEs and WBEs located in the County and the coastal Georgia area:

- A. Review the M/WBE certification of firms seeking to be approved as M/WBE firms under this Policy.
- B. Maintain a current and publicly available database of certified M/WBEs and the services they offer.
- C. Provide support and assistance in connection with the identification of certified M/WBE firms.
- D. Participate in outreach programs to encourage the participation of M/BEs in the BOARD's procurement activities, including, the placement of appropriate public service notices with M/WBE trade associations, as well as minority and women focused media outlets;
- E. When it is in the interest of the BOARD, provide support and assistance in the creation of "prime contract" opportunities for M/WBEs;
- F. Encourage M/WBE firms to participate in training programs offered by the BOARD and/or third-party education and training providers;
- G. Refer M/WBEs to third-party technical assistance providers when appropriate for bonding, financial, and technical assistance;
- H. Develop and publish reports of M/WBE participation by contract/project; and identify opportunities and strategies consistent with the objectives of this Policy; and
- I. Conduct debriefing sessions for M/WBEs on the quality of M/WBE participation in the BOARD's procurement procedures.

Notwithstanding the enumeration of services and assistance proposed to be offered by the BOARD pursuant to this Policy, the BOARD shall be under no legal obligation to furnish any such services and assistance, and the same shall be offered (if at all) at such times, in such manner, and to such extent as determined appropriate by the BOARD.

## **VII. M/WBE POLICY COMPONENTS**

The administration of this Policy shall generally involve the following discrete components or requirements:

- A. Procurement Procedures Relative to M/WBEs
- B. Bidder's Requirements
- C. Joint Ventures/Subcontracting Participation
- D. Participation and Compliance Reports
- E. Compliance
- F. Dispute Resolutions
- G. Competitive Bids
- H. Annual Assessment

### **A. Procurement Procedures Relative to M/WBEs**

The following procedures and requirements will be used to ensure that M/WBE firms are encouraged to participate in construction, professional, and vendor contracts with the BOARD; provided, however, that this Policy and the requirements of this Section shall only apply to construction contracts having a value of \$100,000.00 or more, and to professional and vendor services contracts having an annual or per contract value of \$75,000.00 or more:

1. For all construction, professional, and vendor contracts subject to this Policy, the Contract Compliance Officer will furnish the M/WBE Contractor with a copy of the invitation to bid, including the related scope of work. The M/WBE Contractor will endeavor to identify M/WBEs which may be eligible to submit bids. Based on information provided by the M/WBE Contractor, the BOARD will send invitations to bid directly to the identified M/WBEs.
2. The BOARD will provide plans and specifications to the M/WBE Contractor for use by potential bidders. The M/WBE Contractor shall identify contract opportunities and provide trade specific lists of certified M/WBEs to potential prime contractors and to the BOARD.
3. For all contract opportunities subject to this policy, the BOARD will establish project specific goals for the participation of M/WBEs consistent with Section VIII of this Policy.
4. In order to permit a full and appropriate consideration of the requirements of this Policy, the BOARD shall employ best value contracting in soliciting contracts subject to this Policy to the fullest extent authorized by law.
5. Contractors shall be required to fulfill any M/WBE utilization commitments made in the bid or otherwise required by the BOARD.

### **B. Bidder's Requirements**

1. With respect to any contract that is subject to this Policy, bidders shall be required to submit with their bid a separate sealed envelope containing the following (all in form and having such content as may be required by the BOARD from time to time):

- (a) Non-Discrimination Statement.
- (b) Proposed Schedule of M/WBE participation and/or documentation of good faith efforts if project goal is not met;
- (c) Such other documentation and information as may be specified in this Policy and/or the invitation to bid or related bid materials. Such documentation and information shall include, but may not necessarily be limited to, the following:
  - (i) The names and addresses of M/WBE firms that have agreed to perform in connection with the contract;
  - (ii) A description of the work that each M/WBE will perform;
  - (iii) The dollar amount of the participation of each M/WBE firm with respect to the contract;
  - (iv) Written and signed documentation of commitment to use M/WBE subcontractors identified in the bid;
  - (v) Written and signed confirmation from the M/WBE that it is participating in the contract, as provided in the bidder's stated commitment; and
  - (vi) If the contract goal is not met, evidence of good faith efforts must be submitted approved by the M/WBE Contractor in accordance with subsection B below.

A bidder's failure to submit the non-discrimination statement required above or otherwise make reasonable efforts to comply with the pre-bid requirements of this Policy may result in the bid being considered non-responsive and thereby disregarded; provided, however, and assuming a reasonable effort is made to meet the requirements of this Policy, the failure of a bidder to meet the applicable M/WBE participation goals or, alternatively, to confirm its good faith efforts, will not result in the bidder being deemed unresponsive for purposes of the invitation to bid. Rather, in the event the bidder fails to satisfy the applicable M/WBE participation goals or, alternatively, to confirm its good faith efforts, the bidder will be ineligible to receive any points under the MWBE component of the bid evaluation criteria.

- 2. All contractors shall ensure that that any contractual arrangement with M/WBEs involved in the performance of the contract shall require said M/WBEs to observe all applicable requirements of this Policy, including, without limitation, the record retention, inspection, and reporting requirements set forth in Section X hereof.

**C. Joint Ventures/ Subcontracting Participation**

- 1. Joint ventures may be utilized to create and increase opportunities for participation of M/WBE firms and to improve managerial and technical expertise. In the event bidders engage in joint ventures to satisfy the M/WBE requirements set forth in this Policy, the bidder shall demonstrate to the satisfaction of the BOARD that the M/WBE joint venturer's participation is meaningful and legitimate. The BOARD shall review all contractual agreements and other supporting documentation evidencing the joint venture to determine the percentage of M/WBE participation represented by or to be allocated to any such joint venture.
- 2. A prime contractor may use subcontractors to satisfy the M/WBE project participation goals provided the subcontractor performs a commercially useful function. In determining whether a commercially useful function is performed, the following may be considered:
  - (a) The nature and amount of work subcontracted.
  - (b) Whether M/WBE has the skill and expertise to perform the work;

- (c) Whether the M/WBE actually performs, manages and supervises the work; and
- (d) Such other factors as the BOARD may deem appropriate.

#### **D. Participation and Compliance Reports**

The M/WBE Contractor is responsible for compiling data on M/WBE participation, and preparing reports related to all contracting, purchasing and procurement activities of the BOARD which are subject to this Policy. The reported information may include, but will not be limited to, the following data:

1. **Consolidated M/WBE Program Report (BOARD M/WBE Report):** This report will consist of the combined Construction Services M/WBE Report, the Professional Services Report, and the Vendor Services Report generally described below. This report and other requested data should be submitted to the BOARD semi-annually to coincide with the BOARD's fiscal year.
2. **Construction M/WBE Program Report:** This report shall include, but is not limited to, the following data:
  - (a) Total list of contracts during the period.
  - (b) Total Contracts Cost.
  - (c) MBE Goal (\$) & % of Contracts Cost.
  - (d) MBE Actual (\$) & % of Contracts Cost.
  - (e) WBE Goal (\$) & % of Contracts Cost.
  - (f) WBE Actual (\$) & % of Contracts Cost.
3. **Professional Services M/WBE Program Report:** This report shall include, but is not limited to, the following:
  - (a) Total list of contracts during the period.
  - (b) Total Contracts Cost.
  - (c) MBE Goal (\$) & % of Contracts Cost.
  - (d) MBE Actual (\$) & % of Contracts Cost.
  - (e) WBE Goal (\$) & % of Contracts Cost.
  - (f) WBE Actual (\$) & % of Contracts Cost.
4. **Vendor Services M/WBE Program Report:** This report shall include, but is not limited to, the following:
  - (a) Total list of vendor services "under contract" during the period;
  - (b) Total Transaction Cost.
  - (c) MBE Goal (\$) & % of Transaction Cost.
  - (d) MBE Actual (\$) & % of Transaction Cost.
  - (e) WBE Goal (\$) & % of Transaction Cost.
  - (f) WBE Actual (\$) & % of Transaction Cost.

#### **E. Compliance**

1. It will be the responsibility of the M/WBE Contractor to ensure that invitations to bid and related bid proposals issued by the BOARD adhere to the provisions of this Policy.
2. The BOARD shall assume ultimate responsibility for evaluating compliance with this Policy to ensure that objectives contained herein are being appropriately addressed and realized.



The decision of the BOARD with respect to any aspect of this Policy or any requirements imposed or promulgated hereunder shall be final and conclusive for all purposes.

3. Each BOARD contract that is subject to this Policy will contain a provision requiring compliance with its provisions and maintenance and delivery of all records and information necessary to document compliance.
4. The M/WBE Contractor shall require documentation of all M/WBE pay requests and payments made to M/WBEs.
5. The M/WBE Contractor will monitor and evaluate bidder and contractor performance and compliance under this Policy, including, without limitation, the initial evaluation of satisfaction of M/WBE participation goals and/or good efforts stipulated herein. Failure to comply with such requirements may result in a recommendation for suspension or debarment of the firms and/or individuals involved.

#### **F. Dispute Resolution**

1. Any bidder or contractor with concerns or grievances related to the performance of BOARD personnel, the M/WBE Contractor, or any BOARD committee in regard to this Policy (to also include any decision or recommendation made by such person(s) or committee) shall submit a written complaint addressed to the County Administrator detailing the same. Following a review of the complaint, the County Administrator will endeavor to respond in writing the complaining party in a timely manner. To the extent determined appropriate by the County Administrator, the written complaint shall be forwarded to the BOARD for review at a future meeting. Any written complaint authorized hereinabove shall be submitted by the contractor or bidder as soon as practical, it being noted that no complaint submitted by a bidder will be considered by the BOARD unless physically received and acknowledged by designated BOARD personnel at least two business days prior to any meeting of the BOARD at which the subject bid is to be considered. Notwithstanding the opportunity to submit a written complaint pursuant to this subsection, the BOARD shall be under no obligation to consider or act upon the same, and any decision or determination made by the BOARD in connection with any such complaint shall be final and conclusive for all purposes.
2. In the event that there is a complaint by a subcontractor or supplier concerning the prime contractor, the complainant shall submit their written complaint to the M/WBE Contractor. Following a review of the complaint, the M/WBE Contractor will endeavor to respond in writing to the complaining party in a timely manner; provided, however, that it is not the intent of this subsection that either the M/WBE Contractor or the BOARD shall be the arbiter of business disputes between the prime contractor and its subcontractors and suppliers. Any such complaints authorized in this subsection shall be limited to purported violations of this Policy.

#### **G. Competitive Bids**

Nothing in this Policy is to be construed to (a) require the BOARD to award a contract to other than the lowest responsible bidder; or to (b) require contractors to contract with or to make significant material purchases from M/WBEs who do not submit the best overall pricing.

Notwithstanding the foregoing, projects utilizing state or federal funds will be awarded in accordance with all state or federal rules and regulations, as applicable.

#### **H. Annual Assessment**

On an annual basis or at such earlier time(s) specified by the BOARD, the BOARD (or a committee

thereof) will review the M/WBE Report and such other information as determined appropriate to measure the effectiveness of this Policy in promoting its objectives.

The Program may be extended on an annual basis, if after analysis, the determination is made by the BOARD that the objectives of this Policy are being meaningfully advanced in a manner consistent with the BOARD's public mission. Absent any action by the BOARD to the contrary, this Policy will be deemed automatically extended on an annual basis.

## **VIII. PARTICIPATION GOALS**

The BOARD will establish M/WBE participation goals for each construction, professional services, and vendor services contract opportunity that is subject to this Policy as are reasonable and practical given, among other factors, the availability of M/WBEs capable of participating with respect to any such contract opportunity; provided, however, that the BOARD desires to minimally achieve a participation goal with respect to MBE firms of 10% and a participation goal with respect to WBE firms of 3%, with a combined desired minimum participation goal for M/WBEs of 13%. Contract goals will be expressed as a percentage of the total amount of a contract.

## **IX. REQUIRED CONTRACT CLAUSES**

Each contract subject to the provisions of this Policy shall contain such provisions as may be necessary or desirable to ensure that the contractor timely and fully complies with the requirements of this Policy. Without limiting the foregoing, all such contracts shall contain the following: provided, however, that the precise wording of such provisions may be altered to the extent determined appropriate by legal counsel for the BOARD or to meet the requirements of any state or federal funding program in which the LDCA is participating:

- A. **The contractor (and any involved subcontractor) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall fully perform and observe all applicable requirements imposed by this Policy in connection with this contract and the award and administration of related subcontracts and procurement of materials and supplies. Failure by the contractor to fully perform and observe such requirements shall constitute a material breach under this contract for which the BOARD shall be entitled to pursue any and all remedies authorized by this contract or otherwise available at law or in equity, including, without limitation, the termination of this contract.**
- B. **The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract not later than 10 days from the receipt of each payment the prime contractor receives from the BOARD. Any delay or postponement of payments from the above referenced time frame may occur only for good cause following written approval of the BOARD. This clause applies for both M/WBE and non-M/WBE subcontractors.**

## **X. MONITORING AND ENFORCEMENT MECHANISMS**

Activities under this Policy shall be monitored and enforced in accordance with such procedures as may be established from time to time by the BOARD, provided that the following procedures are initially approved as desirable for the effective administration of this Policy:

- A. **The M/WBE Contractor shall compile and maintain data on M/WBE participation, including data concerning prime and sub-contracts awarded to M/WBEs. Information concerning**

contracts subject to this Policy shall be maintained by the BOARD in accordance with its customary records retention practices. M/WBE statistics shall be maintained in the following manner:

1. Contracts shall be classified into three categories: construction, professional services, and vendor services; and
  2. Statistics shall measure overall awards to M/WBEs by category of service: construction, professional services, and vendor services.
- B. In addition to any other reports provided for in this Policy, semi-annual reports shall be submitted by the Contract Compliance Officer to the BOARD consistent with its fiscal year and compiled from data furnished by the M/WBE Contractor. The data to be submitted shall include the following:
1. Regarding contracts for professional services or vendor services, the data shall include the total contract value and the total contract value with M/WBEs; and
  2. Regarding construction purchases, the data shall include the total value of construction contract awards, the total value of prime construction contracts awarded to MBEs and WBEs, the total value of construction subcontracts awarded to MBEs and WBEs; and
  3. Regarding achievement of M/WBE participation goals (construction projects only), the data shall additionally include a comparison of proposed M/WBE participation versus actual participation.
- C. The M/WBE Contractor will be responsible for evaluating compliance with this Policy and its efficacy on a continuing basis. The BOARD may amend the reporting requirements recited above from time to time at their discretion as deems appropriate and give prior notice. <sup>11</sup><sub>SEP</sub>
- D. Contractors will be required to submit periodic reports of subcontracting on BOARD projects and the participation of M/WBEs in such form and manner and at such time as BOARD may prescribe in the subject contract and shall report all suspected instances of business enterprises fraudulently claiming M/WBE status in order to unjustly benefit from this Policy.
- E. The M/WBE Contractor will monitor and track actual M/WBE participation through performance of the contract, and including, but not necessarily limited to, the following:
1. **Post-Contract Award.** After the contract award, the M/WBE Contractor will review the award documents for the scope of work each M/WBE and first –tier subcontractor is scheduled to perform, and the dollar value of that work.
  2. **Pre-Construction Conference.** The M/WBE Contractor and the contractor, or their representatives will schedule a Pre-Construction Conference, to review the work each M/WBE subcontractor is scheduled to perform.
  3. **Construction Contract Monitoring.** The Contract Compliance Officer and/or the M/WBE (or such inspector as may be engaged by the BOARD for such purpose) shall be entitled to monitor and inspect any activities performed under the contract, and the contractor and all subcontractors shall cooperate with the Contract

Compliance Officer, the M/WBE Contractor, and/or any other inspector engaged by the BOARD in all such inspections.

In the event that it is determined that an M/WBE firm scheduled and contracted to perform a designated scope of work that has been subcontracted to an unapproved firm, the M/WBE Contractor will notify the contractor of the apparent discrepancy and potential loss of payment. The M/WBE Contractor will investigate and make a recommendation regarding such discrepancy to the contractor, involved subcontractor(s) and the County Administrator.

4. **Record Keeping and Final Report Utilization of M/WBE.** With respect to each contract that is subject to this Policy, the contractor shall be primarily responsible for the creation and maintenance of the following, which shall be furnished to the Contract Compliance Officer and the M/WBE Contractor upon request: (a) the name and business address, regardless of tier, of every M/WBE involved in the performance of the contract or applicable project; (b) the date of payment and the total dollar figure paid to each of the firm; and the date(s) work was performed (or materials or supplies were delivered) by the M/WBE firm, along with the corresponding dollar value of the work claimed toward M/WBE goals. Prime contractors shall be required to maintain records and documents of payments to M/WBE firms for at least three years following performance of the contract and will make the same available for inspection and copying, upon without charge or other cost to the BOARD, upon request by the M/WBE Contractor and/or any employee or authorized representative of the BOARD. This reporting and records retention requirement shall also extend to any M/WBE involved in the performance of the contract or applicable project.

Payments to the M/WBE subcontractors will be reviewed by the M/WBE Contractor and the Contract Compliance Officer to ensure that the actual amount paid to the M/WBE subcontractors equals or exceeds the dollar amounts stated in the schedule of M/WBE participation.

5. **Final Report-M/WBE Utilization.** Upon the successful completion of any contract that is subject to this Policy, the contractor shall submit to the M/WBE Contractor for the approval a summary of the utilization and participation of any and all relevant M/WBE firms. This information shall be submitted on the "Project Closeout M/WBE Utilization Report" as provided by the BOARD. This report must be submitted to the M/WBE Contractor and approved prior to the official "closeout" of the contract. All discrepancies, exceptions, and reconciliations must be satisfied prior to the official closing of the contract.

## **XI. EVIDENCE OF PARTICIPTION COMMITMENT; GOOD FAITH EFFORTS**

### **A. Demonstration of Good Faith Efforts**

The principal obligation of the bidder is to make good faith efforts to fully satisfy the M/WBE participation goals established pursuant to this Policy. The bidder can demonstrate that it has done so either by exceeding (or meeting) the contract participation goals or documenting good faith efforts confirming (to the satisfaction of the BOARD) why said goals were not met. Examples of good faith efforts which the BOARD determine appropriate may be found in 49 CFR Appendix A to Part 26; it being noted that said Appendix shall serve as a guide only and that the MWBE Contractor, in consultation with the County Administrator, may establish such requirements and measures applicable to good faith efforts as determined appropriate. The M/WBE Contractor is responsible for initially determining whether a bidder who has not met the designated M/WBE

contract participation goals, has documented sufficient good faith efforts to be regarded as responsive. The M/WBE Contractor will review all good faith effort documents for relevance, legitimacy, and accuracy. The M/WBE Contractor, based on submitted documentation, will initially determine whether such documentation satisfies the good faith requirements established under this Policy. Notwithstanding the foregoing, the determination of the Board regarding good faith efforts under this Policy shall be binding and conclusive for all purposes.

## **B. Review of Adverse Determination**

In the event any adverse determination is made by the M/WBE Contractor or the BOARD with respect to the sufficiency of the M/WBE participation and/or “good faith efforts” under this Policy, the affected bidder may submit a written grievance requesting reconsideration by the BOARD as provided in Section VII.F. hereof. Absent willful refusal by a bidder to attempt to comply with the requirements of this Policy, the failure of a bidder to meet the applicable M/WBE participation goals or, alternatively, to confirm its good faith efforts with respect to any bid, will not result in the bidder being deemed unresponsive for purposes of the invitation to bid. Rather, in the event the bidder fails to satisfy the applicable M/WBE participation goals or, alternatively, to confirm its good faith efforts, the bidder will be ineligible to receive any points under the MWBE component of the bid evaluation criteria.

## **C. Good Faith Efforts when a M/WBE is Replaced on a Contract**

When a contractor determines that a designated M/WBE is unable or has failed to satisfactorily complete its work in connection with a contract (and prior to any termination or modification of the subcontract with the M/WBE), the contractor shall be required to contract with another M/WBE or document to the satisfaction of the County Administrator the contractor’s good faith efforts why such substitution is not practicable. Any request for substitution of a designated M/WBE must be promptly delivered in writing to the M/WBE Contractor and signed by the contractor and shall include documentation and other evidence satisfactory demonstrating the inability or failure of the designated M/WBE (as well as the contractor’s good faith efforts is substitution with another M/WBE firm is not practicable). The M/WBE Contractor shall timely review, investigate, and make a recommendation to the County Administrator for approval or denial. No such substitution or other change of M/WBE firms shall be permitted unless and until approved by the County Administrator.

If the contractor fails or refuses to comply in the time specified, the BOARD Contract Compliance Officer shall be authorized to issue an order stopping all or part of payment or work under the contract until satisfactory action has been taken (with any resulting costs and damages to be assumed by the contractor). If the contractor still fails to comply, the BOARD, through the County Administrator, shall be authorized to terminate the contract for cause and take such other or additional action as may be authorized under the contract or otherwise available at law or in equity.

## **XII. PUBLIC RECORDS.**

Bidders and other business enterprises are advised that the contents of any bid and all documents, materials, and information submitted in connection therewith or pursuant to this Policy may be subject to disclosure as required by The Georgia Open Records Act and any and all other applicable laws, and bidders and all contractors, subcontractors and other business enterprises submitting such information to the BOARD shall be deemed to release and forever discharge the BOARD, and its commissioners, officers, officials, employees, representatives, and agents (as well as the M/WBE Contractor) from any damage, losses, suit, costs, or other liabilities of whatever kind arising from such disclosure (whether or not permitted by applicable law). Without limiting the foregoing, bidders, contractors, subcontractors, and all other business enterprises are specifically advised that labeling information provided pursuant to this Policy as

“proprietary” or “confidential”, or any other designation of restricted use, will not protect the information from public inspection and copying.

**XIII. SUBJECT TO STATE AND FEDERAL LAW**

Nothing herein shall be interpreted to mean that the BOARD is relieved from observing and complying with applicable state and federal laws, including, without limitation, the Georgia Local Government Public Works Construction Law, O.C.G.A. §§ 36-91-1 et seq. In the event of a direct conflict between any such applicable state and/or federal laws and the provisions of this Policy, said state and/or federal laws shall in all instances govern.

**XIV. NO RIGHTS CREATED OR VESTED**

Nothing in this Policy or any program, assistance, or other action undertaken by the BOARD or the M/WBE Contractor in connection herewith, or any submission made or action taken by any bidder, M/WBE, or other business enterprise in reliance upon this Policy, shall invest any bidder, MWBE, or business enterprise with any interest, right, privilege, or claim of any kind with respect to the bidding process, the proposed contract, or otherwise; it being further noted that no bidder, M/WBE, or business enterprise is intended to be a direct or indirect beneficiary of this Policy, and no such bidder, M/WBE, or other business enterprise shall have any right to enforce or compel the performance of this Policy for any reason whatsoever.

**XV. BOARD NOT LIABLE FOR COSTS.**

All costs, fees (including, without limitation, legal fees), charges, and expenses incurred by any bidder, M/WBE, or other business enterprise in connection with this Policy, of whatever amount and nature, direct or indirect, shall be borne exclusively and completely by said bidder, M/WBE, or other business enterprise, as the case may be. Neither the BOARD nor the M/WBE Contactor shall have any liability or obligation of any kind for any such costs, fees, charges, and expenses. In no event will any claim whatsoever be made against BOARD, or its employees, agents, or consultants, for reimbursement of any costs, fees, charges, or expenses incurred in connection with this Policy.

**XVI. WAIVER OF TECHNICALITIES AND DEFICIENCIES.**

The BOARD, in its absolute judgment, reserves the right to waive any technicality, noncompliance, or informality in determining compliance with this Policy or otherwise in administering or enforcing the same. BOARD shall be the sole judge of all matters relating to this Policy, and its decision in such matters shall be absolute and final.

# MINORITY AND WOMEN BUSINESS ENTERPRISE GOOD FAITH FORM

Name of Offeror: \_\_\_\_\_

Proposal No: \_\_\_\_\_

**If you have failed to secure M/WBE participation or if your M/WBE participation is less than the County's project goal, you MUST complete this form.**

If the offeror's method of compliance with the M/WBE goal is based upon demonstration of a "good faith effort," the offeror will have the burden of correctly and accurately preparing and submitting the documentation required by the County. Compliance with each item, 1 through 4 below, shall satisfy the Good Faith Effort requirement absent proof of fraud, intentional and/or knowing misrepresentation of the facts or intentional discrimination by the offeror.

**This form is to be made part of the sealed proposal and submitted in its entirety with supporting documentation. Failure to comply will result in the proposal being considered non-responsive and the proposal will not be read or considered.**

Please list each and every subcontracting and/or supplier opportunity (DO NOT LIST NAMES OF FIRMS) which will be used in completion of this project, regardless of whether it is to be provided by a M/MWBE or non M/WBE.

(Use additional sheets, if necessary)

List of:

List of:

Subcontracting Opportunities

Supplier Opportunities

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Did you obtain a current list of M/WBE firms?

\_\_\_\_\_ Yes,

Date of Listing \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_ No

Source: \_\_\_\_\_

Please indicate subcontract or supplier list categories for which potential M/WBE offeror's list were provided? Provide detail of how these M/WBE's were solicited

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Please attach the following:

Evidence of solicitation to prospective MBE or WBE firms, such as advertisements, phone logs and copies of solicitations letters.

List by trade of certified MBE or WBE subcontractors solicited but not selected, including name, address, telephone number, contact person, date of contact, and outcome of contact, including dollar amount of MBE or WBE quote and selected subcontractor quote.

List of any job-specific criteria that disqualified a certified MBE or WBE firm that submitted a low proposal for a subcontract.



## PROPOSED SCHEDULE OF M/WBE PARTICIPATION FORM

Name of Offeror: \_\_\_\_\_

Proposal No: \_\_\_\_\_

Total Proposal Amount: \_\_\_\_\_

Name of M/WBE Participant	Address	Type of Work Sub-Contracted	Subcontract Value	MBE/WBE Status

A separate listing of M/WBE Participants may be provided if space will not allow for full identification.

MBE Participation Value: \_\_\_\_\_ % \$ \_\_\_\_\_

WBE Participation Value: \_\_\_\_\_ % \$ \_\_\_\_\_

The undersigned will enter into a formal agreement with the M/WBE Subcontractors/Offerors identified herein for work listed in this schedule conditioned upon the execution of a contract with the County.

### Joint Venture Disclosure

If the prime offeror is a joint venture, please describe below the nature of the joint venture and level of work and financial participation to be provided by the Minority/Female joint venture firm.

Joint Venture Firms	Level of Work	Financial Participation

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

**STANDARD GENERAL CONDITIONS  
OF THE CONSTRUCTION CONTRACT**

**Prepared By**



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**STANDARD GENERAL CONDITIONS  
OF THE CONSTRUCTION CONTRACT**

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  5. *Bidder*—An individual or entity that submits a Bid to Owner.
  6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
  7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
  8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
  9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*
    - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
    - b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.



- c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
  - d. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
  12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
  13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
  14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
  15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
  16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
  17. *Cost of the Work*—See Paragraph 13.01 for definition.
  18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
  19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
  20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
  21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
  22. *Engineer*—The individual or entity named as such in the Agreement.
  23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
  24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
    - a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.

- b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
  - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.
43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
  - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
  - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or

chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.

- 48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
- 49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- 50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - 1. does not conform to the Contract Documents;
  - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
  - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2—PRELIMINARY MATTERS

### 2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### 2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
  1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
  2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
  3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
  4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

**ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.

- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
  - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
  - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

### 3.02 *Reference Standards*

#### A. *Standards Specifications, Codes, Laws and Regulations*

- 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

### 3.03 *Reporting and Resolving Discrepancies*

#### A. *Reporting Discrepancies*

- 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
- 2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the

Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

**B. *Resolving Discrepancies***

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
  - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

**3.04 *Requirements of the Contract Documents***

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

**3.05 *Reuse of Documents***

- A. Contractor and its Subcontractors and Suppliers shall not:
  1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or



2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

## **ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

### **4.01 *Commencement of Contract Times; Notice to Proceed***

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

### **4.02 *Starting the Work***

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

### **4.03 *Reference Points***

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

### **4.04 *Progress Schedule***

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
  2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

### **4.05 *Delays in Contractor's Progress***

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and

interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  2. Abnormal weather conditions;
  3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
  4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
  2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
  3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
  2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
  3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
  4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
  5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.

- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

## **ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

### *5.01 Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### *5.02 Use of Site and Other Areas*

#### *A. Limitation on Use of Site and Other Areas*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.

- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

#### 5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
  - 1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
  - 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
  - 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.
- D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
  - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
  - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
  - 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
  - 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
  - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
  - 2. is of such a nature as to require a change in the Drawings or Specifications;

3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
  1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
    - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
  2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
    - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract

Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

- c. Contractor failed to give the written notice required by Paragraph 5.04.A.
  3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
  4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  2. complying with applicable state and local utility damage prevention Laws and Regulations;
  3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
  2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
  3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
  4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- F. *Possible Price and Times Adjustments*
  - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
    - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
    - c. Contractor gave the notice required in Paragraph 5.05.B.
  - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
  - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
  - 4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
  - 2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
  - 3. Technical Data contained in such reports and drawings.

- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
  2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.



- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## **ARTICLE 6—BONDS AND INSURANCE**

### **6.01 *Performance, Payment, and Other Bonds***

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety.

The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

#### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.

- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
  - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
  - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
  - 1. include at least the specific coverages required;

2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
  3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
  4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
  5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
  2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
  3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
  4. not seek contribution from insurance maintained by the additional insured; and
  5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

#### 6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
  - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
  - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
  - 1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.

- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

**ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.

- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
      - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      - 3) has a proven record of performance and availability of responsive service; and
      - 4) is not objectionable to Owner.

- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
  - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
  - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 *Substitutes*

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
    - a. will certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design;
      - 2) be similar in substance to the item specified; and
      - 3) be suited to the same use as the item specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;



- 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
  - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
- c. will identify:
- 1) all variations of the proposed substitute item from the item specified; and
  - 2) available engineering, sales, maintenance, repair, and replacement services.
- d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

#### 7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.

- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.

- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within

30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:
  - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determine and verify:
    - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
    - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
    - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
  - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the

Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

*D. Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

*E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
  - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
  - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
  - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
  - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.

- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

**7.17 Contractor's General Warranty and Guarantee**

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only

by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:

1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
  2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
  2. Recommendation by Engineer or payment by Owner of any progress or final payment;
  3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. Use or occupancy of the Work or any part thereof by Owner;
  5. Any review and approval of a Shop Drawing or Sample submittal;
  6. The issuance of a notice of acceptability by Engineer;
  7. The end of the correction period established in Paragraph 15.08;
  8. Any inspection, test, or approval by others; or
  9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.



- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### 7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
  - 1. Checking for conformance with the requirements of this Paragraph 7.19;
  - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
  - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## **ARTICLE 8—OTHER WORK AT THE SITE**

### 8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange

to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

#### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract

Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
  - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
  - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9—OWNER'S RESPONSIBILITIES**

### **9.01 *Communications to Contractor***

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

### **9.02 *Replacement of Engineer***

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

### **9.03 *Furnish Data***

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

### **9.04 *Pay When Due***

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
  - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
  - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 *Evidence of Financial Arrangements*
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).
- 9.12 *Safety Programs*
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
  - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

## **ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION**

- 10.01 *Owner's Representative*
- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.
- 10.02 *Visits to Site*
- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and

observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

#### 10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

#### 10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

#### 10.05 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

#### 10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

#### 10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract,

tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

#### 10.08 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

### **ARTICLE 11—CHANGES TO THE CONTRACT**

#### 11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

#### 11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and

4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

#### 11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
  2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

#### 11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

#### 11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
  - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
  - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
  - 1. A mutually acceptable fixed fee; or
  - 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
    - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
    - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
    - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
    - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the



costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

#### 11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

#### 11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

#### B. *Change Proposal Procedures*

- 1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
- 2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
  - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
  - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

- 3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
- 4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change

Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

#### 11.10 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

## ARTICLE 12—CLAIMS

### 12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
  1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
  3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
  4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
  2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
  3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

**ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be

apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
5. Other costs consisting of the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
    - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
  - c. *Construction Equipment Rental*
    - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
    - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.

- 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
  - g. The cost of utilities, fuel, and sanitary facilities at the Site.
  - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
  - i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:
1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
  2. The cost of purchasing, renting, or furnishing small tools and hand tools.
  3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
  4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
  6. Expenses incurred in preparing and advancing Claims.
  7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
    - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
    - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
      - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
      - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
  2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.
- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 *Allowances*

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
  1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
  2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.
- E. *Adjustments in Unit Price*
  - 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
    - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
    - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
  - 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
  - 3. Adjusted unit prices will apply to all units of that item.

## **ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK**

### 14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

### 14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such

inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  3. by manufacturers of equipment furnished under the Contract Documents;
  4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.



#### 14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

## **ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

### **15.01 *Progress Payments***

- A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
  - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
  - 3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
  - 4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications*
  - 1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the

Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work;
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

- d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

**D. *Payment Becomes Due***

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

**E. *Reductions in Payment by Owner***

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
  - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. The Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. The Contract Price has been reduced by Change Orders;
  - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
  - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
  - l. Other items entitle Owner to a set-off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents,

or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 15.06 *Final Payment*

##### A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all duly pending Change Proposals and Claims; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
  - C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
  - D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
  - E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect

Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such adjacent areas;
  2. correct such defective Work;
  3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.



16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17—FINAL RESOLUTION OF DISPUTES**

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
  - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
  - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:
  - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
  - 2. agree with the other party to submit the dispute to another dispute resolution process; or

3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18—MISCELLANEOUS**

### **18.01 *Giving Notice***

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
  1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
  2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
  3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

### **18.02 *Computation of Times***

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

### **18.03 *Cumulative Remedies***

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

### **18.04 *Limitation of Damages***

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

### **18.05 *No Waiver***

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

### **18.06 *Survival of Obligations***

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

### **18.07 *Controlling Law***

- A. This Contract is to be governed by the law of the state in which the Project is located.

### **18.08 *Assignment of Contract***

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the

written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

## SUPPLEMENTARY CONDITIONS

### 01. GENERAL CONDITIONS

The "Standard General Conditions of the Construction Contract", Engineers Joint Contract Documents Committee, 2018 Edition, Articles 1 through 18 inclusive, included herein preceding these supplements, is a part of this Contract.

#### ARTICLE 6 – BONDS AND INSURANCE

Contractor's protective liability insurance, with limits as follows:

Personal injury including death - limits of \$100,000. for each person and \$1,000,000. for each occurrence.

Property damage - \$100,000. for each and \$1,000,000. for the aggregate for operations.

Contractor's public and automobile liability insurance (including contractual liability insurance as applicable to the Contractor's obligations under paragraph 4.18) with limits as follows:

Personal injury including death - limits of \$100,000. for each person and \$1,000,000. for each occurrence.

Property damage - limits of \$100,000. for each occurrence and \$1,000,000. for the aggregate of operations.

- a. Any exclusion of so-called underground damage to pipes, collapse of structures or damage resulting from explosion or blasting, shall be deleted.
- b. The policy shall provide completed operations coverage, and such coverage shall be maintained by the Contractor for a period of one year from the date of payment of the final amounts owed the Contractor by the Owner, whichever occurs first.

Owner's protective liability insurance, in the name of the Owner, his professional consultants and their agents as additional insureds under the contractor's general liability insurance policy with respect to the services performed by the Contractor for the Owner, with the following limits:

Personal injury including death - limits of \$100,000. for each person and \$1,000,000. for each occurrence.

Property damage - limits of \$100,000. for each occurrence and \$1,000,000. for the aggregate of operations.

#### ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

##### 15.01 Progress Payments

Add the following sentence as paragraph 5 of Section 15.01 B:

"Each payment request shall be accompanied with record drawings showing as-built conditions of all work requested during the pay period.

#### ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 B Any dispute arising under this agreement shall first be resolved by utilizing non-binding mediation, however, should the dispute not be resolved by this method it shall be heard in the Superior Court of the County in which the owner resides, and the parties consent to jurisdiction and venue in that Court. The parties waive any defense they may have to lack jurisdiction or improper venue and agree to have all disputes resolved in the Superior Court of the County in which the owner resides.

### **Section 3 Clause of the Urban Development Act of 1968**

- 1.) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project to be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- 2.) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- 3.) The contractor will send to each labor organization or representative of workers with which he has a collective bargain-agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- 4.) The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the letter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- 5.) Compliance with the provisions of Section 3, the regulations set forth in the 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY**  
**CONSTRUCTION CONTRACT SPECIFICATIONS**  
**(EXECUTIVE ORDER 11246)**

1. As used in these specifications:

- a. "Covered Area" means the geographical area described in the solicitation from which this contract resulted.
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
- c. "Employer Identification Number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

A Minority Group Member is:

...American Indian or Alaskan Native

consisting of all persons having origins in any of the original people of North America and who maintain cultural identification through tribal affiliations or community recognition.

...Black

consisting of all persons having origins in any of the Black racial groups of Africa.

...Asian or Pacific Islander

consisting of all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Sub-Continent or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippines and Samoa.

...Hispanic

consisting of all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin.

...Cape Verde an

consisting of all persons having origins in the Cape Verde Islands.

...Portuguese

consisting of all persons of Portuguese, Brazilian or other Portuguese culture or origin.

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000.00 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in the Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontract participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7a through p of these specifications. The goals set for the Contractor in the solicitation from which this contract resulted are expressed as percentages in the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minority or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.



- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notifications to the Regional Director when the union or unions, with which the Contractor has a collective bargaining agreement, have not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, Supervisors etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending; subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to, and discussing the Contractor's EEO policy with, other Contractors and subcontractors with whom the Contractor anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notifications to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (Paragraph 7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Contractor shall not enter into any subcontract with any person for firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, terminations and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## **Equal Employment Opportunity (EEO) Clause**

During the performance of this contract, the Contractor agrees as follows:

- 1.) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2.) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3.) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4.) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 5.) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 6.) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by the rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7.) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or

CERTIFICATE OF NON-SEGREGATED FACILITIES

We, \_\_\_\_\_ (Company)

Certify that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services at any location, under our control, where segregated facilities are maintained. We understand and agree that breach of this certification is a violation of Equal Opportunity clause required by Executive Order 11246, amended.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

We further agree that (except where we have obtained identical certifications from proposed Subcontractors for specific time periods) we will obtain identical certifications from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that we will retain such certification in our files; and that we will forward the following notice to such proposed Subcontractors (except where the proposed Subcontractors have submitted identical certifications for specific time periods).

**NOTICE TO PROSPECTIVE SUBBUILDERS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES.** A certification of Non-segregated facilities as required by the 9 May 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, 19 May 1967), must be submitted from the provisions either for each subcontract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

**NOTE:** Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.

\_\_\_\_\_  
(Name of Company)

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

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**FEDERAL LABOR STANDARDS PROVISION**  
**Georgia Community Development Block Grant**

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1.(i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) The contracting officer shall require that any class of laborers or mechanics, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, US. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. **Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to

pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 for under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) **Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project.) Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable program (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), US. Government Printing Office, Washington, DC, 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)



(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

**4.(i) Apprentices and Trainees.** Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the US. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as

stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the US. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journey hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performs. In addition, any trainee performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer

be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounded for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of a labor standards provision of this contract shall to be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the US. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the US. Criminal Code, 18 U.S.C. 1001. Additionally, US. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of

...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements:** No contractor or subcontractor contracting for any part of the contract work may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation:** liability for unpaid wages, liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages:** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any money payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts:** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier

subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

### **C. Health and Safety**

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**ACCEPTABLE ALTERNATE WORK SHEET FOR CONTRACTOR CERTIFICATION  
REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY  
EXCLUSION (LOWER-TIER PARTICIPANT) FOR HUD PROGRAMS**

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-  
Lower-Tier Covered Transactions pursuant to 24 Code of Federal Regulations, Part 24.510(b).

1. By signing and submitting this proposal, the prospective lower-tier participant certifies that neither it, its principals nor affiliates, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the Participant provides the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that an erroneous certification was rendered, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies.
3. Further, the Participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the Participant learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. By submitting this proposal, it is agreed that should the proposed covered transaction be entered into, the Participant will not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the agency with which this transaction originated.
5. It is further agreed that by submitting this proposal, the Participant will include this Certification, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

Contractor Name \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_ Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**NON-CERTIFICATION:**

As the perspective lower-tier participant, I am unable to certify to statements in this Certification as explained in the attachment to this proposal.

Contractor Name \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_ Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

*The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.*

## COMPLIANCE WITH CLEAN AIR AND WATER ACTS

The contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

In compliance with said regulations:

- 1.) The Contractor shall require of subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 4C CFR 15.20.
- 2.) The Contractor will comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and section 308 of the Federal Water Pollution Control Act as amended, (330 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said section 114 and section 308, and all regulations and guidelines issued thereunder.
- 3.) The Contractor will provide prompt notice of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- 4.) The Contract will include or cause to be included the criteria and requirements to paragraph (1) through (4) of this section in every nonexempt subcontract and take such action as the Government will direct as a means of enforcing such provisions.

**Debarment and Suspension (Executive Orders 12549 and 12689)**—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the **Solid Waste Disposal Act**, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.



"General Decision Number: GA20240300 01/05/2024

Superseded General Decision Number: GA20230300

State: Georgia

Construction Type: Heavy

Counties: Liberty and Long Counties in Georgia.

HEAVY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.</li></ul>
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.</li></ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for



their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number,

005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

SECTION 01150  
MEASUREMENT AND PAYMENT

PART 1 – GENERAL

1.01 QUANTITIES

- A. Quantities: Quantities listed in the Proposal are approximate only and are intended to serve as a guide in comparing proposals and may be increased or decreased without invalidating the unit price.
- B. Payment: Contractor shall be paid for actual in place quantities as determined by the Engineer field measurements.
- C. Discrepancies: In case of discrepancies between the figures shown in the unit prices and totals, the unit prices shall apply, and the totals shall be corrected to agree with the unit price.

PART 2 – MEASUREMENT AND PAYMENT

2.01 CONNECT TO EXISTING WATER MAIN

- A. Measurement: Measurement will be made on the basis of each connection made in accordance with the construction plans or as directed by the engineer.
- B. Payment: Payment will be made on the basis of each connection made in accordance with the construction plans or as directed by the engineer at the unit price shown. The unit price shall include all labor, equipment, and materials necessary to complete the item of work. Work shall include, but not be limited to, trenching, excavation, dewatering, utility protection, furnishing and installing all fittings and valves, connecting to the existing water main, coring, cutting, valve vaults, concrete collars, backfill, compaction, complete surface restoration and clean-up.

2.02 REMOVE AND REPLACE EXISTING ASPHALT/CONCRETE

- A. Measurement will be made on the basis of the number of square yards of identified areas removed and replaced as shown on the construction plans. The length will be measured on the surface along the centerline and the width will be specified on the construction plans. Irregular areas such as turnouts and intersections will be measured to the closest square yard.
- B. Payment will be made on the basis of the number of square yards of identified areas removed and replaced, in accordance with the plans at the unit price shown. The unit price shall include furnishing all labor, equipment, and materials to complete the item of work. The work shall include, but not be limited to, marking, saw cutting, excavation, removal of materials, disposal of material, grading, subgrade compaction, cleanup, and the like necessary to prepare the area of roadway for the installation of GAB, concrete and or asphalt overlay.

2.03 WATER MAINS

- A. Measurement: Measurement will be made along the centerline of the pipe trench and through fittings and specials. No deduction in length will be made for fittings or specials.
- B. Payment: Watermains shall be paid for at the unit price shown per linear foot. Unit price shown shall include all materials, labor, and equipment necessary to complete the item of

work. Work shall include, but not be limited to, trenching and excavation, necessary shoring and sheeting, dewatering, furnishing, and installing pipe, backfilling and compaction, concrete blocking, furnishing, and installing restrained joints, bedding, pressure testing, disinfection, complete surface restoration and cleanup.

#### 2.04 GATE VALVES

- A. Measurement: Measurement shall be made on the basis of each unit installed in accordance with the approved plans or as directed by the engineer.
- B. Payment: Valves shall be paid for at the unit price shown for each specific valve size. The unit price shown shall include furnishing all materials, labor, and equipment necessary to complete the item of work. Work shall include, but not be limited to, excavation, necessary shoring, sheeting, dewatering, backfilling, concrete valve box collar, furnishing and installing gate valves, valve box, pressure testing, disinfection and complete surface restoration and cleanup.

#### 2.05 DUCTILE IRON FITTINGS

- A. Measurement: Measurement of the fittings shall be counted by unit of the various sizes & types actually installed. Fittings thus counted shall be converted to a total weight in pounds in accordance with Table 53.2 through 53.5 of AWWA Standard C153 for compact Ductile Iron MJ fittings. The weight shall not include glands, bolts, gaskets, etc.
- B. Payment: Payment will be made at the unit price shown per ton which shall include furnishing all materials, labor, and equipment necessary to complete the installation of the fittings. Work shall include, but not be limited to, excavation, necessary shoring, sheeting, backfilling, restrained joints, thrust blocks, bolts, glands, gaskets, furnishing and installing compact fittings, pressure testing, disinfection and complete surface restoration and cleanup.

#### 2.06 CASED BORES AND FUSED PVC BORE

- A. Measurement: Measurement will be made on the basis of the number of linear feet of steel cased bore and fused PVC bore installed to the lines and grades shown on the plans or as directed by the engineer.
- B. Payment: Payment will be made on the basis of the number of linear feet of steel cased bore and fused PVC bore installed to the lines and grades shown on the plans or as directed by the engineer at the unit price as proposed. The unit price shall include all labor, equipment and materials to complete the item of work. Work shall include, but not be limited to, excavation of bore pit, trenching, dewatering, stone bedding, shoring and sheeting, furnishing and installing casing pipe as well as the carrier pipe, bulkheads, vents, sand fill inside casing, spacers, backfill, compaction, complete surface restoration and clean-up.

#### 2.07 FIRE HYDRANT ASSEMBLY

- A. Measurement: Measurement shall be made on the basis of each fire hydrant assembly installed. The number of fire hydrant assemblies which will be paid for under this item will be the number in place, tested, and accepted by the ENGINEER.
- B. Payment: Payment will be made on the basis of each fire hydrant assembly installed at the unit price bid. The unit price bid shall include furnishing all materials, labor and equipment, supervision, and incidentals required to furnish and to complete the installation of the fire hydrant assembly. Work shall include, but not be limited to, excavation, necessary shoring,



sheeting, backfilling, dewatering, fittings, including the main line diameter x 6-inch tee or reducer if tee is existing and required, 6-inch gate valve, valve box, concrete collar, 6-inch diameter PVC pipe from the main, fire hydrant, thrust blocking or restraining as shown on the drawings and specified herein. Fittings shall be included in the price of the fire hydrant assembly and will not be paid for under a separate item, pressure testing, disinfection and complete surface restoration and cleanup.

## 2.08 WATER SYSTEM CONNECTIONS

- A. Measurement: Measurement shall be made on the basis of each connection completed in accordance with the plans, the contract documents or as directed by the engineer.
- B. Payment: Payment shall be made on the basis of the unit price shown. The unit price shown shall include all labor, material and equipment required to complete the connection. The work shall include, but is not limited to, all trenching, excavation, dewatering, backfill, furnishing, and installing tapping sleeves, tapping the main, curb stops, fittings and other accessories necessary to complete the connection. Fittings shall be included in the price of the water system connection and will not be paid for under a separate item, pressure testing, disinfection and complete surface restoration and cleanup.

## 2.09 SERVICE TUBING

- A. Measurement: Measurement shall be made along the centerline of the tubing trench and through fittings and specials. No deduction in length will be made for fittings or specials.
- B. Payment: Payment shall be made at the unit price shown per linear foot. Unit price shown shall include all materials, labor, and equipment necessary to complete the installation of the service tubing. Work shall include, but not be limited to, all trenching and excavation, dewatering, furnishing, and installing tubing, backfilling and compaction, necessary shoring, and sheeting, blocking, pressure testing, disinfection, complete surface restoration and cleanup.

## 2.10 WATER METER WITH BOX

- A. Measurement: Measurement will be made on the basis of each unit installed in accordance with the plans or as directed by the engineer.
- B. Payment: Payment shall be made on the basis of each unit installed in accordance with the plans or as directed by the engineer at the unit price shown. The unit price shall include all labor, equipment, and materials necessary to complete the item of work. Work will include, but not be limited to, trenching, excavation, dewatering, furnishing and installing radio read meter, meter box, backflow device, curb stop, fittings, meter box, clean-up and complete surface restoration.

## 2.11 GRADED AGGREGATE BASE (GAB)

- A. Measurement: Measurement shall be made on the basis of the number of square yards of graded aggregate base applied to the parking lot and roadway at the specified thickness as shown on the construction plans. Irregular areas such as turnouts, filler strips and intersections will be measured to the closest square yard.
- B. Payment: Payment will be made on the basis of the number of square yards of granite crusher run (graded aggregated) base at the specified thickness applied to the roadway at the unit price. The unit price shall include all labor, equipment, and material to complete the task. Work shall include, but not be limited to, the furnishing, hauling, placing and compaction of the crusher run base in order to bring the base to the lines, grades, and

cross sections shown on the construction plans or established by the Engineer. Work shall also include complete surface restoration and clean-up.

#### 2.12 GRASSING

- A. Measurement: Measurement shall be made on the basis of the completed item in accordance with the construction plan or as directed by the engineer. Work performed under this section will be measured to the nearest one-tenth acre.
- B. Payment: Payment will be made in accordance with the price stated in the proposal. The unit price shall include, but is not limited to, furnishing all labor, materials, and equipment necessary for the satisfactory growth of grass on all disturbed areas in accordance with plans and specifications. Work shall include, but not be limited to, furnishing all materials, fertilizer, soil samples, grass seed, raking, leveling, watering, re-seeding, maintenance and final surface restoration. Final payment will not occur until permanent grass is established.

#### 2.13 MULCHING

- A. Measurement: Measurement shall be made on the basis of the completed item in accordance with the construction plan or as directed by the engineer. Work performed under this section will be measured to the nearest one-tenth acre.
- B. Payment: Payment will be made in accordance with the price stated in the proposal. The unit price shall include furnishing all labor, materials, and equipment necessary for the satisfactory mulching of all disturbed areas in accordance with plans and specifications. Work shall include, but not be limited to, furnishing and installing hay, straw and the like, surface restoration and clean-up. The hay or straw shall be blown, or hand broadcasted to a uniform depth, minimum 85% coverage. The unit price shall also include maintenance of mulch until final grassing is established. Mulching is to be completed daily to ensure no erosion of disturbed areas.

#### 2.14 CONSTRUCTION EXIT

- A. Measurement: Measurement will be made on a unit price basis of the completed item in accordance with the construction plans
- B. Payment: Payment will be made on the completed item of work at the unit price shown. Work shall include, but not be limited to furnishing all labor equipment, and materials necessary for the satisfactory prevention of transporting sediment from the site. The unit price shall include but not be limited to furnishing and placing geotextile fabric, furnishing and installing stone, grading, maintenance, repair, replacement, sweeping, and the like. It shall also include the removal of the construction exit upon completion of the project, cleanup, and complete surface restoration.

#### 2.15 SILT FENCE

- A. Measurement: Measurement will be made on the basis of each linear foot of silt fence installed in accordance with the construction drawings or as directed by the engineer.
- B. Payment: Payment will be made on the basis of each linear foot of silt fence installed in accordance with the construction drawings or as directed by the engineer at the unit price shown. The unit price shall include all labor, equipment, and materials necessary to complete the item of work. The item of work shall include, but not be limited to necessary trenching, providing and placing silt fence, staking, maintenance for the life of the project, repair and/or replacement, removal, complete surface restoration and cleanup.

## 2.16 HAY BALE CHECK DAM

- A. Measurement: Measurement will be made on the basis of each complete hay bale check dam installed in accordance with the construction plans.
- B. Payment: Payment will be made on the basis of each hay bale check dam installed and maintained in accordance with the construction plans at the unit price stated in the proposal. The unit price shall include furnishing all labor, equipment, and materials, necessary for the item of work. Work shall include, but not limited to, staking, excavation, trenching, furnishing, and installing hay bales, backfill, continual maintenance, removal, disposal, complete surface restoration and clean-up. No additional payment will be made for replacement hay bales.

## 2.17 TRAFFIC CONTROL

- A. Measurement: Measurement will be made on the basis of the completed item of work or percentage thereof.
- B. Payment will be made on the basis of the completed item of work or a percentage thereof at the unit price bid. The unit price bid shall include all labor, equipment, and materials necessary to complete the item of work. The item of work shall include, but not be limited to, furnishing all necessary signage, barrels, and personnel necessary to adequately manage traffic during all phases of construction. This item also includes the relocation of trash bins to allow trash collection during construction cost for placing notices on residential doors in the neighborhood.

## 2.18 MOBILIZATION

- A. Measurement: Measurement will be made on the basis of the completed item of work or percentage thereof.
- B. Payment will be made for the price as stated in the Contract once the Contractor has established his construction yard, and met the requirements established in the Contract Documents. Mobilization will be recognized complete once the Contractor has provided a construction schedule and moved his equipment and a substantial amount of material to the job site. Construction must be underway and progressing. Payment for mobilization will be limited to a maximum amount not to exceed 3.0% of the proposal price.

SECTION 02100  
CLEARING AND GRUBBING

PART 1 – GENERAL

1.01 DESCRIPTION

- A. Clearing shall consist of the falling, trimming, cutting and disposal of trees and other vegetation designated for removal, including down timber, snags, brush, and rubbish occurring within the area to be cleared. Grubbing shall consist of the removal and disposal of stumps, roots larger than 1.5 inches in diameter and matted roots.

PART 2 – EXECUTION

- 2.01 Trees, down timber, stumps, roots, brush, and other vegetation in areas to be cleared shall be removed completely, except such trees and vegetation as may be indicated or directed to be left standing. Trees to be left standing within the cleared areas shall be trimmed of dead branches 1.5 inches or more in diameter.
- 2.02 Limbs and branches to be trimmed shall be neatly, cut close to the bore of the tree or main branches.
- 2.03 All organic materials, masonry, concrete, or metallic debris in the clearing and grubbing areas shall be excavated and removed to a depth of not less than 12 inches below grade where original grade is to remain level and two feet below finish grade, bottom of pavement base and bottom of footings.
- 2.04 Depressions made by grubbing shall be backfilled and compacted with fill material to meet the requirement for trenching and structural backfilling.
- 2.05 Machine grubbing shall not be done under trees left standing in the area covered by the branches, nor in any manner which might damage the trees or any new work.
- 2.06 Trees and vegetation to be left standing shall be protected from damage during clearing, grubbing, and construction operations, by the erection of barriers.
- 2.07 Objects above or below grade interfering with construction shall be removed as directed by the Architect/Engineer.
- 2.08 DISPOSAL OF MATERIALS
  - A. Cleared and grubbed materials to be disposed of to an approved off-site disposal area. The disposal area shall be a state-approved landfill.
  - B. On site burning will not be allowed, without written permission of local authorities. The Forestry Department should be contacted for the permit.
  - C. The use of an air curtain destructor for on-site burning shall be part of the permit.

SECTION 02210  
SITE GRADING

PART I – GENERAL

1.01 QUALITY ASSURANCE

A. Reference Standards:

1. Standards of American Society for Testing and Materials:  
ASTM-D-698 Moisture-Density Relations of Soils Using 5.5 lb. (2.5 KG)  
Hammer and 12 inch (304.8 mm) Drop
2. Methods of Sampling and Testing of American Association of State Highway and  
Transportation Officials (AASHTO), latest edition.

1.02 TESTING

- A. All soil testing shall be performed by an Independent Testing Laboratory selected by the Engineer and paid for by the Contractor.

1.03 EXCESS EXCAVATED MATERIALS

- A. Excess excavated materials shall be wasted off site by the Contractor at no expense to Owner, or as directed by the Engineer.

1.04 BORROW MATERIAL

- A. Any borrow material required to accomplish all levels, lines and grades indicated shall be furnished by the Contractor at no expense to the Owner.
- B. Borrow material shall be obtained from borrow pits off site.
- C. The Contractor shall pay for all soil analysis for borrow material

1.05 EXCAVATED MATERIAL

- A. All material to be excavated shall be classified as earth.

1.06 UNSUITABLE BEARING MATERIALS

- A. Should unsuitable bearing materials be encountered at levels indicated and found to have insufficient bearing values the Engineer may order the excavation carried to lower depths.
- B. Compensation for the removal and/or replacement of unsuitable materials shall be in accordance with the General Conditions.
- C. Excavation of unsuitable bearing materials shall not proceed until the conditions have been observed by the Engineer and written approval has been given by the Owner.

## PART II – EXECUTION

### 2.01 TOP SOIL

- A. Areas to be stripped shall first be scraped clean of all brush, weeds, grass, roots, and other material.
- B. Remove topsoil from areas to be graded and stockpile in locations where it will not interfere with structures, roads, or utility operations.
- C. Topsoil shall be free from subsoil, debris, and stones larger than two (2) inches in diameter. The stored topsoil shall be left in piles to be used for finished grading.
- D. Stockpiles shall be protected from contamination by undesirable foreign matter and shall be graded to shed water.

### 2.02 EXCAVATION

- A. Excavations shall be accomplished to bring surface to the levels, lines and grades as indicated.
- B. Excavated material to be used for fill or backfill material shall be stockpiled on the site as directed by the Engineer. Stockpiles shall be graded to shed water.

### 2.03 FILLING

- A. All fill material required to bring areas to the levels, lines and grades indicated shall be selected and approved materials from approved borrow areas.
- B. Sub-grades on which fill material is to be placed shall be scarified to a depth of not less than four (4) inches by plowing or disking. A layer of suitable fill material, approximately three (3) inches in depth, shall be spread over the scarified surface and compacted.
- C. Fill material shall be spread and compacted in successive uniform layers not exceeding eight (8) inches in depth (loose measure) until the total thickness of fill is completed.

### 2.04 COMPACTION

- A. Compaction required for material fill shall be 95% of Standard Proctor, maximum dry density as determined by the procedures of ASTM D-698. Fill areas shall be crowned and sloped to drainage ditches or as required to prevent ponding of surface water.
- B. Compaction by flooding of any material is not acceptable. In the event that any flooding takes place, the material and all adjacent softened material shall be removed and replaced with compacted fill at no cost to the Owner.

SECTION 02221  
TRENCH EXCAVATION, BACKFILL AND COMPACTION

PART 1 - GENERAL

1.01 SCOPE

- A. Work under this section shall consist of furnishing all materials, equipment, and labor for excavation, trenching and backfilling for utility systems. "Utility systems" shall include underground piping and appurtenances for gas, gasoline, oil, and water distribution systems, storm water drains, and sewage collection systems.

1.02 EXISTING UTILITIES

- A. Before opening trenches, the Contractor shall examine all available records and explore for the location of all sub-surface pipes, valves or other structures and reference such locations on the surface. It shall be the responsibility of the contractor to contact the utility clearinghouses as required by law.
- B. In opening trenches, every effort shall be made not to interfere with these utilities structures. Expose existing piping by hand before excavating by machine. Excavate existing utilities sufficiently in advance of pipe laying to determine crossing arrangement. Slight deviations may be permitted in order to clear such structures. The Contractor shall be entirely responsible for the preservation of all underground or overhead utility lines and structures, such as gas, water, sewer lines, telephone conduit, power lines, etc., and shall replace, adjust, or repair, without additional compensation, any such lines damaged or interfered with as a result of this construction.
- C. Schedule work to keep roads and utilities in usable condition; coordinating all operation with the Governing Authority to avoid inconvenience insofar as practicable.

1.03 BORROW MATERIAL

- A. Any borrow material required to accomplish all levels, lines, and grades indicated shall be furnished from an approved site.
- B. The OWNER or his agent shall pay for all soils analysis for borrow material.

1.04 TESTING

- A. All soil testing shall be performed by an Independent Testing Laboratory selected by the Governing Authority and the design engineer.

1.05 QUALITY ASSURANCE

- A. All excavation within the rights of way of city streets and county, State or Federal roadways, shall be backfilled in accordance with the then prevailing requirements of the Georgia Department of Transportation, Highway Division.
- B. Reference Standards: Methods of Sampling and Testing of American Association of State Highway and Transportation Officials (AASHTO).

1.06 SAFETY

- A. The Contractor is responsible for maintaining a safe job environment. He is responsible for meeting all OSHA requirements and conditions as part of the project.

## PART 2 - EXECUTION

### 2.01 GENERAL EXCAVATION

- A. The Contractor shall do all excavation of whatever substances encountered to depth shown on plans. Excavated materials not required for fill or backfill shall be removed from site as directed by the Engineer.
- B. Contractor is to excavate to provide 36-inch minimum cover over utility.
- C. Excavation for manholes and other accessories to have 12-inch minimum and 24-inch maximum clearance on all sides.
- D. Excavation shall not be carried below the required level.
- E. Where excavation is carried below grades indicated, the Contractor shall refill same to the proper grade with compacted earth or stone, or as directed by the Engineer.
- F. Width of trench shall be as shown on the plans. The bottom of trench for sewers and culverts shall be rounded so that an arc of the circumference equal to 0.6 of the outside diameter of the pipe rests on undisturbed soil.
- G. Bell holes shall be excavated accurately to size by hand.

### 2.02 UNSUITABLE BEARING MATERIALS

- A. Should unsuitable bearing materials be encountered at levels indicated and found to have insufficient bearing values, the Engineer may order the excavation carried to lower depth.
- B. Excavation of unsuitable bearing materials shall not proceed until the conditions have been observed by the Engineer and written approval is given by the Owner.

### 2.03 PIPE BEDDING

- A. The contact between a pipe and the foundation on which it rests is the pipe bedding.
- B. Classes of Bedding: Four typical classes of bedding to be used for pipes in trenches are described as follows:
  - 1. Class A - Concrete Cradle or Concrete Arch Bedding: This class of bedding may take either of two forms.
    - a. Concrete Cradle - The pipe shall be bedded in a monolithic cradle of plain or reinforced concrete having a minimum thickness of 1/4 the inside pipe diameter of a minimum of four (4) inches under the barrel and extending up the sides for a height equal to 1/4 the outside diameter. The cradle shall have width at least equal to the outside diameter of the pipe barrel plus eight (8) inches. Backfill above the cradle and extending to 12 inches above the crown of the pipe shall be compacted carefully.
    - b. Concrete Arch - The pipe shall be embedded in a carefully compacted granular material having a minimum thickness of 1/4 the outside diameter between barrel and bottom of trench excavation and extending halfway up the sides of the pipe. The top half of the pipe shall be covered with monolithic plain or reinforced concrete arch having a minimum thickness of 1/4 the inside diameter at the crown and having a minimum width equal to the outside pipe diameter plus 8 inches.



2. Class B- First - Class Bedding - Class B bedding may be achieved by either of two construction methods.
    - a. Shaped Bottom with Tamped Backfill. The bottom of the trench excavation shall be shaped to conform to a cylindrical surface with a radius at least two (2) inches greater than the radius to the outside of the pipe and with a width sufficient to allow 6/10 of the width of the pipe barrel to be bedded in fine granular fill placed in the shaped excavation. Carefully compacted backfill shall be placed at the sides of the pipe to a thickness of at least 12 inches above the top of the pipe. Shaped trench bottoms shall be used only with the approval of the Engineer.
    - b. Compacted Granular Bedding with Tamped Backfill. The pipe shall be bedded in compacted granular material placed on a flat trench bottom. The granular bedding shall have a minimum thickness of 1/4 the outside pipe diameter and shall extend halfway up the pipe barrel at the sides. The remainder of the side fills and minimum depth of 12 inches over the top of the pipe shall be filled with carefully compacted, select material.
  3. Class C - Ordinary Bedding: Class C ordinary bedding may be achieved by either of two construction methods:
    - a. Shaped Bottom. The pipe shall be bedded with "ordinary" care in an earth foundation formed in the trench bottom by a shaped excavation which will fit the pipe barrel with reasonable closeness for a width of at least 50% of the outside pipe diameter. The side fills and area over the pipe to a minimum depth of six (6) inches above the top of the pipe shall be filled with lightly compacted fill. The shaped bottom bedding shall be used only with the approval of the Engineer.
    - b. Compacted Granular Bedding with a Tamped Backfill. The pipe shall be bedded in compacted granular material placed on a flat trench bottom. The granular bedding shall have a minimum thickness of four (4) inches under the barrel and shall extend 1/10 to 1/6 of the outside diameter up the pipe barrel at the sides. The remainder of the side fills and to a minimum depth of six (6) inches over the top of the pipe shall be filled with lightly compacted backfill.
  4. Class D - Class D bedding is not permissible. Flat bottom trench. In this class of bedding the bottom is left flat, and no care is taken to secure compaction of backfill at the sides immediately over the pipe.
- C. Granular pipe bedding material shall be well graded crushed stone or crushed gravel meeting the requirements of ASTM C33, Gradation 67 (3/4 inch to No. 4). A well-graded gravel meeting these same requirements can also be used.
- D. Where ledge rock, compact rocky or gravelly soil, or other unyielding foundation material is encountered, the pipes shall be bedded in accordance with the requirements of the foregoing classes of bedding, but with the following additions: The hard unyielding material shall be excavated to the elevation of the bottom of the concrete cradle (Class A bedding) or below the bottom of the pipe and the pipe bell (Class B or C bedding), to depth of at least six (6) inches (15cm). The width of the excavation shall be at least 5/4 the outside diameter of the pipe and it shall be refilled with granular material as identified above.

## 2.04 BRACING AND SHORING

- A. The Contractor shall do all bracing, sheeting, and shoring necessary to perform and protect all excavations as required for safety.

- B. Sheet piling driven alongside the pipe should be cut off and left in place to an elevation 1.5 feet above the top of the pipe.
- C. All other sheet piling shall be removed as directed by the Engineer.

#### 2.05 DEWATERING FOR EXCAVATION

- A. The Contractor shall pump or remove any water accumulated in any excavated area and shall perform all work necessary to keep excavations clear of water while foundations, structures or any masonry are being constructed or while pipe is being laid, or during demolition.
- B. No structure or pipe shall be laid in water, and water shall not be allowed to flow over or rise upon any concrete or masonry or piping until same has been inspected and the mortar or joint material has cured.
- C. All water pumped or bailed from the trenches or other excavation shall be conveyed in a manner to a point of discharge where it will neither cause a hazard to the public health, nor damage to the public or private property, or to work completed or in progress.

#### 2.06 BACKFILL

- A. The soil at the sides of a pipe and above it is the backfill.
- B. Prior to backfilling any excavation, all piping and structures, the Engineer and Governing Authority's Inspector shall be notified for observation.
- C. After pipes have been tested and approved, backfilling shall be done with approved material free from large clods or stones.
- D. Backfill shall be placed in uniform layers, four (4) inches thick, on both sides of the pipe and thoroughly compacted with pneumatic or hand tampers. The backfill shall be brought up uniformly on both sides of the pipe and compacted to an elevation of one (1) foot above the top of the pipe, after which the fill shall be placed in 8-inch lifts. No rock will be allowed in the backfill within a distance of one (1) foot from the pipe, and rock larger than six (6) inches in the greatest dimension will not be permitted in any part of the trench or backfill.
  - 1. Backfill shall be compacted to not less than 95% of the maximum dry weight per cubic foot as determined by AASHTO Method T-99 (Standard Proctor Test).
  - 2. The top 18 inches of backfill under any paved area shall be compacted to 100% Standard Proctor.
  - 3. Water settling will not be permitted in clay soils. It may be allowed at the option of the Governing Authority's Inspector and design engineer in sandy soils.

#### 2.07 REPLACING PAVEMENTS

- A. Subgrades shall be compacted with a mechanical tamper.
- B. The minimum width of replaced concrete pavements shall be four (4) feet at interiors and six (6) feet at joints and constructed as shown on Standard Details. Avoid cutting pavements at joints; if unavoidable, reconstruct same as original joint. Depth shall be equal to the original thickness. Existing pavement edges shall be cut vertical.
- C. Use high-early-strength cement if road is to be opened in less than 24 hours.

- D. The minimum width of replaced bituminous pavements shall be three (3) feet with 8-inch concrete patch. The existing pavement shall be cut vertically and horizontally to a straight line. The 8-inch concrete patch shall be minimum 3,000-psi concrete containing black dye and shall be flush with the existing pavement.
- E. The minimum width of replaced bituminous pavement with asphalt shall be three (3) feet with six (6) inches of concrete and two (2) inches of asphalt after the existing pavement is cut vertically and horizontally to a straight line.

SECTION 02540  
EROSION CONTROL

PART 1 - GENERAL

1.01 SCOPE

- A. The work specified in this Section consists of furnishing, installing, and maintaining temporary erosion controls and temporary sedimentation controls.
- B. All erosion and sediment control measures shall be in accordance with the existing Erosion and Sedimentation Control Ordinance of the governing authority.

1.02 DEFINITIONS

- A. Temporary erosion controls shall include grassing, mulching, watering, and reseeding on-site sloped surfaces, providing berms at the top of the slopes and providing interceptor ditches at the ends of berms and at those locations which will ensure that erosion during construction will be either eliminated or minimized.
- B. Temporary sedimentation controls shall include silt dams, traps, barriers, and appurtenances at the toe slopes and in drainage ways.

PART 2 - MATERIALS

- 2.01 Hay bales shall be clean, seed free cereal hay type, securely bound with wire or mylar cord.
- 2.02 Netting shall be 1/2-inch, galvanized steel chicken wire mesh.
- 2.03 Filter stone shall be crushed stone conforming to the Department of Transportation State of Georgia-Standard Specifications - Construction of Roads and Bridges -1983 or latest edition - Table 800.01 H, Size Number 3.

PART 3 - EXECUTION

3.01 SEDIMENTATION CONTROL

- A. Silt dams, traps, barriers, and appurtenances shall be installed and shall be maintained in-place for duration of construction.
- B. Hay bales shall be staked with two (2) 1X4 wood stakes per bale driven 18 inches into the ground and finishing flush with the top of the bale.
  - 1. Install two (2) stakes per bale with the long dimension of the stakes parallel to the long dimension of the bale.
  - 2. Where bales are installed in multiple layers the bales shall be installed with vertical joints staggered and two (2) 1 x 4 wood stakes per bale driven through all layers, full from top of bale to 18 inches into the ground.
  - 3. Hay bales that have deteriorated shall be replaced with new materials.

C. Silt Fence

1. Silt fence shall be installed in accordance with manufacture instructions. The bottom two (2) inches should be installed beneath the ground surface.
2. A small trench should be dug before installation. The silt fence should then be installed and the trench back filled.

D. Erosion and sedimentation controls shall be maintained in a condition that will retain unfiltered water.

E. The Contractor shall construct the sedimentation ponds and control devices prior to clearing and grubbing the site to insure complete silt control. When the silt or the debris level is greater than one (1) foot above the bottom of the pond, the Contractor shall remove the silt or debris to restore the proper elevation for the bottom of the pond.

F. The Contractor shall have all erosion and sedimentation control devices in service and operating properly prior to completion and final acceptance of the contract.

3.02 RESPONSIBILITY

A. The Contractor shall be solely responsible for insuring that no silt or debris leaves the immediate construction site. Any silt or debris that does leave the immediate site shall be cleaned up and the area disturbed shall be returned to its natural state as directed by the City Inspector at the Contractor's expense.

B. The Contractor has the option to submit additional control measures in the form of shop drawings.

SECTION 02555  
WATER DISTRIBUTION SYSTEM

PART 1 - GENERAL

1.01 REFERENCE STANDARDS

A. American Water Works Association (AWWA):

- C500 Gate Valves 3" - 48" for Water and Other Liquids
- C502 Dry-Barrel Fire Hydrants
- C600 Installation of Cast Iron Water Mains
- C601 Disinfecting Water Mains
- C800 Threads for Underground Service Line Fittings
- C900 Polyvinyl Chloride (PVC) Pressure Pipe and Fabricated Fittings, 4 In. Through 12 In. (100 mm Through 300 mm), for Water Transmission and Distribution.
- C901 Polyethylene (PE) Pressure Pipe and Tubing, 1/2 In. (13 mm) Through 3 In. (76 mm), for Water Service.
- C905 Polyvinyl Chloride (PVC) Pressure Pipe and Fabricated Fittings, 14 In. Through 48 In. (350 mm Through 1,200 mm), for Water Transmission and Distribution.

B. American National Standards Institute (ANSI):

- A-21.10 Gray-Iron and Ductile Iron Fittings, 2"-48" for Water and Other liquids
- A-21.11 Rubber Gasket Joints for Cast Iron and Ductile Iron Pressure Pipe Fittings
- A-21.4 Cement Mortar Lining for Cast Iron and Ductile Iron Pipe and Fittings for Water
- A-21.51 Ductile Iron Pipe, Centrifugally Cast in Metal or Sand-Lined Molds, for Water or Other Liquids
- B-18.2 Square and Hex-Head Bolts and Screws

C. American Society of Testing and Materials (ASTM):

- A-47 Malleable Iron Castings
- A-48 Gray Iron Casting
- A-88 Seamless Copper Water Tube
- A-240 Chromium and Chromium-Nickel Stainless Steel Plate Sheet and Strip for Fusion-Welded Unfired Pressure Vessels
- A-307 Low Carbon Steel Externally and Internally Threaded Standard Fasteners
- D-1784 Rigid Poly (Vinyl chloride) Compounds, and Chlorinated Poly (Vinyl Chloride) Compounds

D-2239 Polyethylene (PE) Plastic Pipe (SDR-PR)

D-2241 Poly Vinyl Chloride (PVC) Plastic Pipe (SDR-PR and Class T)

D-3139 Joints for Plastic Pressure Pipe Using Flexible Elastomeric Seals

D. Rule for Safe Drinking Water, Georgia State EPD: Chapter 391-3-5

#### 1.02 DESCRIPTION

- A. All valves of the same type shall be from a single manufacturer. Parts for valves of the same type and size shall be interchangeable. Spare parts shall be furnished where required in the payment items. Special tools required for repacking or disassembling valves shall be provided.
- B. All valves shall open left (counter-clockwise).
- C. Any pipe, pipe fittings, plumbing fittings or fixtures, solder, or flux used in the installation or repair of a public water system must meet the new definition of lead free meaning: (a) not containing more than 0.2 percent lead when used with respect to solder; and (b) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

#### 1.03 SUBMITTALS

- A. Six copies of manufacturer's drawings and catalog cuts of the following items shall be submitted for approval of the Design Engineer:
  - 1. Pipe
  - 2. Fittings
  - 3. Joints and Couplings
  - 4. Hydrants
  - 5. Valves

#### 1.04 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Materials delivered to site shall be inspected for damage, unloaded, and stored with the minimum of handling. Store materials on site in enclosures or under protective coverings. Store plastic piping and rubber gaskets under cover and protect from exposure to direct sunlight. Store materials above ground. Interior of pipe and fittings shall be kept free of dirt and debris.
- B. Pipe, fittings, valves, hydrants, and other accessories shall be handled to insure delivery to the point of installation in sound undamaged condition. If coatings or linings of pipe or fittings are damaged, such pipe or fittings shall be removed from the site and new materials furnished. Pipe shall not be dragged. Rubber gaskets that are not installed immediately shall not be left in the sunlight but shall be stored under cover and protected from exposure to direct sunlight.

## PART 2 - PRODUCTS

All materials that come into contact with the drinking water during its treatment, storage, transmission or distribution shall not adversely affect drinking water quality and public health and must be certified for conformance with American National Standards Institute/National Sanitation Foundation Standard 61 (ANSI/NSF Standard 61)

### 2.01 POLYVINYL CHLORIDE PIPE (PVC)

- A. Polyvinyl chloride water main pipe shall comply with AWWA C900, Class 235.
- B. Pipe shall have integral bell and spigot joints. Provisions shall be made for contraction and expansion at each joint with an elastomeric ring. Threaded or solvent welded type joints shall not be used.
- C. The Contractor shall install a continuous run of 14-gauge copper tracer wire with underground coating above the top of the PVC pipe 12 inches above the pipe but no deeper than 48 inches below finished grade. The tracer wire shall be suitable for detection with metal pipe location equipment.
- D. Pipe shall carry National Sanitation Foundation (NSF) seal and be factory marked with manufacturer's identification, pipe size, material, and pressure rating.

### 2.02 DUCTILE IRON PIPE

- A. Ductile iron pipe shall conform with the requirements of ANSI Standard A21.51 and shall be of the thickness classes shown below:

NORMAL PIPE DIAMETER	THICKNESS CLASS
4"	51
6"	50
8"	50
10"	50
12"	50
16"	50
18"	50

Class designations for the various classes of pipe shall be painted on the outside of each joint of pipe. Weights shall be conspicuously painted in white on each joint of pipe after the bituminous coating has hardened.

- B. All joints shall have the same pressure rating as the pipe with which it is used. Joints shall be rubber gasketed push on or mechanical joint. Joints shall meet the requirements of ANSI A21.11.
- C. Pipe shall be coated inside and out with one mil. thick bituminous coating conforming to ANSI A21.4. The interior shall be lined with a cement mortar lining conforming to ANSI/AWWA C104/A21.4.

### 2.03 GALVANIZED STEEL PIPE

- A. This pipe and fittings shall conform to the requirements of ASTM A120. The pipe shall be "standard weight", unless otherwise specified.



## 2.04 PLASTIC TUBING

- A. Plastic pipe shall conform to all the requirements of the "Specifications for Polyethylene (PE) Plastic Pipe (ADR-PR)", as they apply to PE 3306 of ASTM D2239.
- B. The hydrostatic design stress shall be 630 psi for water at 23° centigrade (73.4° F) and 500 psi for water at 37.8° C (100° F).
- C. The polyethylene extrusion compound from which the pipe is extruded shall meet the requirements of Type III, Grade 3, Class C material as described in "Specification for Polyethylene Molding and Extrusion Materials", ASTM D1248, except that melt index shall be determined under a higher temperature than any of the conditions as listed in Section 6(b) of "Method of Test for Measuring Flow Rates of Thermoplastics by Extrusion Plastometer", ASTM D1238. The test condition shall be the same as for condition J, except that the temperature shall be 310° C (590° F), with a load of 12-5 kilograms. Under these conditions the resin shall extrude at a maximum rate of 0.25 grams per ten minutes. The pipe shall be homogeneous throughout and free of visible cracks, holes, foreign inclusions, or other defects. The pipe shall be uniform in color, capacity, density, and other physical properties.
- D. The size, the type of plastic pipe material, dimension ratio, commercial standards with which the pipe complies, the manufacturer's name and the National Sanitation Foundation (NSF) seal of approval, shall be conspicuously marked on the outside of the pipe at intervals of not more than five (5) feet.

## 2.05 FITTINGS

- A. Ductile iron mechanical joint fittings shall conform to the requirements of ANSI A21.10. The fittings shall be of the lightest class conforming to the pressure rating of the pipelines in which they are installed, in no case shall the fittings be lighter than class 200.
- B. Fittings for galvanized steel pipe shall be malleable iron conforming to ANSI B16.3 except the nipples and couplings shall be the same material as the pipe. All fittings shall be hot-dip galvanized in accordance with ASTM A120.
- C. The mechanical joint shall meet the requirements of ANSI A21.11 and shall have the same pressure rating as the fitting of which it is a part.
- D. Fittings shall be coated inside and out with one mil. thick bituminous coating conforming to ASNI A21.4.

## 2.06 HYDRANTS

- A. All fire hydrants shall conform to AWWA C502.
- B. All fire hydrants shall have a 6-inch mechanical joint in-let connection and be equipped with a 5-1/4-inch valve, two 2-1/2-inch hose nozzles and one 4-1/2-inch pumper connection, all with ANSI (National) standard threads. Operating nuts shall be 1-1/2-inch, pentagon type.
- C. All fire hydrants shall be equipped with "O" ring type stem seals.
- D. All fire hydrants shall be designed for 150 psi working pressure and 300 psi test pressure.
- E. All fire hydrants shall be equipped with a 6-inch gate valve, complying with other sections of the specifications, installed on the fire hydrant lead between the hydrant and the main.

- F. The Contractor shall paint the hydrant with XO-14 Tractor Red (Federal Safety Color) paint.
- G. All fire hydrants shall be designed such that clockwise rotation of the stem closes the valve and counterclockwise rotation opens the valve. Hydrant covers shall have the word "Open" and an arrow showing the proper rotation of the operating nut cast in or permanently attached.
- H. An independent drain shall be provided, completely draining the hydrant after use. The drain shall be activated to the open position by the closing of the hydrant valve. The drain rod shall be easily cleaned. The drain shall have a protective shield integral with the hydrant base to minimize clogging and prevent undermining.
- I. All working parts of the hydrant shall be easily removed for inspection or servicing without digging or the use of hoists or derricks or special tools. The hydrant cover and stand pipe shall be removable without requiring the water to be shut off.
- J. Each fire hydrant shall be equipped with a ground line mounted breakaway flange and cast iron safety stem coupling specially designed so that upon sustaining severe impact the hydrant will shear off at the ground line without loss of water in the main.
- K. All fire hydrants shall be Mueller standard or equal as approved by the Governing Authority's Inspector.

#### 2.07 METERS

- A. All meters shall be approved first line product of recognized manufacturer and shall be compatible with the meter reading system currently being used by the Governing Authority.
- B. Meters, meter materials and meter test shall conform to applicable AWWA Specifications and shall meet or exceed current AWWA Specifications.
- C. Each meter shall have manufacturers serial number on the lid.
- D. All body parts as cases, boxes and lids shall be of bronze composition.
- E. Meters shall be split case, positive displacement type.
- F. The register shall read in U.S. Gallons and shall be hermetically sealed and driven by permanent magnets.

#### 2.08 METER BOXES

- A. The meter box shall be the approved standard product used by the Governing Authority.
- B. They shall be rectangular and of adequate dimension to accommodate the specified meters.
- C. Boxes shall have cast iron or heavy plastic covers labeled "WATER METER".
- D. Boxes for 5/8-inch by 3/4-inch meters shall have inside width not less than 10 inches, inside length not less than 15 inches and overall height not less than 12 inches.
- E. Boxes shall be designed and built to withstand traffic loads typical of yard installations.

#### 2.09 VALVES

- A. All valves two (2) inches in diameter and smaller shall be constructed of brass or bronze except that the hand wheel which shall be of malleable iron construction with screwed ends. All

valves 2-1/2 inches in diameter and larger shall have flanged ends for interior service and mechanical joints for buried service unless otherwise approved. They shall be iron body, bronze mounted, except that in the smaller sizes the valves may be all bronze.

B. Gate Valves:

1. Gate valves smaller than three inches shall meet the requirements of Fed. Spec. WW-V-54, Class A, 125 pounds.
2. Gate valves three inches and larger shall have nonrising stems and shall meet the requirements of AWWA Standard C-500. Valves for lighter pressures than the AWWA Standard shall meet the requirements of the above specifications except that the requirements for metal thickness and strengths and structural designs shall be adjusted as required to meet hydrostatic test pressures not less than 150 psi.
3. All gate valves shall have standard stuffing box seals. Bonnet bolts, studs and nuts shall be cadmium plated. Seating devices shall be bronze to iron or bronze to bronze. The glands shall be bronze or bronze bushed. Gland bolts and nuts shall be bronze.
4. All gate valves 2-1/2 inches in diameter and larger shall be of the double disc type. All gate valves two inches in diameter and smaller shall be of the double disc or the solid wedge type.
5. Valves to have two (2) inches square operating nut, with the exception that gate valves in altitude valves pits shall have hand wheels.
6. Valves buried in ground or located in vaults or structures shall have suitable extensions for socket operation with top of operating nut located two (2) feet below finished grade maximum.

C. Check Valves:

1. Check valves two (2) inches through 24 inches shall be iron body, bronze mounted swing check valves meeting the requirements of AWWA Standard C508-76.
2. The check valve shall be metal to metal or composite to metal seat construction with flange ends or screw and coupled ends.

D. Altitude Valves:

1. All altitude valves furnished for use on this project shall be equipped for showing at all times the position of the valve. Said altitude valves shall be of the size specified on the drawings and suitable for the use intended.
2. The Contractor shall supply the services of a qualified manufacturer's representative to check and calibrate each altitude valve installation for proper working pressure and sequence.

E. Air Release Valves

1. Air release valve shall have all bronze body and bonnet. They shall be the direct acting type.
2. Valves shall be hydrostatically tested to at least 150 psi.
3. The valve shall have stainless steel floats and an internal coating with rust inhibitors.

## 2.10 BACKFLOW PREVENTERS

- A. The back flow preventers used shall be those specifically designed for use in connections when the danger from back flow presents a health hazard.
- B. All back flow preventers shall be of the reduced pressure type.
- C. Back flow preventers 3/4 inches to two (2) inches shall be Hersey, Model FRPII or equal meeting or exceeding the following specifications:

Mainline Case	Bronze
Working Parts	Bronze & Stainless Steel
Springs	Stainless Steel
Diaphragms	Buna N and Mylar
Valve disc	Silicone Rubber
O Ring	Buna N
Check Valve Enclosure	Glass Reinforced Plastic
Maximum Rated Working Pressure	150 psi
Temp. Range	33° - 210°F

- D. Back flow Preventers 2-1/2 inches to 10 inches shall be Model 6CM or equal meeting or exceeding the following specifications:

Body 8"-10"	Hot Dipped Galvanized or Epoxy Coating
Body 2½"-6"	Bronze
Working Parts	Bronze & Stainless Steel
Springs 2½"-6"	Stainless Steel
Springs 8"-10"	Vinyl Coated Carbon Steel
Diaphragms	Reinforced Elastomer
Valve Disc	Silicone Rubber
Maximum Rated Working Pressure	175 psi
Temp. Range	33° - 140°F

- E. Back flow preventers larger than 10 inches shall be designed for conditions that do present a health hazard. It shall be the reduced pressure type and depending on the application, may require detection of leaks or unauthorized use. Detectors above 10 inches shall be submitted for approval. The submittal shall include complete shop drawings. The submittal will be reviewed based on the product's ability to meet the needs of the project.

## PART 3 - EXECUTION

- A. All valves shall be carefully mounted in their respective positions free from distortion and strain. All valves shall be properly packed and left in satisfactory operating condition at the completion of the project.
- B. Valve box and cover shall be installed with each valve as shown in miscellaneous details.

## 3.01 PIPE INSTALLATION

- A. PVC pipe shall be installed in accordance with the Uni-Bell Plastic Pipe Association guide for installation of polyvinyl chloride plastic pressure pipe for municipal water main distribution system and the printed recommendations of the manufacturer.
- B. Ductile iron pipe shall be installed in accordance with AWWA C600.

- C. Pipeline alignment and gradient shall be straight or shall follow true curves as near as practicable. Curvature in pipelines, where required, shall be well within the allowable laying radius, horizontal and vertical.
- D. Excavation, cleaning, laying, jointing and back filling shall follow as closely as is possible so as to progress the work. In no case shall pipe be left in the trench overnight without completing the jointing. The completed pipeline shall not be left exposed in the trench unnecessarily, and the Contractor shall backfill and compact the trench as soon as is possible after laying and jointing is completed. Each day at the close of work, and at all times when laying is not in progress, the exposed end of the pipeline in the trench shall be closed with a head or barrier of wood or metal. If at any time it becomes necessary to cover the end of any uncompleted pipeline with backfill, the end of that pipe shall be closed with a mechanical joint plug.
- E. The Contractor shall keep exposed ends of pipe properly plugged during laying to prevent dirt and other materials from entering the line, and shall also, before the system is accepted, thoroughly clean all lines.
- F. Thrust Blocks (Reaction Blocking) shall be provided as specified AWWA C600. All exposed pipes, valves, hydrants, etc., shall be securely strapped and all ends and bends braced.
- G. Other means of pipe restraining shall include "mega lug" utilization and all threads bolted through fittings in accordance with AWWA C600.
- H. Mechanical joints shall be made only by experienced mechanics. Sockets and spigots shall be washed with soapy water before slipping gland and gasket over spigot. The spigot shall be inserted in the socket full depth. The gasket shall be brushed with soapy water and pushed into position making sure the gasket is evenly seated in the socket. The gland shall then be properly positioned for compressing the gasket. All bolts and nuts shall be tightened with a torque wrench to a uniform, permanent tightness. Bolts shall be tightened alternately 180 degrees apart. Sockets, spigots, glands and bolts shall be kept clean and wet with soapy water until each joint is completed.
- I. All water distribution mains shall have a minimum 36 inches of cover.

### 3.02 FIRE HYDRANT INSTALLATION

- A. All fire hydrants shall have 36 inches minimum pipe cover provided for the branch supply line.
- B. Each fire hydrant shall be set on a stable foundation at least 18 inches square and six (6) inches thick and shall be blocked against the end of the trench with concrete and anchored.
- C. Hydrant drainage shall be provided by installing around the hydrant at least seven (7) cubic feet of gravel or crushed stone below the top of the hydrant supply pipe.
- D. The barrel of the fire hydrant shall be set plumb (perpendicular to the ground) with the lowest discharge outlet at least 15 inches high but no higher than 24 inches above finished grade. No fire hydrant shall be installed within 10 feet of any private driveway. Hydrants shall be located no closer than five (5) feet of a curbing and no further than 12 feet of the curbing.
- E. Immediately before installation of a hydrant, the following operations shall be performed:
  - 1. The hydrant shall be thoroughly inspected.
  - 2. The hydrant interior shall be thoroughly cleaned.

3. The hydrant shall be opened and closed to determine that all parts are in proper working order, with valves seating properly and the drain valve operating freely.

### 3.03 HYDROSTATIC TEST

- A. Pressure and leak test shall be performed in accordance with the latest edition of AWWA Standard C600. Upon completion of back filling operations and not less than seven (7) days after the last concrete blocking anchor has been poured, the pipe system shall be subject to hydrostatic test.
- B. The system shall be filled with water and all air expelled.
- C. The Contractor shall pressurize the system to 150 pounds per square inch at the highest point in the system.
- D. The test pressure shall be maintained for two (2) hours.
- E. If the pressure cannot be maintained, the cause shall be determined, corrected, and test repeated until successful.

### 3.04 LEAKAGE TEST

- A. Following the pressure test, the system shall be subject to a leakage test. Pressure and leak test shall be performed in accordance with the latest edition of AWWA Standard C600.

### 3.05 DISINFECTION

- A. Disinfection of the new mains and the disposal of the heavily chlorinated water, following the disinfection, shall be accomplished in accordance with the latest edition of AWWA Standard C651. Water mains and accessories shall be disinfected in accordance with "Rules for Safe Drinking Water" as published by the Georgia Environmental Protection Division.
- B. The chlorine solution used for disinfection of water mains shall have a free chlorine residual concentration not less than 25 mg/L. This heavily chlorinated water shall be retained in the main for at least 24 hours, during which time all valves and hydrants shall be operated to ensure disinfection of the appurtenances. At the end of the 24-hour period, the treated water in all portions of the main shall have a residual of not less than 10 mg/L free chlorine. Re-chlorinate is required results are not obtained on all samples.
- C. The mains shall be flushed before disinfecting by maintaining a velocity of at least 2.5 feet per second for a period of ten minutes.
- D. The continuous feed method may be used for any size main or system where satisfactory quantity and quality water is available. The tablet method shall not be acceptable.
- E. Following disinfection, the system shall be flushed until chlorine concentration is less than one (1) milligram per liter.
- F. Bacteriologic Tests:
  1. Tests shall be performed to detect the presence of coliform organisms on samples taken from the end farthest from the point at which chlorine was introduced into the system and at 1,000-foot intervals.
  2. If unsatisfactory samples are produced, disinfection shall be repeated until samples are satisfactory.

SECTION 02616  
PAVEMENT REPAIR AND RESURFACING

PART 1 – GENERAL

1.01 DEFINITION

- A. When used in this section, the term "Standard Specifications" shall mean the DEPARTMENT OF TRANSPORTATION, STATE OF GEORGIA STANDARD SPECIFICATIONS FOR CONSTRUCTION OF ROADS AND BRIDGES, 1983 Edition or later edition, unless amended herein.

1.02 DESCRIPTION

- A. Related Work Specified Elsewhere:
  - 1. Trench Excavation, Backfill and Compaction Section 02221.

PART 2 – PRODUCTS

2.01 MATERIALS

- A. Base: Granular material to meet the following gradation:

<u>SIEVE SIZE</u>	<u>PERCENT PASSING BY WEIGHT</u>
1-1/2"	100
3/4"	60-100
10	30-55
60	8-35
200	5-20

- B. Concrete: 3000 psi compressive strength
- C. Prime Coat: RC-70 Georgia DOT Specifications
- D. Asphalt Surface Course: Asphaltic Concrete, Type E or F, Georgia DOT Specifications as shown on the plans.

PART 3 – EXECUTION

3.01 CONCRETE PAVEMENT REPLACEMENT (DRIVEWAYS)

- A. Existing pavement shall be removed to a minimum of 12 inches on either side of the trench.
- B. Following trench back filling and compaction, the depth of concrete pavement replaced shall match the existing pavement or shall be a minimum of six (6) inches thick, whichever is greater.
- C. Joints and finish of the slab shall match existing pavement.
- D. Pavement replacement for each driveway shall be accomplished with one (1) pour. Deviation must be approved by the Engineer.
- E. All joints shall have waterproof sealer to avoid water intrusion and deterioration of the patch.

### 3.02 CONCRETE PAVEMENT REPLACEMENT (ROADWAY)

- A. Existing pavement shall be removed to a minimum of 12 inches on either side of the trench.
- B. A minimum 8-inch concrete slab containing black dye in the top two (2) inches (minimum) shall be placed extending 12 inches on either side of the trench and on undisturbed soil.
- C. Depth of concrete pavement replaced shall match the existing pavement or shall be a minimum of eight (8) inches thick, whichever is greater.
- D. Joints and finish of the slab shall match existing pavement. Joints shall have expansion material between old and new paving.
- E. All slabs shall be installed in one (1) pour unless directed otherwise by the Engineer. If construction joints are required, measures must be taken to avoid deterioration of the patch later by water intrusion.

### 3.03 ASPHALT PAVEMENT REPLACEMENT

- A. Existing pavement shall be removed to a minimum of 12 inches on either side of the trench.
- B. Granular base material shall be placed to a minimum depth of eight (8) inches and compacted to 95% maximum dry density following trench back filling and compaction.
- C. If so directed by the Engineer the base shall be a 6-inch concrete slab extending 12 inches on either side of the trench and on undisturbed soils, then a 2-inch asphalt surface course shall be placed after a prime coat is applied to the concrete slab at the rate of 0.25 gallons per square foot to bring the paving to grade.

### 3.04 MAINTENANCE OF SURFACE

- A. Pavement damage due to settlement of backfill: Repair for period of one (1) year.
- B. Depressions more than six (6) inches deep in aggregate surfaced areas: Fill to grade for period of three (3) months.

### 3.05 TESTING

- A. Certified laboratory reports shall be required to ensure the subgrade has been compacted to 95% and the base compacted to 100% standard proctor.



SECTION 02821  
GRASSING

PART 1 – GENERAL

1.01 APPLICABLE STANDARDS

- A. Conform to Section 700 and other applicable articles of the "Standard Specifications Construction of Roads and Bridges", of the Department of Transportation, State of Georgia, dated September 15, 1977. Omit all references to measurement and payment.

1.02 SOIL SAMPLES

- A. The Contractor shall take soil samples from several areas of the site to be grassed and have them analyzed by the Georgia Extension Service. The results of the analysis shall determine the best fertilizer mixture to use on the site.

PART 2 – MATERIALS

2.01 FERTILIZER

- A. Commercial Fertilizer: Fertilizer for lawns shall be a complete fertilizer, the nitrogen content of which shall be derived from either organic or inorganic sources and meeting the following minimum requirements of plant food by weight, unless the soil analysis and report indicates a need for a different fertilizer mixture in which case the recommended mixture shall be furnished and applied. All State and Federal laws relative to fertilizer must be complied with.

10% Nitrogen - 12% Phosphoric Acid - 12% Potash

- B. Ground Limestone: Lime shall be ground dolomitic limestone containing not less than 85% of total carbonates and shall be ground to such fineness that 50% will pass through a 20-mesh sieve. Coarser material will be acceptable, provided the specified rates of application are increased proportionately on the basis of quantities passing the 100-mesh sieve.
- C. Sodium Nitrate shall be a commercial product in dry powder form and shall be delivered in the original, unopened containers each bearing the manufacturer's guaranteed statement of analysis. It shall contain not less than 16% Nitrogen.

2.02 LAWN MATERIALS

- A. Kentucky 31 Fescue (Fescue elatior: var. arundinacea): Seed shall be 98% min. purity and 85% germination.
- B. Bermuda Grass (Cyanodon Dactylon): Seed shall be 98% min. purity and 85% germination.

2.03 PREPARATION

- A. Prepare the seed bed by thoroughly cultivating discing and hand raking as necessary to produce a smooth even grade free from hollows or other inequalities. Before any seeding is attempted the soil must be in a well pulverized, smooth, friable condition of uniformly fine texture.

2.04 FERTILIZING AND LIMING

- A. Approximately two (2) days prior to the start of seeding operations, apply ground limestone at the rate of 20 pounds per 1,000 square foot of lawn area. Either in conjunction with the above

operation or immediately afterwards apply the specified Commercial Fertilizer over all lawn areas at the rate of 30 pounds per 1,000 square feet of lawn area. Work limestone into the top six (6) inches of ground and the fertilizer into the top two (2) inches of ground.

2.05 When the grass has started to cover well (approximately four (4) weeks after sowing seed) apply 1-1/2 pounds of Ammonium Nitrate to all lawn areas and immediately water using a fine spray. At the end of the maintenance period and prior to the final inspection apply 10 pounds of the specified Commercial Fertilizer per 1,000 square feet of lawn area and immediately water.

#### 2.06 SEEDING

A. Before any seeding is attempted the soil must be in a well pulverized, smooth, friable condition of uniformly fine texture. Lawn areas shall be seeded evenly with a mechanical spreader at the rate of two (2) pounds of seed per 1,000 square feet, 50% in one (1) direction and the remainder sown at right angles to first sowing. The seeded areas shall be lightly raked, rolled with a suitable weight roller and watered with a fine spray.

#### 2.07 WATERING

A. Soak soil to a minimum depth of six (6) inches immediately after seeding. Do not wash away soil or seed. Keep all surfaces continuously moist thereafter until 30 days after the lawn has been seeded. Use fine spray nozzles only.

2.08 Fescue planting season shall be as approved by Engineer.

2.09 Bermuda Grass seeding shall be planted only between May 1 to September 1.

2.10 Maintenance of grass areas shall consist of watering, weeding, cutting, repair of any erosion and reseeding or resodding as necessary to establish a uniform stand of the specified grasses and shall continue until final acceptance.

2.11 All grassed areas that do not show satisfactory growth within 15 days after sowing shall be re-sown and re-fertilized as directed until a satisfactory blanket is established. Approximately three (3) weeks after sowing the last seed, but not before the seed has taken hold and the grass is growing well, apply sulfate of ammonia or sodium nitrate at the rate of 300 pounds to the acre and water immediately. The lawns shall be considered established when they are reasonably free from weed, green in appearance and the specified grass is vigorous and growing well on each square foot of lawn area. Full coverage is required in 60 days.

2.12 All grassed areas shall be protected until accepted. All eroded and damaged areas, regardless of cause, shall be immediately repaired and reseeded. Protect lawn areas against traffic.

2.13 Grassed areas shall be covered evenly with a loose layer of clean wheat, rye, oats, Serecia Lespedeza, or Coastal Bermuda Hay. Two (2) tons of dry mulch shall be applied to each acre seeded. Hay shall be placed during calm weather with no wind.

2.14 As soon as the grass becomes established, a final inspection of the work will be made, provided a written request for such inspection is given to the Engineer. Satisfactory coverage is defined as coverage of the areas seeded with grass that is alive and growing, leaving no bare spots larger than one (1) square foot with 98% coverage.

2.15 When grassing is required between curbs and sidewalks, behind sidewalks in areas adjacent to private property, the Engineer may change the type of seeding to that required to match any type of grass which may be planted and growing on the adjacent lawn. No increase in the Contract Sum will be made for this substitution.

2.16 All temporary valves, cutoffs, and piping shall be removed by the Contractor at final acceptance of the grassing.

SECTION 02850  
RAILWAY AND HIGHWAY CROSSINGS

PART 1- GENERAL

1.01 APPLICABLE STANDARDS

A. American Water Work Association (AWWA):

C200 Steel Water pipe, 6 in. and larger

C203 Coat-Tar Protective Coatings and Linings for Steel Water Pipelines-Enamel and Tape-Hot Applied

C206 Field welding of steel water pipe

B. American Railway Engineering Association (AREA):

1-4-13 Bituminous Coated Corrugated Metal Pipe and Arches

1-4-19 Jacking Culvert Pipe through fills

1-5 Pipelines

C. Department of Transportation, State of Georgia, Standard Specifications for Construction of Roads and Bridges, 1983 Edition or latest edition.

Section 615 Jacking or Boring Pipe

1.02 RAILROAD CROSSINGS

A. Utility crossings shall be made in strict accordance with the applicable sections of the American Railway Engineering Association Specifications and the specifications of the Owner of the railway being crossed. The Railway Engineer shall be notified prior to beginning construction. Construction shall not commence before such permits are acquired.

B. Railroad crossings shall be either carrier pipe encased in a larger bored or jacked casing pipe or as directed by the Engineer.

1.03 HIGHWAY CROSSINGS

A. Utility crossings shall be made in strict conformance with all applicable sections of the State Department of Transportation, State of Georgia, Specifications. The District Highway Engineer shall be notified prior to beginning construction.

B. The Owner will acquire all the necessary permits prior to beginning construction. Construction shall not commence until all permits are acquired.

C. Highway crossings shall be by one of the following methods:

1. Boring
2. Jacking
3. Tunneling

PART 2 - EXECUTION

2.01 METHODS OF INSTALLATION

- A. Boring or Jacking shall be in accordance with AREA 1-4-19 and 1-5, DOT Specification 615 and as follows:
  - 1. Bored or jacked installation, approved by the City and the Design Engineer, shall have a bored hole diameter essentially the same as the outside diameter of the encasing pipe plus the protective coating thickness. If the bored hole diameter is greater than the outside diameter of the pipe, including the thickness of the coating by more than one (1) inch, or if voids should develop during the operation and are determined to be detrimental to the work then the voids shall be pressure grouted with an approved mix.
  - 2. The carrier pipe shall be as shown on the plans. If the carrier pipe is steel without casing then the pipe shall be designed to the maximum continuous length possible, thickness, and size according to the application needed. The aforementioned steel shall comply with AWWA C 200 and shall be lined and coated in accord with AWWA C 203, subject to the approval of the Engineer. Adapters shall be provided between steel pipe and pipe of other materials.
  - 3. All casing pipe shall be steel, fully bituminous coated in accordance with AREA 1-4-13. Metal thickness shall be as follows.

MINIMUM WALL THICKNESS FOR STEEL CASING PIPE

Nominal Thickness Inches	Nominal Diameter Inches
0.250	18 and under
0.281	20
0.312	22
0.344	24
0.375	26
0.406	28 and 30
0.438	32
0.469	34 and 36
0.500	38, 40 and 42

- 4. Steel casing pipe shall conform to the AWWA C200. Steel casing pipe shall be of maximum length possible for the applications intended and shall be welded in conformance with AWWA Specification C206. Steel casing pipe shall be at least two (2) inches greater than the largest outside diameter of the carrier pipe including bells, lugs, etc., for carrier pipe less than six (6) inches in diameter; and at least four (4) inches greater for carrier pipe six (6) inches and over in diameter.
- 5. Casing pipe shall be jacked or bored in place with allowances made for lines and gradients of the carrier pipes. After the casing pipe is installed the carrier pipe shall be installed within it to the exact line and gradient.
- 6. When the carrier pipe has been installed and securely anchored inside the casing pipe, the ends of the casing shall be plugged with a masonry plug.
- 7. Construction effort shall not cease when such cessation might tend to harm the total crossing effort. Protective measures shall be taken to protect the railroad and highway as well as the crossing pipe. Pipe work and tunnels shall be protected at the end of each working day against the weather and any other danger.

B. TUNNELING

1. The Contractor must supply the City and Design Engineer, in advance, the method of tunneling for approval prior to any tunnel construction.
2. Tunneling shall only be done after receiving written permission by the City and Design Engineer.

SECTION 03300  
CONCRETE GENERAL

PART 1 - GENERAL

1.01 QUALITY STANDARDS

A. Any procedure and material operation specified by reference to the following publications shall comply with the requirements of the current specification or standard:

1. American Society for Testing Materials (ASTM):

- A185 Welded Steel Wire Fabric for Concrete Reinforcement.
- A615 Deformed Billet-Steel Bars for Concrete Reinforcement.
- C31 Method of Making and Curing Concrete Compression and Flexure Test Specimens in the Field.
- C33 Specification for Concrete Aggregate.
- C39 Compressive Strength of Molded Concrete Cylinders.
- C94 Specification for Ready-Mixed Concrete.
- C143 Slump of Portland Cement Concrete.
- C150 Portland Cement
- C172 Sampling Fresh Concrete
- C192 Making and Curing Concrete Test Specimens in the Laboratory.
- D1751 Preformed Expansion Joint Fillers for Concrete Paving.

2. American Concrete Institute:

- ACI 301 Specification for Structural Concrete for Buildings.
- ACI 305 Recommended Practice for Hot Weather Concreting.
- ACI 318 Building Code Requirements for Reinforced Concrete.
- ACI 350 Sanitary and Water Holding Structure.

1.02 QUALITY CONTROL

A. The Contractor shall submit to the Engineer, for review a design mix for each class of concrete listed under CLASSES OF CONCRETE, prior to placing any concrete.

B. Verification tests of design mixes and aggregates are required by the Engineer. Verification test specimens shall be made in accordance with ASTM C39 by an Independent Test Laboratory. Compressive strength shown by verification tests shall be at least fifteen percent in excess of the strengths listed under CLASSES OF CONCRETE. The Independent Testing Laboratory shall report the test results to the Engineer, in writing and shall note any failure to meet the specification.

- C. Verification tests of design mixes made not more than one year prior to the date of submittal will be acceptable provided they were made from materials identical to those to be used in the project.
- D. Mill Test: Conducted in accordance with ASTM A615 recommendations on each 15 tons, or less reinforcing shipped to the job. Two (2) copies of test to be sent to the Engineer.
- E. Inspection and Testing of Concrete:
1. The cost of slump tests and sampling, molding, storing, materials, transporting concrete test specimens shall be paid by the Contractor. The laboratory or inspection agency shall be selected by the Owner. Costs of all laboratory testing services required because of failure to meet the requirements of these specifications shall be paid by the Contractor.
  2. One (1) set of four (4) acceptance cylinders shall be prepared for each day's placing of each strength of concrete and if more than 50 cubic yards of concrete is placed in any day, there shall be an additional set of cylinders prepared for each 50 cubic yards placed or for any fraction thereof. One cylinder shall be broken at seven (7) days and two (2) at 28 days, with one (1) cylinder held in reserve.
  3. Responsibilities in Inspection:
    - a. Laboratory's Duties:
      - i. The reception and marking of specimens in the laboratory, laboratory curing, preparation for breaking and testing of cylinders shall be the responsibility of the laboratory and shall be performed by qualified laboratory personnel, observing all requirements of applicable ASTM Standards. Compression test specimens shall be tested in accordance with ASTM C39.
      - ii. Prior to the commencement of concrete work, the laboratory shall provide initial instruction in the performance of sampling and testing duties for an employee designated by the Contractor and shall provide him with copies of all ASTM Standards pertinent to his duties.
    - b. Contractor's Duties:
      - i. The Contractor shall deliver to the laboratory all materials to be used in required testing. He shall supply wheelbarrows, shovels, mixing boards, shaded workspace and similar equipment required for molding test cylinders. He shall provide stable, insulated storage boxes, equipped with thermostatically controlled heat, for storage of cylinders in the first 24 hours after molding.
      - ii. He shall designate an employee, who alone shall perform all operations of sampling concrete, molding test specimens, protecting test specimens for the first 24 hours after molding, and packing and shipping of test specimens. The employee shall make a record of a slump test in connection with each truckload of concrete. The designated employee shall receive initial instruction in the performance of his sampling and testing duties from a representative of the testing laboratory and shall have available copies of all ASTM Standards pertinent to his duties. Sampling shall conform to ASTM C172. Slump tests shall conform to ASTM C143. Compression test specimens shall be made and cured in accordance with ASTM C31.
      - iii. Each set of test cylinders shipped to the laboratory shall be accompanied by a



report giving information as to location in the structure of concrete sampled, time and date of sampling, air temperature, slump, class designated nominal strength, air content if applicable, temperature of concrete, truck number, and time batched. Each report shall be signed by the employee making the test and by the Contractor or his representative, certifying that the test specimens have been made by the one designated, fully instructed employee and have been made in accordance with applicable standard specifications.

- iv. Should any concrete fail to meet the specified strength, have a slump in excess of that required by the design mix for each class of concrete listed under CLASSES OF CONCRETE, or result in voids, honeycombs or otherwise fail to meet the requirements, the Engineer may order the concrete removed, further tests made, or other remedial measures taken, all at the Contractor's expense.

### 1.03 SHOP DRAWINGS

- A. After making his check the Contractor shall submit to the Engineer one (1) blue line copy of each of placing plans, bending details and bar lists covering all reinforcing steel.
- B. Full information for checking and for proper installation without reference to other drawings shall be included. At splices the amount of lap shall be shown. Location and arrangement of accessories shall be clearly shown. Elevations shall be drawn for all reinforced masonry and reinforced concrete walls to a scale no smaller than 1/4 inch = 1 foot.
- C. Work shall not proceed before the Contractor has received shop drawings approved by the Engineer. The Contractor shall be responsible for the conformation of all typical and special reinforcing steel details.
- D. Engineer's review is for conformance to the design concept and contract documents. Markings or comments shall not be construed as relieving the Contractor from compliance with the project plans and specifications, nor departures therefrom. The Contractor remains responsible for details and accuracy, for selecting fabrication processes, for techniques of assembly, and for performing his work in a safe manner.
- E. Proposed construction joint shall be clearly indicated on shop drawings and subject to approval of the Engineer.

### 1.04 INSPECTION

- A. The Contractor shall give the Governing Authority and Design Engineer 24 hours advance notice before starting to place concrete in any portion of the structure to permit observation. An authorization of the Engineer shall be secured before concrete is placed. Any concrete placed in violation of this provision shall be replaced by new concrete if required by the Engineer.
- B. Prior to notification of the Engineer, the Superintendent shall personally inspect the work and verify that it is ready for observation.
- C. At the time of observation, all reinforcing in the area where concrete is to be poured shall be in place, tied and ready for the placement of concrete. All anchors, sleeves, inserts, etc., shall be securely held in position.

### 1.05 STORAGE

- A. Reinforcing steel delivered to the job and not immediately placed in forms shall be placed in racks or other supports at least 18 inches above ground.

## PART 2 - MATERIALS

2.01 CEMENT: Portland cement shall conform to ASTM C150, Type I.

### 2.02 AGGREGATES

A. Aggregates for standard weight concrete shall conform to ASTM C33, maximum size: 3/4 inch

### 2.03 WATER

A. Mixing water shall be potable

### 2.04 REINFORCING STEEL

A. Reinforcing bars shall be American manufactured conforming to the requirements of ASTM A615 "Deformed Billet Steel Bars for Concrete Reinforcement", Grade 60.

B. Welded wire-fabric or cold-drawn wire for concrete reinforcement shall be of American manufacture and shall conform to the requirements of the ASTM A185 "Welded Steel Fabric for Concrete Reinforcement."

C. Accessories shall conform to the requirements of C.R.S.I. Manuel.

### 2.05 READY MIXED STRUCTURAL CONCRETE:

A. Ready mix concrete shall be mixed and delivered in accordance with these specifications and requirements set forth in ASTM C94. In addition, these following conditions must be met:

1. Concrete shall be normal weight with an ultimate compressive strength at 28 days, and slump as follows:
2. Air entrained concrete shall be used for all structural concrete with the air content not less than three (3) percent and no more than five (5) percent.

B. Classes of Concrete:

Class A f'c = 3000 psi Slump 4 inches  $\pm$ 1 inch

Class AA f'c=4000psi Slump 3 inches  $\pm$ 1 inch

Class B f'c = 5000 psi Slump 5 inches  $\pm$ 1 inch

### 2.06 EXPANSION JOINT MATERIAL

A. Expansion joint material at slabs on grade shall be premolded asphalt saturated cellulose fiber or mineral strips conforming to ASTM D1751.

### 2.07 WALL TIES

A. Ties shall be made with breakback ends or other means of removing the tie end to a depth of at least one (1) inch from the concrete surface after the forms are removed.

### 2.08 LIQUID FORM SEALER

A. Form sealer shall be a standard product compatible with the finish required for exposed concrete and shall contain no paraffin oil or mineral oil.

## PART 3 - FORMWORK

### 3.01 FORMWORK

- A. Forms shall conform to the shapes, lines and dimensions of the members as indicated, and shall be substantial and sufficiently tight to prevent leakage of mortar. They shall be braced or tied together so as to maintain position and shape.
- B. Formwork shall be observed by the Governing Authority and Design Engineer before pouring concrete. Before placing the reinforcement, surfaces of wood forms in contact with the concrete, unless lined, shall receive a thorough coating of form sealer. The Engineer shall have the right to reject any forms that do not appear to him to be sufficient as to alignment and of producing the required finished surface. Should misalignment of forms or screed, excessive deflection of forms or displacement of reinforcing occur during concrete placing, corrective measures shall be immediately made to the extent, if necessary, that placing operations shall be stopped and concrete removed from within forms. The surfaces to required dimensions and cross section. Exposed lines and surfaces shall not vary from dimensions shown on plans by more than 1/4 inch in 20 feet.
- C. Forms may be constructed of wood or metal. Earth forms for footings may be permitted if local conditions are favorable and approved by the Engineer. Form work for exposed concrete shall be form grade plywood.
- D. Studs, waler, and ties shall be so spaced that the load of wet concrete will not stress ties beyond the printed working load recommended by the manufacturer not cause spans of form material to deflect from a true surface.
- E. The Contractor shall maintain a continuous check upon formwork during the placing of concrete. An instrument check shall be periodically made or "Tattle Tail" rods or other devices shall be used to detect any settlement in forms.
- F. Conduits in Concrete: Conduits shall not displace reinforcing steel from its intended position, nor impair the strength of the structure and should be isolated.
- G. The Contractor shall assume all responsibility for removal of formwork. Elevated concrete slabs shall attain 70% of the specified ultimate strength before removing the forms. After removing forms, slabs shall be reshored at mid-span and at all points under shores supporting forms for the work above. No floor shall be loaded in excess of the live load for which designed unless adequate shores are place beneath members supporting the concrete of load.

### 3.02 PLACING REINFORCING STEEL

- A. Reinforcement shall be shop fabricated, accurately positioned and secured with not less than 16-gauge annealed wire or suitable clips.
- B. No bars, partially embedded in concrete shall be field bent, unless noted otherwise.
- C. Reinforcing bars shall be accurately placed and secured in position by approved chairs, spacers or ties to maintain the position of the reinforcing steel prior to and during placing of concrete.
- D. Reinforcing steel support chairs and bolsters for use in concrete to be exposed shall have galvanized steel leg.
- E. No splices shall be made, except as shown on approved Shop Drawings or approved in writing by the Engineer.

F. The placement of reinforcement shall be observed by the Governing Authority and Design Engineer before pouring of concrete. Should there be any delay in the work, reinforcement previously placed shall be reinspected and cleaned if necessary before concrete placement is resumed.

G. Metal reinforcement shall be protected by concrete cover. Where not otherwise shown, the thickness of concrete over the reinforcement shall be as follows:

Footings	3" clear sides and bottom
Slabs	3/4" clear, top and bottom
Beams	2" clear, all around
Walls	2" clear, both faces
Columns & Piers	2" clear

H. All splicing or reinforcement not shown shall be approved by the Engineer. Splices shall not be made a point of maximum stress and shall provide sufficient lap to transfer the stress between bars by bond. Hook and bending details, column tie arrangements, etc., shall be as shown by the S.R.A.I. Manual or the ACI Detail Engineering Manual.

I. Wire mesh reinforcing shall be placed one inch from top of concrete slabs on ground. Lap all joints 12 inches and extend mesh to within one (1) inch of sides and ends of slabs.

J. Wire brush all steel prior to placing concrete.

### 3.03 CONCRETE MIXING AND PLACING

A. Ready-mix concrete shall conform to ASTM C94. Not more than one (1) hour shall elapse between the time mixing water is added to the batch and the concrete is poured. No water shall be added on the job.

B. No concrete shall be placed until all embedded items and reinforcing have been placed in the forms and observed by the Engineer. At least 24-hour notice shall be given the Engineer of an impending pour, so that he may observe the work, prior to placing.

C. Concrete shall be conveyed from the mixer to the place of final deposit by methods that will prevent segregation or loss of materials.

D. Concrete shall be deposited in its final position to avoid segregations and separation do to rehandling or flowing. The placing shall be carried on at such a rate that concrete is at all times plastic and flows readily into the spaces between bars. When placing is once started, it shall be carried on as a continuous operation, until placement of that section is completed.

E. Concrete shall be worked into and around bars and embedded items with spades, rods, trowels, and vibrators, so as to produce a solid homogeneous mass, free of voids, pockets, or honeycombs.

F. Construction joints shall be installed and located as indicated. Where a joint occurs, the surface of the concrete shall be thoroughly cleaned and all laitance removed and shall be left rough or mechanically roughened, thoroughly wetted and slushed with a coat of neat cement grout immediately before placement of new concrete.

G. All embedded items, including anchor bolts and dowels, shall be in place, preset and held in position, before any concrete is placed.

H. No concreting shall be performed when ambient temperatures are below 40° F or if the temperature is predicted by the local U.S. Weather Bureau will fall below 40°F within 24 hours

after the time of installation.

- I. No concrete shall be installed against frozen ground. All foundation cavities and slab areas that have frozen, shall be thoroughly clean of all loose earth prior to pouring concrete.
- J. All newly poured concrete shall be protected from freezing or near freezing weather during the cure period.
- K. Hot weather precautions shall be taken whenever the maximum air temperature exceeds 80°F during the day. Hot weather concreting shall be performed in accordance with ACI 305.

#### 3.04 ANCHORAGE

- A. Slots, inserts, and connections elements for anchoring items to concrete shall be built into forms before placing concrete.

#### 3.05 SLABS ON GRADE

- A. Concrete shall be compacted, screeded to grade, and prepared for the specified finish. Slabs shall be placed in panels in alternate checkerboard pattern or in alternate lanes divided into panels. Each panel shall be approximately square terminated by slab joints.
- B. Contraction joints shall be true to line 1/8 inch wide, and of depth equal to approximately 1/4 of the slab thickness. Joints shall be sawed or formed.

#### 3.06 CURING

- A. Provisions shall be made for maintaining concrete in a moist condition for at least 10 days after the placement of the concrete, or by one of the following methods:
  - 1. Spraying with water or ponding
  - 2. Using moisture retaining covers
  - 3. Concrete curing compound, W.R. Meadows CS-309 or Guardian Chemical Co., Master Builders or Triple-Cure by Cobra Chemicals.
- B. The spraying water shall be applied on unformed surfaces within one hour after the forms are stripped and the spraying shall be continuous. The moisture retaining cover shall be applied on unformed surfaces immediately after the concrete is finished. If there is any delay, the concrete shall be kept moist until the application is made. If the surfaces are formed, the forms shall be removed, and the concrete sprayed lightly with water before the cover is applied.
- C. When concrete surfaces are to receive applied finishes of materials, all curing compounds shall be checked for compatibility with other material to be applied to the concrete surfaces before application.

#### 3.07 CONCRETE FINISHES

- A. All poured joints, voids, honeycombs and other imperfections shall be patched within the same working day that forms are removed.
- B. Troweled Finish:
  - 1. Troweled finish shall be applied to the surface of all floors unless ceramic tile, quarry tile or pavers are called for on finish schedule.

2. Floor slabs shall be screeded to an even surface by the use of straight-edge and screeding strips accurately set to the proper grade. The concrete shall be floated with a wood float in a manner which will compact it and produce a surface free from depressions or inequalities of any kind. Floors shall be level with a tolerance of 1/8 inch in 10 feet except where drains are indicated. After the concrete has hardened sufficiently to prevent fine materials from working to the top and has been allowed to stand until all water sheen has disappeared, it shall be steel troweled. Final troweling shall be done after the concrete is hard enough that no mortar accumulates on the trowel and a ringing sound is produced as the trowel is drawn over the surface. The drying of the surface moisture before troweling shall proceed naturally and shall not be hastened by the dusting on of dry sand or cement.
- C. Non-slip Finish: All exterior platforms and step treads shall be made non-slippery by application at not less than 1/4 lb. per square foot of aluminum oxide or emery aggregate graded from particles retained on a #50 mesh screen to particles passing an 1/8-inch screen placed during the finishing process. Abrasive aggregate shall be sprinkled by hand as soon as the freshly placed cement will support the weight of workmen and floated into the surface.
  - D. Unfinished Slabs: Depressed slab areas to receive ceramic quarry tile or pavers shall be finished to remove all laitance and to leave a slightly roughened, surface to insure bond. The surface of the slab shall not vary in any direction more than 1/8 inch when tested with a 10-foot straight edge. The straight edge shall be lapped one half its length as the test is being made.

### 3.08 3.08 CONCRETE FLOOR HARDENER

- A. All concrete floor slabs shall be cured with concrete floor hardener, "Clear Bond", as manufactured by Guardian Chemical, "Triple-Cure" by Cobra Chemicals, or "Seal tight Cs-309" by W.R. Meadows. The floor hardener shall be applied in strict accordance with the manufacturer's recommendations.
- B. Walks shall be tooled, full 1-inch deep into separate slabs as indicated. Surface edges of each slab shall be rounded to approximately 1/4-inch radius.
- C. Final finish shall be a medium or light broom finish and all tool marks completely removed.
- D. Expansion joints shall be placed a maximum 20-foot intervals and at all intersections with steps, curbs, other walks, or abutting structures. Joints shall extend from the surface to the subgrade at right angles to the sidewalk.
- E. Expansion joint filler shall be 1/2 inch thick and as wide as the full width and depth of the sidewalk.