

**City of San Augustine  
FEMA Culvert Repairs**

**Contract Documents & Technical Specifications**

**Prepared by:**



**211 E. Shepherd Ave.; Suite 205  
Lufkin, Texas 75901  
T. 936-637-6061 F. 888.224.9418  
TBPE Firm Registration No. F-1356**

*This Page Intentionally Left Blank!*

**SECTION 00007**

**PROFESSIONAL SEALS AND CERTIFICATIONS**

The Technical Specifications contained herein have been prepared by or under the direction of the following Design Professionals. Bidding and Contracting Documents and General Conditions have been prepared by KSA Engineers, Inc., in conjunction with the Technical Specifications contained herein and the Plans that are a part of the Contract Documents.



Rev	Description	Date
0	Issued for Construction	09/25/2019

---

C. Daniel Hays, P.E.  
KSA Engineers, Inc.  
TBPE Firm Registration No. F-1356

**TECHNICAL SPECIFICATIONS SECTION**

**DIVISION 01 – GENERAL REQUIREMENTS**

**Section Number and Title**

- 01110 Summary of Work
- 01270 Bid Item Descriptions
- 01310 Project Management and Coordination
- 01320 Construction Progress Schedule
- 01330 Shop Drawings and Submittals
- 01430 Quality Control
- 01450 Testing Laboratory Services
- 01500 Temporary Facilities and Controls
- 01610 Material and Equipment
- 01700 Execution and Closeout Requirements
- 01740 Cleaning and Waste Management
- 01741 Final Cleaning

**DIVISION 02 – SITE CONSTRUCTION**

**Section Number and Title**

- 02000 References to TxDOT Standard Specifications

**END OF SECTION**

*This Page Intentionally Left Blank!*

**SECTION 00010**

**TABLE OF CONTENTS**

**BIDDING AND CONTRACTING REQUIREMENTS GROUP**

**DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS**

**INTRODUCTORY INFORMATION**

**Document Number and Title**

00010 Title Page (Cover)  
00007 Professional Seals and Certification Page  
00010 Table of Contents  
00015 List of Drawings  
00111 Advertisement for Bids  
00200 Instructions to Bidders

**BIDDING REQUIREMENTS**

**Document Number and Title**

00400 Bidding Documents  
00410 Bid Proposal  
00430 Bid Bond  
00431 Certificate as to Corporate Principal  
00451 Statement of Bidders Qualifications  
00452 Non-collusion Affidavit of Prime Bidder  
00453 Certification of Bidder Regarding Civil Rights Laws  
00454 Certification Regarding Lobbying  
00455 Conflict of Interest Questionnaire  
00456 Disclosure of Lobbying Activities (SF-LLL)

**CONTRACTING REQUIREMENTS**

**Document Number and Title**

00500 Contracting Documents  
00510 Notice of Award  
00520 Standard Form of Agreement – EJCDC  
00550 Notice to Proceed  
00610 Performance Bond  
00615 Payment Bond  
00620 Contractor’s Application for Payment (Sample)  
00621 Certificate of Insurance  
00622 Certificate of Interested Parties Instructions and Sample  
00625 Certificate of Construction Completion  
00626 Certification Concerning Labor Standards and Prevailing Wage Rates  
00700 Standard General Conditions – EJCDC  
00800 Supplementary Conditions – EJCDC  
00804 Wage Rate Determination

**SPECIFICATIONS GROUP**

**DIVISION 01 – GENERAL REQUIREMENTS**

**Section Number and Title**

01110	Summary of Work
01270	Bid Item Descriptions
01310	Project Management and Coordination
01320	Construction Progress Schedule
01330	Shop Drawings and Submittals
01430	Quality Control
01450	Testing Laboratory Services
01500	Temporary Facilities and Controls
01610	Material and Equipment
01700	Execution and Closeout Requirements
01740	Cleaning and Waste Management
01741	Final Cleaning

**DIVISION 02 – SITE CONSTRUCTION**

**Section Number and Title**

02000	References to TxDOT Standard Specifications
-------	---

**END OF TABLE OF CONTENTS**

**SECTION 00015**

**LIST OF DRAWINGS**

**PART 1 GENERAL**

**1.01 GENERAL INFORMATION**

A. **CONTRACT DRAWINGS:** The Contract Drawings which accompany this Contract Book and form a part of the Contract Documents are listed by number below:

1. **BOUND SEPARATELY:**

- Sheet 1 Cover
- Sheet 2 Sheet Index, General Notes, Typical Sections
- Sheet 3 Legend, Abbreviations and Location Map
- Sheet 4 Golden Way St. Proposed Site Plan
- Sheet 5 Golden Way St. Proposed Drainage Plan
- Sheet 6 Park Dr. Proposed Drainage Plan
- Sheet 7 Bierholter St. Proposed Drainage Plan
- Sheet 8 Milam St. Proposed Site Plan
- Sheet 9 Milam St. Proposed Drainage Plan
- Sheet 10 TxDOT Details – Concrete Headwalls with Parallel Wings
- Sheet 11 TxDOT Details – Concrete Headwalls with Skewed Parallel Wings
- Sheet 12 TxDOT Details – Concrete Headwalls with Flared Wings
- Sheet 13 TxDOT Details – Metal Beam Guard Rails
- Sheet 14 TxDOT Details – Metal Beam Guard Rails (Short Radius)
- Sheet 15 TxDOT Details – Work Zone Road Closure Details

2. **BOUND HEREIN: (Not Used)**

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

*This Page Intentionally Left Blank!*



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.

## ADVERTISEMENT FOR BIDS FOR CONSTRUCTION CONTRACTS

Prepared by



Issued and Published Jointly by



Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2800  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

**CITY OF SAN AUGUSTINE  
FEMA CULVERT REPAIRS**

ADVERTISEMENT FOR BIDS

Sealed Bids for the construction of the **FEMA Culvert Repairs** will be received, **from all interested Bidder's**, by the **City of San Augustine**, at the office of the **Mayor, Leroy Hughes, 301 S. Harrison St., San Augustine, Texas, 75972**, until **2:00 P.M.** local time on **Friday, October 11, 2019**, at which time the Bids received will be **publicly** opened and read. The Project consists of constructing **culvert replacement and roadway repair**.

Bids shall be on a lump sum and/or unit price basis, with additive alternate bid items as indicated in the Bid Form.

The Issuing Office for the Bidding Documents is: **KSA 211 E. Shepherd Ave., Ste. 205, Lufkin, Texas 75901**. Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of **8:00 AM and 5:00 PM**.

Bidding Documents also may be examined at City Hall during normal business hours .

Contract documents including bid proposal forms, plan sheets, and specifications for the Project may be viewed and downloaded free of charge (with the option to purchase hard copies) at [www.civcastusa.com](http://www.civcastusa.com). Scanned plans and specifications (PDF format) are available for pick-up only on CD for a non-refundable price of \$25.00 from KSA.

Please submit questions for this Project 72 hours prior to bid opening through [www.civcastusa.com](http://www.civcastusa.com) in the Q & A portal.

Addenda issued will be posted on [www.civcastusa.com](http://www.civcastusa.com). You will be notified of addenda automatically through email if you downloaded your plans and specifications via [civcastusa.com](http://www.civcastusa.com).

A Pre-Bid Conference will not be conducted

Bidders will be allowed to modify or withdraw bids prior to the scheduled closing time for receipt of bids. No bid received after the scheduled closing time will be accepted or opened. No bid may be withdrawn after the scheduled closing time for receipt of bids for at least 90 calendar days.

The successful Bidder, or Bidders, will be required to furnish a Performance Bond and Payment Bond each in the amount of the contract written by a responsible surety company authorized to do business in the State of Texas and satisfactory to the Owner.

The award will be made on the basis of the lowest responsible bid. The City reserves the right to waive any informality in the bidding and to reject any or all bids.

Attention is called to the fact that not less than, the federally determined prevailing (Davis-Bacon and Related Acts) wage rate, as issued by the US Department of Labor and contained in the contract documents, must be paid on this project. In addition, the successful bidder must ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, sexual identity, gender identity, or national origin.

Attention is called to the requirements for ensuring that employees and applicants for employment are not discriminated against because of race, color, religion, sex, sexual identity, gender identity, or national origin, and other civil rights requirements.

All contractors/subcontractors that are debarred, suspended or otherwise excluded from or ineligible for participation on federal assistance programs may not undertake any activity in part or in full under this project.

Contractors who apply or bid for an award of \$100,000 or more shall provide the required certification 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 USC § 1352.

Bid security shall be furnished in accordance with the Instructions to Bidders.

Owner: **City of San Augustine**

By: **Leroy Hughes**

Title: **Mayor**

Date: **1<sup>st</sup> Advertisement - September 26<sup>th</sup>, 2019**

**2<sup>nd</sup> Advertisement - October 3<sup>rd</sup>, 2019**

+ + END OF ADVERTISEMENT FOR BIDS + +

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.

## INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACTS

Prepared by



Issued and Published Jointly by



Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

# SUGGESTED INSTRUCTIONS TO BIDDERS

## TABLE OF CONTENTS

	<b>Page</b>
Article 1 – Defined Terms .....	1
Article 2 – Copies of Bidding Documents.....	1
Article 3 – Qualifications of Bidders.....	1
Article 4 – Site and Other Areas; Existing Site Conditions; Examination of Site; Owner’s Safety Program; Other Work at the Site .....	1
Article 5 – Bidder’s Representations.....	3
Article 6 – Pre-Bid Conference .....	4
Article 7 – Interpretations and Addenda .....	4
Article 8 – Bid Security .....	4
Article 9 – Contract Times.....	5
Article 10 – Liquidated Damages .....	5
Article 11 – Substitute and “Or-Equal” Items .....	5
Article 12 – Subcontractors, Suppliers, and Others .....	6
Article 13 – Preparation of Bid.....	6
Article 14 – Basis of Bid.....	7
Article 15 – Submittal of Bid .....	8
Article 16 – Modification and Withdrawal of Bid .....	8
Article 17 – Opening of Bids.....	9
Article 18 – Bids to Remain Subject to Acceptance .....	9
Article 19 – Evaluation of Bids and Award of Contract.....	9
Article 20 – Bonds and Insurance .....	10
Article 21 – Signing of Agreement .....	10
Article 22 – Sales and Use Taxes .....	10





## ARTICLE 1 – DEFINED TERMS

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

- A. *Issuing Office* – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

KSA

211 E. Shepherd Avenue, Suite 205

Lufkin, Texas 75901

Telephone: 936-637-6061

## ARTICLE 2 – COPIES OF BIDDING DOCUMENTS

- 2.01 Complete sets of the Contract Documents may be viewed and downloaded free of charge (With the option to purchase hard copies) at [www.civcastusa.com](http://www.civcastusa.com).
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

## ARTICLE 3 – QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit with its Bid previous experience in the completion of similar work. For each similar project the bidder shall submit the name of the project, project owner, construction dates, and the cost of construction.
- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.
- 3.04 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

## ARTICLE 4 – SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 *Site and Other Areas*

- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

#### 4.02 *Existing Site Conditions*

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
  - 1. The Supplementary Conditions identify:
    - a. those reports, if any, known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.
    - b. those drawings, if any, known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
    - c. reports and drawings, if any, known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
    - d. Technical Data contained in such reports and drawings.
  - 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
  - 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.
- C. Adequacy of Data: Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 5.06 of the General Conditions.

#### 4.03 *Site Visit and Testing by Bidders*

- A. Bidder shall conduct the required Site visit during normal working hours, and shall not disturb any ongoing operations at the Site.
- B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site.

- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

#### 4.04 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program. As the General Conditions indicate, if an Owner safety program exists, it will be noted in the Supplementary Conditions.

#### 4.05 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

### **ARTICLE 5 – BIDDER'S REPRESENTATIONS**

#### 5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations,

- tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
  - H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
  - I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
  - J. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

#### **ARTICLE 6 – PRE-BID CONFERENCE**

- 6.01 A pre-Bid conference may be held at a time and location stated in the invitation or advertisement to bid. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

#### **ARTICLE 7 – INTERPRETATIONS AND ADDENDA**

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer via the Q & A portal on [www.civcastusa.com](http://www.civcastusa.com). Interpretations or clarifications considered necessary by the Engineer in response to such questions will be issued by Addenda. All Addenda issued for this project will **only** be posted on [www.civcastusa.com](http://www.civcastusa.com). Questions received less than 72 hours prior to the opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, supplement, or change the Bidding Documents.

#### **ARTICLE 8 – BID SECURITY**

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5% percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a certified check, bank money order, or a Bid bond (on the form included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award,

Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.

- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within seven days after the Bid opening.

#### **ARTICLE 9 – CONTRACT TIMES**

- 9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

#### **ARTICLE 10 – LIQUIDATED DAMAGES**

- 10.01 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

#### **ARTICLE 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS**

- 11.01 Except as provided in Paragraph 11.02, the Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or “or-equal” items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or “or-equal” item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 11.02 In some cases, the Engineer will specify that substitutes for certain materials and equipment must be approved by Addendum prior to the bid date. The Contract for the Work, as awarded, will then be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 10 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.
- 11.03 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder's sole risk.

## ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work if required by the Bidding Documents (most commonly in the Specifications) to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 12.02 Subsequent to the submittal of the Bid, Owner may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, or other individual or entity against which Contractor has reasonable objection.
- 12.03 The apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of the major Subcontractors or Suppliers proposed for the following portions of the Work.

If requested by Owner, such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, or other individual or entity. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

- 12.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, or other individuals or entities. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.06 of the General Conditions.

## ARTICLE 13 – PREPARATION OF BID

- 13.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each Bid item, alternate, adjustment unit price item, and unit price item listed therein.
  - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."
  - C. If Bidder elects not to submit a price for one or more sections, then Bidder should enter the words "No Bid" for those items.
- 13.02 A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.

- 13.03 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.04 A Bid by an individual shall show the Bidder's name and official address.
- 13.05 A Bid by a joint venture shall be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.06 All names shall be printed in ink below the signatures.
- 13.07 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.08 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.09 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

#### **ARTICLE 14 – BASIS OF BID**

- 14.01 The Bid shall be based upon one of the following methods as provided for in the Bid Form.
  - A. Lump Sum
    - 1. Bidders shall submit a Bid on a lump sum basis as set forth in the Bid Form.
  - B. Base Bid with Alternates
    - 1. Bidders shall submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.
    - 2. In the comparison of Bids, alternates will be applied in the order that best serves the Owner's interests.
  - C. Sectional Bids
    - 1. Bidders may submit a Bid on any individual section or any combination of sections, as set forth in the Bid Form.
    - 2. Submission of a Bid on any section signifies Bidder's willingness to enter into a Contract for that section alone at the price offered.
    - 3. If Bidder submits Bids on individual sections and a Bid based on a combination of those sections, such combined Bid need not be the sum of the Bids on the individual sections.
    - 4. Bidders offering a Bid on one or more sections shall be capable of completing the Work covered by those sections within the time period stated in the Agreement.
  - D. Unit Price
    - 1. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
    - 2. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity" (which Owner or its representative has

set forth in the Bid Form) for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.

3. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

#### 14.02 Allowances

- A. For cash allowances the Bid price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

### ARTICLE 15 – SUBMITTAL OF BID

15.01 ~~With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 7 of the Bid Form.~~

15.02 A Bid shall be received no later than the date and time prescribed and at the place indicated in the advertisement or invitation to bid and shall be enclosed in a plainly marked package with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to The address shown in the Advertisement for Bids.

15.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

### ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID

16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.

16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.

16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.



## **ARTICLE 17 – OPENING OF BIDS**

17.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

## **ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

## **ARTICLE 19 – VALUATION OF BIDS AND AWARD OF CONTRACT**

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the Owner will reject the Bid as nonresponsive; provided that Owner also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.

19.02 If Owner awards the contract for the Work, such award shall be to the responsible Bidder submitting the lowest responsive Bid.

19.03 Evaluation of Bids

A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

B. In the comparison of Bids, alternates will be applied in the manner that best serves the Owner's interests. To determine the Bid prices for purposes of comparison, Owner shall announce to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.

C. For determination of the apparent low Bidder(s) when sectional bids are submitted, Bids will be compared on the basis of the aggregate of the Bids for each separate section. ~~and the Bids for combined sections that result in the lowest total amount for all of the Work.~~

D. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

19.04 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

#### **ARTICLE 20 – BONDS AND INSURANCE**

- 20.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the Agreement (executed by Successful Bidder) to Owner, it shall be accompanied by required bonds and insurance documentation.

#### **ARTICLE 21 – SIGNING OF AGREEMENT**

- 21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement (and any bonds and insurance documentation required to be delivered by the Contract Documents) to Owner. Within ten days thereafter, Owner shall deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

#### **ARTICLE 22 – SALES AND USE TAXES**

- 22.01 Owner is exempt from state sales and use taxes on materials and equipment to be incorporated in the Work. Refer to Paragraph SC-7.09 of the Supplementary Conditions for additional information.

**SECTION 00400**

**BIDDING DOCUMENTS**

**Document Number and Title**

00400	Bidding Documents
00410	Bid Proposal
00430	Bid Bond
00431	Certificate as to Corporate Principal
00451	Statement of Bidders Qualifications
00452	Non-collusion Affidavit of Prime Bidder
00453	Certification of Bidder Regarding Civil Rights Laws
00454	Certification Regarding Lobbying
00455	Conflict of Interest Questionnaire
00456	Disclosure of Lobbying Activities (SF-LLL)

**END OF LIST**

*This Page Intentionally Left Blank!*

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.

## **BID FORM FOR CONSTRUCTION CONTRACTS**

Prepared by



Issued and Published Jointly by



Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

**BID FORM**

City of San Augustine  
FEMA Culvert Repairs

KSA Engineers, Inc. Project No. SAU.009

**TABLE OF CONTENTS**

	<b>Page</b>
Article 1 – Bid Recipient .....	1
Article 2 – Bidder’s Acknowledgements .....	1
Article 3 – Bidder’s Representations.....	1
Article 4 – Bidder’s Certification .....	2
Article 5 – Basis of Bid .....	3
Article 6 – Time of Completion .....	3
Article 7 – Attachments to this Bid .....	3
Article 8 – Defined Terms .....	3
Article 9 – Bid Submittal .....	4



**ARTICLE 1 – BID RECIPIENT**

1.01 This Bid is submitted to:

**City of San Augustine**

**301 S. Harrison St.**

**San Augustine, Texas 75972**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

**ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS**

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**ARTICLE 3 – BIDDER’S REPRESENTATIONS**

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and

drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.

- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

#### **ARTICLE 4 – BIDDER'S CERTIFICATION**

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

## ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the price shown on the Bid Form following price(s):

## ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

~~6.01 Bidder agrees that the Work will be substantially complete on or before \_\_\_\_\_, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before \_\_\_\_\_.~~

~~6.01 Bidder agrees that the Work will be substantially complete within \_\_\_\_\_ calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within \_\_\_\_\_ calendar days after the date when the Contract Times commence to run.~~

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

## ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- ~~B. List of Proposed Subcontractors;~~
- ~~C. List of Proposed Suppliers;~~
- ~~D. List of Project References;~~
- ~~E. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;~~
- ~~F. Contractor's License No.: \_\_\_\_\_ [or] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;~~
- G. Required Bidder Qualification Statement with supporting data; and

## ARTICLE 8 – DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

**ARTICLE 9 – BID SUBMITTAL**

BIDDER:

---

By:

*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_

*(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest:

*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_

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

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

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Contact Name and e-mail address: \_\_\_\_\_

\_\_\_\_\_

Bidder's License No.: \_\_\_\_\_

*(where applicable)*

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
<b>Schedule 1 - Golden Way Culvert</b>					
1.01.	1	LS	Mobilization, Insurance, and Bonding (Reference Section 01270.1.02.A) at _____ Dollars and _____ Cents per lump sum	_____	_____
1.02.	1	LS	Barricades and Traffic Control (Reference Section 01270.1.02.B) at _____ Dollars and _____ Cents per lump sum	_____	_____
1.03.	1	LS	Stormwater Pollution Prevention (Reference Section 01270.1.02.C) at _____ Dollars and _____ Cents per lump sum	_____	_____
1.04.	1	STA.	Right of Way Preparation (Reference Section 01270.1.02.D) at _____ Dollars and _____ Cents per station	_____	_____
1.05.	1	LS	Excavation/Embankment (Reference Section 01270.1.02.E) at _____ Dollars and _____ Cents per lump sum	_____	_____
1.06.	65	SY	8" Cement Treated Subgrade (Road Mixed) (3%) (Reference Section 01270.1.02.F) at _____ Dollars and _____ Cents per square yard	_____	_____
1.07.	65	SY	9" Crushed Limestone Base (Type A, Grade 2) (Reference Section 01270.1.02.G) at _____ Dollars and _____ Cents per square yard	_____	_____
1.08.	65	SY	3" HMAc Pavement (Type D) (Reference Section 01270.1.02.H) at _____ Dollars and _____ Cents per square yard	_____	_____
1.09.	3	EA	Remove Existing Drainage Culvert (Various Sizes) (Reference Section 01270.1.02.J) at _____ Dollars and _____ Cents per each	_____	_____

**City of San Augustine  
Fema Culvert Replacement**

<b>Item No.</b>	<b>Quantity</b>	<b>Unit</b>	<b>Description (with unit price in words)</b>	<b>Unit Price</b>	<b>Total Price</b>
1.10.	96	LF	Furnish and Install 30" Reinforced Concrete Pipe (Reference Section 01270.1.02.L) at _____ Dollars and _____ Cents per linear foot	_____	_____
1.11.	1	EA	Furnish and Install Concrete Headwall (CH-PW-0)(2:1)(Reference Section 01270.1.02.N) at _____ Dollars and _____ Cents per each	_____	_____
1.12.	1	EA	Furnish and Install Concrete Headwall (Modified CH-FW-0)(2:1)(Reference Section 01270.1.02.N) at _____ Dollars and _____ Cents per each	_____	_____
1.13.	68	LF	Metal Beam Guard Fence (Reference Section 01270.1.02.O) at _____ Dollars and _____ Cents per linear foot	_____	_____
1.14.	2	EA	Metal Beam Guard Fence Terminal Anchor Section (Reference Section 01270.1.02.P) at _____ Dollars and _____ Cents per each	_____	_____
1.15.	2	EA	Metal Beam Guard Fence Driveway Terminal Anchor Section (Reference Section 01270.1.02.Q) at _____ Dollars and _____ Cents per each	_____	_____
1.16.	1	LS	Site Restoration and Vegetation (Reference Section 01270.1.02.R) at _____ Dollars and _____ Cents per lump sum	_____	_____
1.17.	1	LS	Trench Safety (Reference Section 01270.1.02.S) at _____ Dollars and _____ Cents per lump sum	_____	_____

**BID SUMMARY**

**TOTAL BID AMOUNT SCHEDULE 1**

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
<b>Schedule 2- Park Drive Culvert</b>					
2.01.	1	LS	Mobilization, Insurance, and Bonding (Reference Section 01270.1.02.A) at _____ Dollars and _____ Cents per lump sum	_____	_____
2.02.	1	LS	Barricades and Traffic Control (Reference Section 01270.1.02.B) at _____ Dollars and _____ Cents per lump sum	_____	_____
2.03.	1	LS	Stormwater Pollution Prevention (Reference Section 01270.1.02.C) at _____ Dollars and _____ Cents per lump sum	_____	_____
2.04.	1	STA.	Right of Way Preparation (Reference Section 01270.1.02.D) at _____ Dollars and _____ Cents per station	_____	_____
2.05.	13	SY	Asphalt Pavement Repair (Reference Section 01270.1.02.I) at _____ Dollars and _____ Cents per square yard	_____	_____
2.06.	1	EA	Remove Existing Drainage Culvert (Various Sizes) (Reference Section 01270.1.02.J) at _____ Dollars and _____ Cents per each	_____	_____
2.07.	26	LF	Furnish and Install 24" Reinforced Concrete Pipe (Reference Section 01270.1.02.K) at _____ Dollars and _____ Cents per linear foot	_____	_____
2.08.	2	EA	Furnish and Install Concrete Headwall (CH-PW- 0)(2:1)(Reference Section 01270.1.02.N) at _____ Dollars and _____ Cents per each	_____	_____

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
2.09.	1	LS	Site Restoration and Vegetation (Reference Section 01270.1.02.R) at _____ Dollars and _____ Cents per lump sum	_____	_____
2.10.	1	LS	Trench Safety (Reference Section 01270.1.02.S) at _____ Dollars and _____ Cents per lump sum	_____	_____

**BID SUMMARY**

**TOTAL BID AMOUNT SCHEDULE 2**

\_\_\_\_\_



**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
<b>Schedule 3 - Bierholter Drive Culvert</b>					
3.01.	1	LS	Mobilization, Insurance, and Bonding (Reference Section 01270.1.02.A) at _____ Dollars and _____ Cents per lump sum	_____	_____
3.02.	1	LS	Barricades and Traffic Control (Reference Section 01270.1.02.B) at _____ Dollars and _____ Cents per lump sum	_____	_____
3.03.	1	LS	Stormwater Pollution Prevention (Reference Section 01270.1.02.C) at _____ Dollars and _____ Cents per lump sum	_____	_____
3.04.	1	STA.	Right of Way Preparation (Reference Section 01270.1.02.D) at _____ Dollars and _____ Cents per station	_____	_____
3.05.	13	SY	Asphalt Pavement Repair (Reference Section 01270.1.02.I) at _____ Dollars and _____ Cents per square yard	_____	_____
3.06.	1	EA	Remove Existing Drainage Culvert (Various Sizes) (Reference Section 01270.1.02.J) at _____ Dollars and _____ Cents per each	_____	_____
3.07.	22	LF	Furnish and Install 30" Reinforced Concrete Pipe (Reference Section 01270.1.02.L) at _____ Dollars and _____ Cents per linear foot	_____	_____
3.08.	2	EA	Furnish and Install Concrete Headwall (CH-FW- 0 )(2:1) (Reference Section 01270.1.02.N) at _____ Dollars and _____ Cents per each	_____	_____

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
3.09.	1	LS	Site Restoration and Vegetation (Reference Section 01270.1.02.R) at _____ Dollars and _____ Cents per lump sum	_____	_____
3.10.	1	LS	Trench Safety (Reference Section 01270.1.02.S) at _____ Dollars and _____ Cents per lump sum	_____	_____

**BID SUMMARY**

**TOTAL BID AMOUNT SCHEDULE 3**

\_\_\_\_\_

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
<b>Schedule 4 - Milam Street Culvert</b>					
4.01.	1	LS	Mobilization, Insurance, and Bonding (Reference Section 01270.1.02.A) at _____ Dollars and _____ Cents per lump sum	_____	_____
4.02.	1	LS	Barricades and Traffic Control (Reference Section 01270.1.02.B) at _____ Dollars and _____ Cents per lump sum	_____	_____
4.03.	1	LS	Stormwater Pollution Prevention (Reference Section 01270.1.02.C) at _____ Dollars and _____ Cents per lump sum	_____	_____
4.04.	1	STA.	Right of Way Preparation (Reference Section 01270.1.02.D) at _____ Dollars and _____ Cents per station	_____	_____
4.05.	1	LS	Excavation/Embankment (Reference Section 01270.1.02.E) at _____ Dollars and _____ Cents per lump sum	_____	_____
4.06.	95	SY	8" Cement Treated Subgrade (Road Mixed) (3%) (Reference Section 01270.1.02.F) at _____ Dollars and _____ Cents per square yard	_____	_____
4.07.	95	SY	9" Crushed Limestone Base (Type A, Grade 2) (Reference Section 01270.1.02.G) at _____ Dollars and _____ Cents per square yard	_____	_____
4.08.	95	SY	3" HMAc Pavement (Type D) (Reference Section 01270.1.02.H) at _____ Dollars and _____ Cents per square yard	_____	_____
4.09.	42	LF	Furnish and Install 42" Reinforced Concrete Pipe (Reference Section 01270.1.02.M) at _____ Dollars and _____ Cents per linear foot	_____	_____

**City of San Augustine  
Fema Culvert Replacement**

Item No.	Quantity	Unit	Description (with unit price in words)	Unit Price	Total Price
4.10.	2	EA	Furnish and Install Concrete Headwall (CH-PW-S)(2:1) (Reference Section 01270.1.02.N) at _____ Dollars and _____ Cents per each	_____	_____
4.11.	1	LS	Site Restoration and Vegetation (Reference Section 01270.1.02.R) at _____ Dollars and _____ Cents per lump sum	_____	_____
4.12.	1	LS	Trench Safety (Reference Section 01270.1.02.S) at _____ Dollars and _____ Cents per lump sum	_____	_____

**BID SUMMARY**

**TOTAL BID AMOUNT SCHEDULE 4**

\_\_\_\_\_

**TOTAL BASE BID AMOUNT**

\_\_\_\_\_

## BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

City of San Augustine  
301 S. Harrison St.  
San Augustine, Texas 75972

BID

Bid Due Date:  
Description: FEMA Culvert Repairs

BOND

Bond Number:

Date:

Penal sum \_\_\_\_\_ \$ \_\_\_\_\_  
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

**BIDDER**

**SURETY**

\_\_\_\_\_  
Bidder's Name and Corporate Seal (Seal)

\_\_\_\_\_  
Surety's Name and Corporate Seal (Seal)

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

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

Title

Title

*Note: Addresses are to be used for giving any required notice.*

*Provide execution by any additional parties, such as joint venturers, if necessary.*

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2 All Bids are rejected by Owner, or
  - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

12. **IMPORTANT** - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.





**DOCUMENT 00431**

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as Principal in the bid bond; that \_\_\_\_\_ who signed the said bond on behalf of the Principal was then \_\_\_\_\_ of said corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested to, on behalf of said corporation by authority of its governing body.

Corporate  
Seal

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

\* Power-of-attorney for person signing for Surety Company must be attached to bond.

*This Page Intentionally Left Blank!*

# QUALIFICATIONS STATEMENT

Prepared by



Issued and Published Jointly by



Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

# QUALIFICATIONS STATEMENT

THE INFORMATION SUPPLIED IN THIS DOCUMENT IS CONFIDENTIAL TO THE EXTENT  
PERMITTED BY LAWS AND REGULATIONS

## 1. SUBMITTED BY:

Official Name of Firm:

---

Address:

---

---

---

## 2. SUBMITTED TO:

---

## 3. SUBMITTED FOR:

---

Owner:

---

Project Name:

---

---

---

---

**TYPE OF WORK:**

---

---

---

## 4. CONTRACTOR'S CONTACT INFORMATION

Contact Person:

---

Title:

---

Phone:

---

Email:

---

**5. AFFILIATED COMPANIES:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**6. TYPE OF ORGANIZATION:**

SOLE PROPRIETORSHIP

Name of Owner: \_\_\_\_\_

Doing Business As: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

PARTNERSHIP

Date of Organization: \_\_\_\_\_

Type of Partnership: \_\_\_\_\_

CORPORATION

State of Organization: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

LIMITED LIABILITY COMPANY

State of Organization: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

JOINT VENTURE

Sate of Organization: \_\_\_\_\_

Date of Organization: \_\_\_\_\_

Form of Organization: \_\_\_\_\_

**7. CERTIFICATIONS**

CERTIFIED BY:

Disadvantage Business Enterprise: \_\_\_\_\_

Minority Business Enterprise: \_\_\_\_\_

Woman Owned Enterprise: \_\_\_\_\_

Small Business Enterprise: \_\_\_\_\_

Other (\_\_\_\_\_): \_\_\_\_\_

**8. BONDING INFORMATION**

Bonding Company: \_\_\_\_\_

Address: \_\_\_\_\_

Bonding Agent: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_

**9. CONSTRUCTION EXPERIENCE:**

Current Experience:

List on **Schedule A** all uncompleted projects currently under contract (If Joint Venture list each participant's projects separately).

Previous Experience:

List on **Schedule B** all projects completed within the last 5 Years (If Joint Venture list each participant's projects separately).

I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HEREWITH, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME OF ORGANIZATION: \_\_\_\_\_

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

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

DATED: \_\_\_\_\_

REQUIRED ATTACHMENTS

1. Schedule A (Current Experience).
2. Schedule B (Previous Experience).



## SCHEDULE A

### CURRENT EXPERIENCE

Project Name	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				

## SCHEDULE B

PREVIOUS EXPERIENCE (Include ALL Projects Completed within last 5 years)

Project Name	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				

## SCHEDULE B

PREVIOUS EXPERIENCE (Include ALL Projects Completed within last 5 years)

Project Name	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				



DOCUMENT 00452

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of \_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that:

(1) He/She is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_

\_\_\_\_\_  
Title

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_.

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

Notary Public

My commission expires \_\_\_\_\_

*This Page Intentionally Left Blank!*

**DOCUMENT 00453**

**CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS**

U.S. Department of Housing and Urban Development	
<b>CERTIFICATION OF BIDDER REGARDING CIVIL RIGHTS LAWS AND REGULATIONS</b>	
INSTRUCTIONS	
CERTIFICATION OF BIDDER REGARDING Executive Order 11246 and Federal Laws Requiring Federal Contractor to adopt and abide by equal employment opportunity and affirmative action in their hiring, firing, and promotion practices. This includes practices related to race, color, gender, religion, national origin, disability, and veterans' rights.	
NAME AND ADDRESS OF BIDDER (include ZIP Code)	
CERTIFICATION BY BIDDER	
Bidder has participated in a previous contract or subcontract subject to Civil Rights Laws and Regulations.  <input type="checkbox"/> Yes <input type="checkbox"/> No	
The undersigned hereby certifies that:  <input type="checkbox"/> The <u>Provision of Local Training, Employment, and Business Opportunities</u> clause (Section 3 provision) is included in the Contract. A written Section 3 plan (Local Opportunity Plan) was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000).  <input type="checkbox"/> The <u>Equal Employment Opportunity</u> clause is included in the Contract (if bid equals or exceeds \$10,000).	
Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?  <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAME AND TITLE OF SIGNER (Please type)	
SIGNATURE	DATE

*This Page Intentionally Left Blank!*



**DOCUMENT 00454**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the duly authorized representative of the Contractor, I hereby certify that the Contractor will comply with above applicable certification.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Printed Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

\*24 C.F.R. 87 App. A, available at <https://www.gpo.gov/fdsys/granlue/CFR-2011-title24-vol1/CFR-2011-title24-vol1-part87-appA>. Published Apr. 1, 2011. Accessed Aug. 1, 2018.

*This Page Intentionally Left Blank!*

# CONFLICT OF INTEREST QUESTIONNAIRE

# FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

## OFFICE USE ONLY

Date Received

**1** Name of vendor who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

**3** Name of local government officer about whom the information in this section is being disclosed.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes       No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

Yes       No

D. Describe each employment or business and family relationship with the local government officer named in this section.

**4**

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.



## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

---

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

Approved by OMB  
0348-0046

**SECTION 00500**

**CONTRACTING DOCUMENTS**

**Document Number and Title**

00500	Contracting Documents
00510	Notice of Award
00520	Standard Form of Agreement – EJCDC
00550	Notice to Proceed
00610	Performance Bond
00615	Payment Bond
00620	Contractor’s Application for Payment (Sample)
00621	Certificate of Insurance
00622	Certificate of Interested Parties Instructions and Sample
00625	Certificate of Construction Completion
00626	Certification Concerning Labor Standards and Prevailing Wage Rates
00700	Standard General Conditions – EJCDC
00800	Supplementary Conditions – EJCDC
00804	Wage Rate Determination

**END OF LIST**

*This Page Intentionally Left Blank!*



## NOTICE OF AWARD

---

Date of Issuance:

Owner: City of San Augustine

Owner's Contract No.:

Engineer: KSA Engineers

Engineer's Project No.: SAU.009

Project: FEMA Culvert Repairs

Contract Name: FEMA Culvert Repairs

Bidder:

Bidder's Address:

### TO BIDDER:

You are notified that Owner has accepted your Bid dated [\_\_\_\_\_] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

\_\_\_\_\_.

*[describe Work, alternates, or sections of Work awarded]*

The Contract Price of the awarded Contract is: \$ \_\_\_\_\_ *note if subject to unit prices, or cost-plus]*

[5] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to ~~Engineer~~ Owner [ 5 ] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]* and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

---

Owner:

Authorized Signature

By:

Title:

Copy: Engineer



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.

## **AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

Prepared by



Issued and Published Jointly by



Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of San Augustine (“Owner”) and  
\_\_\_\_\_ (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

**ARTICLE 2 – THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Culvert replacement and roadway repair.

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by KSA, 211 E. Shepherd Avenue, Ste. 205, Lufkin, Texas 75901.

3.02 The Owner has retained KSA (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially completed within 60 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 90 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of

requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$ 500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$ 500.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

---

## ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.
- B. All specific cash allowances in accordance with Paragraph 13.02 of the General Conditions.
- C. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

## ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
  - a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

#### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

### **ARTICLE 7 – INTEREST - NOT USED**

### **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
  - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the

Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 7, inclusive).
  - 2. Performance bond (pages 1 to 3, inclusive).
  - 3. Payment bond (pages 1 to 4, inclusive).
  - 4. Other bonds.
    - a. n/a (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
  - 5. General Conditions (pages 1 to 66, inclusive).
  - 6. Supplementary Conditions (pages 1 to 10, inclusive).
  - 7. Specifications as listed in the table of contents of the Project Manual.
  - 8. Drawings (not attached but incorporated by reference) consisting of \_\_\_\_\_ sheets with each sheet bearing the following general title: \_\_\_\_\_ [or] the Drawings listed on the attached sheet index.
  - 9. Addenda (numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive).
  - 10. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 1 to \_\_\_\_\_, inclusive).
  - 11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.



- d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE 10 – MISCELLANEOUS**

### **10.01 Terms**

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### **10.02 Assignment of Contract**

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto 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 Documents.

### **10.03 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.

### **10.04 Severability**

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall 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.

### **10.05 Contractor's Certifications**

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

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

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

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

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

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_  
*(where applicable)*

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*



**NOTICE TO PROCEED**

---

Owner:	City of San Augustine	Owner's Contract No.:	
Contractor:		Contractor's Project No.:	
Engineer:	KSA	Engineer's Project No.:	SAU.009
Project:	FEMA Culvert Repairs	Contract Name:	FEMA Culvert Repairs
		Effective Date of Contract:	

---

**TO CONTRACTOR:**

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [\_\_\_\_\_, 20\_\_\_\_]. *[see Paragraph 4.01 of the General Conditions]*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, [the date of Substantial Completion is \_\_\_\_\_, and the date of readiness for final payment is \_\_\_\_\_] **or** [the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

Before starting any Work at the Site, Contractor must comply with the following:

Note any access limitations, security procedures, or other restrictions

---

Owner:

Authorized Signature

By:

Title:

Date Issued:

Copy: Engineer



## PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

City of San Augustine  
301 S. Harrison St.  
San Augustine, Texas 75972

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description: FEMA Culvert Repairs

BOND

Bond Number:

Date: *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form:  None  See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Contractor's Name and Corporate Seal *(seal)*

\_\_\_\_\_  
Surety's Name and Corporate Seal *(seal)*

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

By: \_\_\_\_\_  
Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
  - 3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
  - 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
  - 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
- 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
  - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
  - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
  - 7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
  - 7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.



10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### 14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages

to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:



## PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

City of San Augustine  
301 S. Harrison St.  
San Augustine, Texas 75972

CONSTRUCTION CONTRACT

Effective Date of the Agreement:  
Amount:  
Description: FEMA Culvert Repairs

BOND

Bond Number:  
Date: *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:  
Amount:  
Modifications to this Bond Form:  None  See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Contractor's Name and Corporate Seal *(seal)*

\_\_\_\_\_  
Surety's Name and Corporate Seal *(seal)*

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

By: \_\_\_\_\_  
Signature *(attach power of attorney)*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Attest:** \_\_\_\_\_  
Signature

**Attest:** \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
  - 5.1 Claimants who do not have a direct contract with the Contractor,
    - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
    - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
  - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
  - 7.2 Pay or arrange for payment of any undisputed amounts.
  - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in

the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

## 16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

**Contractor's Application for Payment No.** \_\_\_\_\_

Application Period:		Application Date:
To (Owner): City of San Augustine	From (Contractor):	Via (Engineer): KSA Engineers
Project: FEMA Culvert Repairs	Contract:	211 E. Shepherd Ave., Suite 205 Lufkin, Texas 75901
Owner's Contract No.:	Contractor's Project No.:	Engineer's Project No.: SAU.009

**Application For Payment  
Change Order Summary**

Approved Change Orders			1. ORIGINAL CONTRACT PRICE.....	\$ _____
Number	Additions	Deductions	2. Net change by Change Orders.....	\$ _____
			3. Current Contract Price (Line 1 ± 2).....	\$ _____
			4. TOTAL COMPLETED AND STORED TO DATE	
			(Column F total on Progress Estimates).....	\$ _____
			5. RETAINAGE:	
			a. X _____ Work Completed.....	\$ _____
			b. X _____ Stored Material.....	\$ _____
			c. Total Retainage (Line 5.a + Line 5.b).....	\$ _____
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$ _____
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$ _____
			8. AMOUNT DUE THIS APPLICATION.....	\$ _____
			9. BALANCE TO FINISH, PLUS RETAINAGE	
			(Column G total on Progress Estimates + Line 5.c above).....	\$ _____
TOTALS				
NET CHANGE BY				
CHANGE ORDERS				

**Contractor's Certification**

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

---

**Contractor Signature**

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

Payment of: \$ \_\_\_\_\_  
(Line 8 or other - attach explanation of the other amount)

is recommended by: \_\_\_\_\_ (Engineer) \_\_\_\_\_ (Date)

Payment of: \$ \_\_\_\_\_  
(Line 8 or other - attach explanation of the other amount)

is approved by: \_\_\_\_\_ (Owner) \_\_\_\_\_ (Date)

Approved by: \_\_\_\_\_ (Date)  
Funding or Financing Entity (if applicable)









DOCUMENT 00621

CERTIFICATE OF INSURANCE

TO:

City of San Augustine \_\_\_\_\_

(Owner)

301 S Harrison St. \_\_\_\_\_

San Augustine, Texas 75972 \_\_\_\_\_

(Address)

Date \_\_\_\_\_

Project No. SAU.009 \_\_\_\_\_

Type of Project FEMA Culvert Repairs \_\_\_\_\_

THIS IS TO CERTIFY THAT \_\_\_\_\_

(Name and address of insured)

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of Insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted on reverse side hereof.

TYPE OF INSURANCE

	Policy No.	Effective	Expires	Limits of Liability
Workmen's Compensation				
Public Liability				1 person \$ _____ 1 accident \$ _____
Contingent Liability				1 person \$ _____ 1 accident \$ _____
Property Damage				
Builder's Risk				
Automobile				
Other				

The foregoing Policies (do) (do not) cover all sub-contractors.

Locations Covered: \_\_\_\_\_

Descriptions of Operations Covered: \_\_\_\_\_

The above policies either in the body thereof or by appropriate endorsement provide that they may not be changed or cancelled by the insurer in less than five days after the insured has received written notice of such change or cancellation.

Where applicable local laws or regulations require more than five days actual notice of change or cancellation to the assured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.

\_\_\_\_\_  
(Name of Insurer)

By \_\_\_\_\_

Title \_\_\_\_\_

*This Page Intentionally Left Blank!*

## DOCUMENT 00622

### CERTIFICATE OF INTERESTED PARTIES INSTRUCTIONS AND SAMPLE

**This form must be filled out before a recommendation to council for award of a contract can be made.**

Effective January 1, 2016, pursuant to Texas Government Code, Section 2252.908 (the "Interested Party Disclosure Act"), the City/County may not award a contract to a bidder unless the bidder submits a Certificate of Interested Parties Form 1295 (the "Disclosure Form") to the City/County as prescribed by the Texas Ethics Commission ("TEC"). In the event that the bidder's bid for the City/County is the best bid received, the City/County or its consultant, will promptly notify the bidder. That notification will serve as the conditional verbal acceptance of the bid. Upon this acceptance, the winning bidder must promptly file the materials described below.

#### PROCESS FOR COMPLETING THE DISCLOSURE FORM

The Disclosure Form can be found at <https://www.ethics.state.tx.us/forms/1295.pdf>, and reference should be made to the following information in order to complete it:

- 1) Item 2 – Name of City/County ("City/County, Texas")
- 2) Item 3 – the identification number ("CDBG-DR City/County"), and
- 3) Item 3 – description of the goods or services assigned to this contract by the City ("Construction Services for City/County")

You must:

- 1) complete the Disclosure Form electronically at the TEC's "electronic portal", and
- 2) print, sign and deliver a copy (scanned and emailed is fine) of the Disclosure Form and Certification of Filing that is generated by the TEC's "electronic portal."

The following link will take you to the electronic portal for filing:

<https://www.ethics.state.tx.us/TECCertInt/pages/login/certLogin.jsf>

Also, a detailed instruction video may be found here:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

Neither the City/County nor its consultants have the ability to verify the information included in a Disclosure Form, and neither have an obligation nor undertake responsibility for advising any business entity with respect to the proper completion of the Disclosure Form.

*This Page Intentionally Left Blank!*

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

### OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

SAMPLE



**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Owner:	City of San Augustine	Owner's Contract No.:	
Contractor:		Contractor's Project No.:	
Engineer:	KSA Engineers, Inc.	Engineer's Project No.:	SAU.009
Project:	FEMA Culvert Repairs	Contract Name:	FEMA Culvert Repairs

**This [preliminary] [final] Certificate of Substantial Completion applies to:**

- All Work  The following specified portions of the Work:

**Date of Substantial Completion**

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

Amendments to Owner's responsibilities:  None  
 As follows

Amendments to Contractor's responsibilities:  None  
 As follows:

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

<b>EXECUTED BY ENGINEER:</b>		<b>RECEIVED:</b>		<b>RECEIVED:</b>	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
(Authorized signature)	Owner (Authorized Signature)	Owner (Authorized Signature)	Owner (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____	Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____	Date: _____	Date: _____	Date: _____



**DOCUMENT 00626**

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
CONTRACTOR'S CERTIFICATION

**CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS**

TO (appropriate recipient)	DATE
	PROJECT NUMBER (if any) SAU.009
C/O	PROJECT NAME : FEMA Culvert Repairs

1. The undersigned, having executed a contract with \_\_\_\_\_  
\_\_\_\_\_ for the construction of the above-identified project, acknowledges that:

- (a) The Labor Standards provisions are included in the aforesaid contract,
- (b) Correction of any infractions of the aforesaid conditions, including infractions by any subcontractors and any lower tier subcontractors, is Contractor's responsibility.

2. Certifies that:

- (a) Neither Contractor nor any firm, partnership or association in which it has substantial interest is designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to Section 3(a) of the Davis-Bacon Act, as amended.
- (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions.

3. Contractor agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.

4. Certifies that:

- (a) The legal name and the business address of the undersigned are:

(b) The undersigned is (choose one):

(1) A SINGLE PROPRIETORSHIP	(3) A CORPORATION ORGANIZED IN THE STATE OF
(2) A PARTNERSHIP	(4) OTHER ORGANIZATION (Describe)

(c) The name, title and address of the owner, partners or officers of the undersigned are:

NAME	TITLE	ADDRESS

(d) The names and addresses of all other persons having a substantial interest in the undersigned, and the nature of the interest are:		
NAME	ADDRESS	NATURE OF INTEREST

(e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are:		
NAME	ADDRESS	TRADE CLASSIFICATION

Date \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

By \_\_\_\_\_

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



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

Copyright © 2013:

National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
[www.nspe.org](http://www.nspe.org)

American Council of Engineering Companies  
1015 15th Street N.W., Washington, DC 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
[www.asce.org](http://www.asce.org)

The copyright for this document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at [www.ejcdc.org](http://www.ejcdc.org), or from any of the sponsoring organizations above.

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

	<b>Page</b>
Article 1 – Definitions and Terminology.....	1
1.01    Defined Terms.....	1
1.02    Terminology.....	5
Article 2 – Preliminary Matters.....	6
2.01    Delivery of Bonds and Evidence of Insurance.....	6
2.02    Copies of Documents.....	6
2.03    Before Starting Construction.....	6
2.04    Preconstruction Conference; Designation of Authorized Representatives.....	7
2.05    Initial Acceptance of Schedules.....	7
2.06    Electronic Transmittals.....	7
Article 3 – Documents: Intent, Requirements, Reuse.....	8
3.01    Intent.....	8
3.02    Reference Standards.....	8
3.03    Reporting and Resolving Discrepancies.....	8
3.04    Requirements of the Contract Documents.....	9
3.05    Reuse of Documents.....	10
Article 4 – Commencement and Progress of the Work.....	10
4.01    Commencement of Contract Times; Notice to Proceed.....	10
4.02    Starting the Work.....	10
4.03    Reference Points.....	10
4.04    Progress Schedule.....	10
4.05    Delays in Contractor’s Progress.....	11
Article 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions.....	12
5.01    Availability of Lands.....	12
5.02    Use of Site and Other Areas.....	12
5.03    Subsurface and Physical Conditions.....	13
5.04    Differing Subsurface or Physical Conditions.....	13
5.05    Underground Facilities.....	15

5.06	Hazardous Environmental Conditions at Site .....	16
Article 6 – Bonds and Insurance .....		18
6.01	Performance, Payment, and Other Bonds .....	18
6.02	Insurance—General Provisions .....	19
6.03	Contractor’s Insurance .....	20
6.04	Owner’s Liability Insurance .....	22
6.05	Property Insurance .....	23
6.06	Waiver of Rights .....	24
6.07	Receipt and Application of Property Insurance Proceeds .....	25
Article 7 – Contractor’s Responsibilities .....		26
7.01	Supervision and Superintendence.....	26
7.02	Labor; Working Hours.....	26
7.03	Services, Materials, and Equipment .....	26
7.04	“Or Equals” .....	26
7.05	Substitutes .....	28
7.06	Concerning Subcontractors, Suppliers, and Others .....	29
7.07	Patent Fees and Royalties.....	31
7.08	Permits.....	31
7.09	Taxes .....	31
7.10	Laws and Regulations .....	31
7.11	Record Documents .....	32
7.12	Safety and Protection .....	32
7.13	Safety Representative.....	33
7.14	Hazard Communication Programs.....	33
7.15	Emergencies.....	33
7.16	Shop Drawings, Samples, and Other Submittals .....	34
7.17	Contractor’s General Warranty and Guarantee.....	36
7.18	Indemnification .....	36
7.19	Delegation of Professional Design Services .....	37
Article 8 – Other Work at the Site.....		38
8.01	Other Work .....	38
8.02	Coordination .....	38
8.03	Legal Relationships.....	39



Article 9 – Owner’s Responsibilities.....	40
9.01 Communications to Contractor.....	40
9.02 Replacement of Engineer.....	40
9.03 Furnish Data.....	40
9.04 Pay When Due.....	40
9.05 Lands and Easements; Reports, Tests, and Drawings.....	40
9.06 Insurance.....	40
9.07 Change Orders.....	40
9.08 Inspections, Tests, and Approvals.....	40
9.09 Limitations on Owner’s Responsibilities.....	40
9.10 Undisclosed Hazardous Environmental Condition.....	41
9.11 Evidence of Financial Arrangements.....	41
9.12 Safety Programs.....	41
Article 10 – Engineer’s Status During Construction.....	41
10.01 Owner’s Representative.....	41
10.02 Visits to Site.....	41
10.03 Project Representative.....	41
10.04 Rejecting Defective Work.....	42
10.05 Shop Drawings, Change Orders and Payments.....	42
10.06 Determinations for Unit Price Work.....	42
10.07 Decisions on Requirements of Contract Documents and Acceptability of Work.....	42
10.08 Limitations on Engineer’s Authority and Responsibilities.....	42
10.09 Compliance with Safety Program.....	43
Article 11 – Amending the Contract Documents; Changes in the Work.....	43
11.01 Amending and Supplementing Contract Documents.....	43
11.02 Owner-Authorized Changes in the Work.....	44
11.03 Unauthorized Changes in the Work.....	44
11.04 Change of Contract Price.....	44
11.05 Change of Contract Times.....	45
11.06 Change Proposals.....	45
11.07 Execution of Change Orders.....	46
11.08 Notification to Surety.....	46
Article 12 – Claims.....	47

12.01	Claims .....	47
Article 13 –	Cost of the Work; Allowances; Unit Price Work .....	48
13.01	Cost of the Work .....	48
13.02	Allowances .....	50
13.03	Unit Price Work .....	51
Article 14 –	Tests and Inspections; Correction, Removal or Acceptance of Defective Work .....	51
14.01	Access to Work.....	51
14.02	Tests, Inspections, and Approvals .....	52
14.03	Defective Work.....	52
14.04	Acceptance of Defective Work.....	53
14.05	Uncovering Work.....	53
14.06	Owner May Stop the Work .....	54
14.07	Owner May Correct Defective Work .....	54
Article 15 –	Payments to Contractor; Set-Offs; Completion; Correction Period.....	54
15.01	Progress Payments .....	54
15.02	Contractor’s Warranty of Title .....	58
15.03	Substantial Completion .....	58
15.04	Partial Use or Occupancy .....	59
15.05	Final Inspection .....	59
15.06	Final Payment.....	59
15.07	Waiver of Claims .....	60
15.08	Correction Period .....	61
Article 16 –	Suspension of Work and Termination .....	62
16.01	Owner May Suspend Work .....	62
16.02	Owner May Terminate for Cause .....	62
16.03	Owner May Terminate For Convenience.....	63
16.04	Contractor May Stop Work or Terminate.....	63
Article 17 –	Final Resolution of Disputes.....	64
17.01	Methods and Procedures.....	64
Article 18 –	Miscellaneous.....	64
18.01	Giving Notice .....	64
18.02	Computation of Times .....	64
18.03	Cumulative Remedies .....	64

18.04	Limitation of Damages.....	65
18.05	No Waiver .....	65
18.06	Survival of Obligations .....	65
18.07	Controlling Law .....	65
18.08	Headings .....	65



## 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 form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting 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, or both; 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, or both; 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; or (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. 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), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree 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 the 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. *Engineer*—The individual or entity named as such in the Agreement.
21. *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.
22. *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. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *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.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
27. *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.
28. *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.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
30. *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.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.
33. *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.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals and the performance of related construction activities.
35. *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.
36. *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.
37. *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 furnished by Owner which are designated for the use of Contractor.

38. *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.
39. *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.
40. *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 thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, 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.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *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.



48. *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 the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. 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:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
    - a. does not conform to the Contract Documents; or
    - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
    - c. 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 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean 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, shall mean 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, shall mean 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. 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 Bonds and Evidence of Insurance***

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), 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 executed 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 specifically 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 *Initial 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 for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall 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.

#### 2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items 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 items, or from those established in applicable transmittal protocols.

## ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one 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 or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall 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.

### 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, shall mean 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, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, 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, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, 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 Documents 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 Documents 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 shall 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 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 thereunder.
- 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 give written notice to Owner and Contractor 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 editions, 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 shall preclude 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 thirtieth 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 sixtieth day after the day of Bid opening or the thirtieth 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 shall 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 shall 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 shall 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 the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the 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. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall 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 utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
  4. acts of war or terrorism.
- D. 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.
- E. Paragraph 8.03 governs 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.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times 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.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

**ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor 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; 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 7.12, 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 at law; 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 shall 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 known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
  - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); 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 upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. 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; or
  - 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.

#### 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 either:
  - 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; or

2. is of such a nature as to require a change in the Drawings or Specifications; or
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 the necessity of Owner's obtaining 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 above; 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. *Possible Price and Times Adjustments:*
  1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, 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 conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
  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;  
or
  - 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 as 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, or both, then any such adjustment shall 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, or both, 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.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
  1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
  2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
    - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
    - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
    - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
    - d. 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 in the Contract Documents, or was not shown or indicated 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), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or

schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; 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 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. *Possible Price and Times Adjustments:*
  - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, 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. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
    - 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;
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
    - d. 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, or both, then any such adjustment shall 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, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

#### 5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
  - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
  - 2. 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 Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. 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; or
  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, or both, as a result of such Work

stoppage or such special conditions under which Work is agreed to be resumed by Contractor, 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.

- 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 or 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.H shall obligate 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 shall obligate 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 all of Contractor's obligations under the Contract. These bonds shall 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 Supplementary Conditions, or other specific provisions of the Contract.

Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.

- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, 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 shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. 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.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

#### 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. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements 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 and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies,

coverages, and endorsements 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 and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- E. 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, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of 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.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect 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 shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

### 6.03 *Contractor's Insurance*

- A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
  - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
  - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  - 2. claims for damages insured by reasonably available personal injury liability coverage.



3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor’s commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
    - a. Such insurance shall be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor’s contractual indemnity obligations in Paragraph 7.18.
  3. Broad form property damage coverage.
  4. Severability of interest.
  5. Underground, explosion, and collapse coverage.
  6. Personal injury coverage.
  7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
  8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, “Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured” or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer’s liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor’s pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor’s operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds:* The Contractor’s commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both

ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.

- H. *Contractor's professional liability insurance:* If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
  - 1. include at least the specific coverages provided in this Article.
  - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
  - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
  - 4. remain in effect at least until final payment (and longer if expressly required in this Article) 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 Documents.
  - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed 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.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

#### 6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. 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.

## 6.05 *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 full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
  2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
  3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
  4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
  5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  12. include performance/hot testing and start-up.
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed 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.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- 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 notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* 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 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

#### 6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers 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. 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 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 Subcontractors, all individuals or entities identified in the Supplementary Conditions as 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. None of the above waivers shall extend 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. 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:
  - 1. loss 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 perils whether or not insured by Owner; and
  - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner 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.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work 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 any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

#### 6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 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 6.05 shall 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, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

## **ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES**

### **7.01 *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. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

### **7.02 *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 at all times maintain good discipline and order at the Site.
- B. 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 shall 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.

### **7.03 *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 shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall 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 shall 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.

### **7.04 *“Or Equals”***

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, 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 material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
  - a. in the exercise of reasonable judgment Engineer determines that:
    - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
    - 2) it 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) it has a proven record of performance and availability of responsive service; and
    - 4) it is not objectionable to Owner.
  - b. Contractor certifies that, if approved and incorporated into the Work:
    - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
    - 2) it 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 shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

## 7.05 *Substitutes*

- A. Unless the specification or description of an item of material or equipment 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 material or equipment under the circumstances described below. To the extent possible such requests shall 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 material or equipment from anyone other than Contractor.
  2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.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 material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall 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 that specified, and
      - 3) be suited to the same use as that 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 that specified, and
      - 2) available engineering, sales, maintenance, repair, and replacement services.
    - d. shall 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 shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

#### 7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities 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, Supplier, or other individual or entity 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 five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. 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, Suppliers, or other individuals or entities 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, Supplier, or other individual or entity so identified solely on the basis of

substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.

- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, 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, Supplier, or other individual or entity, whether initially or as a replacement, shall 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 fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
  - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
  - 2. shall create 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.

#### 7.07 *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 a particular 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 shall be disclosed by Owner 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.

#### 7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. 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

#### 7.09 *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.

#### 7.10 *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. Except where otherwise expressly required by applicable Laws and Regulations, 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 shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give 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 notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.11 *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.

#### 7.12 *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. 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.
- B. 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. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and

other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when 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.

- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. 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.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.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).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall 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.

#### 7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

#### 7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of 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 threatened 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 thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

## 7.16 *Shop Drawings, Samples, and Other Submittals*

### A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
  - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - c. determined and verified 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
  - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall 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 submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

### B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

#### 1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will 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.D.

#### 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.D.

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. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. 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, conform to the information given in 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 shall 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.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 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, shall 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, Sample, or other submittal shall 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.D.4.

E. *Resubmittal Procedures:*

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 submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop

Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

#### 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 and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper 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.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  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. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.
- D. 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 shall 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 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 performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury 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 shall 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.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
  - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

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

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents.

Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

## **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 utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. 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.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, 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.

### **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 at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner 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, or both. 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 shall 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. When applicable, any such equitable adjustment in Contract Price shall 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 is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- 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. 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 to 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.
- C. 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 to Contractor.
- D. 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 shall 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 Documents (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 10.08. 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 *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 Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's

consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *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.

10.07 *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.

10.08 *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, shall 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 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 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *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 (if any) of which Engineer has been informed.

### **ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK**

#### 11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

##### 1. *Change Orders:*

- a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
- b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not 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, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.

- 2. *Work Change Directives:* 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 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

- 3. *Field Orders:* 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. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.02 *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. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes 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 shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate 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.

#### 11.03 *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.

#### 11.04 *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 shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall 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); or
  - 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 11.04.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 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall 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 shall be 15 percent;
    - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five 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 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.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 five 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 shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
- d. no fee shall 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 will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

#### 11.05 *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 shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

#### 11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
  - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. 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. The supporting data shall 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. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall 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.
  3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *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 that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

#### 11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the 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 11.02, (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 in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

#### 11.08 *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 shall be submitted 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; and
  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.
- 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 shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall be incorporated in a Change Order 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. 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 shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall 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. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, 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, shall 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 shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall 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, who 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 shall 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 for services specifically related to the Work.
5. Supplemental costs including 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, and hand tools not owned by the workers, 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.
  - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the 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 property insurance established in accordance with Paragraph 6.05), 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 shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall 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 shall not include any of the following items:
1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety 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. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
  3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  4. 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.
  5. 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:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

### 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 on account of any of the foregoing will be valid.

- C. *Contingency Allowance*: Contractor agrees that a 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 on account of Work covered by allowances, and the Contract Price shall 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, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
  - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
  - 2. there is no corresponding adjustment with respect to any other item of Work; and
  - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

### **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 will 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 therewith 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 shall 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 shall 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 shall 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 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 shall 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 special 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, or both, 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 shall 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 rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven 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 on account of 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. 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 shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and 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.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. 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, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, 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 on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of 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 that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
  - j. liquidated 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;
  - l. there are other items entitling 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 shall 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 shall be treated as an amount due as determined by Paragraph 15.01.C.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 seven 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 shall 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 seven 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 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 6.05 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 7.11), and other documents, Contractor may make application for final payment.
  2. The final Application for Payment shall 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 disputes that Contractor believes are unsettled; 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 Application and Acceptance:*
- 1. 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 ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall 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. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. 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. *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.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

#### 15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from



Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.

- 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 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 terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then 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 other adjacent areas;
  - 2. correct such defective Work;
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, 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 therefrom.
- B. If 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 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 correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. 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.
- D. 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.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not 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, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall 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) ten 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) 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 seven 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 shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### 16.03 *Owner May Terminate For Convenience*

- A. Upon seven 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 on account of loss of anticipated overhead, profits, or revenue, 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 seven 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, seven 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; and
  - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising 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; or
  - 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 Documents requires the giving of written notice, it will be deemed to have been validly given if:
  - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

### 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 shall not constitute a waiver of that provision, nor shall 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 or completion of the Contract or termination 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 *Headings*

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



**TABLE OF CONTENTS**  
**SUPPLEMENTARY CONDITIONS**

<u>Article</u>	<u>Title</u>	<u>Page</u>
SC.1.01	Defined Terms	SC-2
SC-2.02	Copies of Documents	SC-2
SC-5.03	Subsurface and Physical Conditions	SC-2
SC-5.06	Hazardous Environmental Condition at Site	SC-2
SC-6.03	Contractor's Liability Insurance	SC-2
SC-7.01	Supervision	SC-4
SC-7.09	Taxes	SC-4
SC-10.03	Project Representative	SC-4
SC-13.03	Unit Price Work	SC-8
SC-19.00	Trench Safety	SC-9

## SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2013 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

**SC-1.01.A.49** Add the following new paragraph after Paragraph 1.01.A.48:

**Abnormal Weather Conditions** - Conditions of extreme or unusual weather for a give region, elevation, or season as determined by Engineer. Extreme or unusual weather that is typical for a given region, elevation, or season shall not be considered Abnormal Weather Conditions.

**SC-2.02** Delete Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Owner shall furnish to Contractor up to five printed or hard copies of the Drawings and Project Manual and one set in electronic format. Additional copies will be furnished upon request at the cost of reproduction.

**SC-5.03** Add the following new paragraphs immediately after Paragraph 5.03.B:

- C. The following reports of explorations and tess of subsurface conditions at or adjacent to the Site are known to the Owner:

None

- D. Except as provided in Par. C above, or the Contract Docuements, no drawings of physical conditions relating to existing surface or subsurface structures at the Site are known to Owner.

- E. Copies of reports and drawings identified in SC-5.03.C and SC-5.03.D that are not included with the Bidding Documents may be requested from the Engineer and will be provided at the cost of reproduction.

**SC-5.06** Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

- B. Not Used.

**SC-6.03** Add the following new paragraph immediately after Paragraph 6.03J:



K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

- a. State: Statutory
- b. Applicable Federal (e.g., Longshoreman's): Statutory
- c. Employer's Liability: Statutory

2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

- a. General Aggregate \$2,000,000
- b. Products - Completed Operations Aggregate \$2,000,000
- c. Personal and Advertising Injury \$1,000,000
- d. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
- e. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.

3. Automobile Liability under Paragraph 6.03.D of the General Conditions:

- a. Bodily Injury:
  - Each person \$250,000
  - Each Accident \$500,000
- b. Property Damage:
  - Each Accident \$300,000

4. Excess or Umbrella Liability under Paragraph 6.03.E of the General Conditions:

- General Aggregate \$5,000,000
- Each Occurrence \$5,000,000

5. Contractor's Pollution Liability under Paragraph 6.03.F of the General Conditions:

Each Claim	<u>\$1,000,000</u>
Annual Aggregate	<u>\$2,000,000</u>

6. Owner (by name) and KSA Engineers, Inc. to be included as Additional Insureds for commercial general liability, automobile liability, umbrella or excess and pollution liability policies

SC-7.01.C Add the following paragraph after 7.01.B

Contractor's resident superintendent shall be on site at all times during the progress of the work.

SC-7.09 Add a new paragraph immediately after Paragraph 7.09.A:

B. Owner is exempt from payment of sales and compensating use taxes of the State and of the political subdivisions thereof on all materials to be incorporated into the Work.

1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.A:

B. For projects involving the services of a Resident Project Representative (RPR), the RPR will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.

1. **General:** RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
2. **Schedules:** Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
3. **Conferences and Meetings:** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and

other project-related meetings, and prepare and circulate copies of minutes thereof.

**4. *Liaison:***

- a. Serve as Engineer's liaison with Contractor, working principally through Contractor's authorized representative, assist in providing information regarding the intent of the Contract Documents.
- b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
- c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

**5. *Interpretation of Contract Documents:*** Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

**6. *Shop Drawings and Samples:***

- a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
- b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
- c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.

**7. *Modifications:*** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.

**8. *Review of Work and Rejection of Defective Work:***

- a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
- b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract

Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

**9. *Inspections, Tests, and System Startups:***

- a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

**10. *Records:***

- a. Prepare a daily report recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- c. Maintain records for use in preparing Project documentation.

**11. *Reports:***

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Hazardous Environmental Condition.

**12. *Payment Requests:*** Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

**13. *Certificates, Operation and Maintenance Manuals:*** During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

**14. *Completion:***

- a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

**C. The RPR shall not:**

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

**SC-13.03** Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- D. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
  1. if the Bid price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
  2. if there is no corresponding adjustment with respect to any other item of Work; and
  3. if Contractor believes that Contractor has incurred additional expense as a result thereof or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, either Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SC-19.00

Add the following paragraph:

**Trench Safety**

Contractor shall include the following statement, positioned before the signature blocks, on each pay request for submission to the Engineer and Owner for payment: “In accordance with the Contract Documents, based upon on-site observations and the data comprising the above application, the Engineer represents to the Owner to the best of the Engineer’s knowledge, information and belief, the Work (excluding Trench Safety) has progressed to the point indicated, the quality of the Work is generally in accordance with the Contract Documents, and the conditions precedent to Contractor’s being entitled to such payment appear to have been fulfilled insofar as it is the Engineer’s responsibility to observe Contractor’s Work. The Contractor is solely responsible for trench safety and, as such, the Engineer makes no representation that this pay item has been performed in a manner consistent with the Contract Documents.”





**DOCUMENT 00804**

**WAGE RATE DETERMINATION**

*This Page Intentionally Left Blank!*

"General Decision Number: TX20190028 01/04/2019

Superseded General Decision Number: TX20180038

State: Texas

Construction Type: Highway

Counties: Anderson, Angelina, Bosque, Camp, Cass, Cherokee, Erath, Falls, Fannin, Franklin, Freestone, Grimes, Hamilton, Henderson, Hill, Hood, Hopkins, Houston, Jack, Jasper, Lamar, Leon, Limestone, Madison, Marion, Milam, Morris, Nacogdoches, Navarro, Newton, Palo Pinto, Panola, Polk, Rains, Red River, Sabine, San Augustine, Shelby, Somervell, Titus, Trinity, Tyler, Van Zandt, Walker, Washington and Wood Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 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, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 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 calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set

forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/04/2019

\* SUTX2011-009 08/08/2011

	Rates	Fringes
CONCRETE FINISHER (Paving and Structures).....	\$ 13.38	
ELECTRICIAN.....	\$ 20.92	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	\$ 11.33	
Structures.....	\$ 13.07	
LABORER		
Asphalt Raker.....	\$ 11.34	
Flagger.....	\$ 9.03	
Laborer, Common.....	\$ 10.30	
Laborer, Utility.....	\$ 11.53	
Pipelayer.....	\$ 13.24	
Work Zone Barricade		
Servicer.....	\$ 11.22	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor.....	\$ 12.35	

Asphalt Distributor.....	\$ 14.36
Asphalt Paving Machine.....	\$ 12.92
Broom or Sweeper.....	\$ 10.30
Concrete Pavement Finishing Machine.....	\$ 19.31
Concrete Paving, Curing, Float, Texturing Machine....	\$ 16.34
Crane, Hydraulic 80 Tons or Less.....	\$ 20.21
Crane, Lattice boom 80 Tons or less.....	\$ 14.67
Crane, Lattice boom over 80 Tons.....	\$ 17.49
Crawler Tractor.....	\$ 13.38
Excavator 50,000 pounds or less.....	\$ 13.88
Excavator, Over 50,000 pounds.....	\$ 16.22
Foundation Drill, Truck Mounted.....	\$ 20.76
Front End Loader 3 cu yd or Less.....	\$ 12.89
Front End Loader, over 3 cu yd.....	\$ 12.32
Loader/Backhoe.....	\$ 12.87
Mechanic.....	\$ 18.58
Milling Machine.....	\$ 12.86
Motor Grader, Fine Grade....	\$ 17.07
Motor Grader, Rough.....	\$ 15.12
Pavement Marking Machine....	\$ 13.17
Reclaimer/Pulverizer.....	\$ 10.46
Roller, Asphalt.....	\$ 11.68
Roller, other.....	\$ 10.30
Scraper.....	\$ 12.43
Spreader Box.....	\$ 13.68
 Servicer.....	\$ 13.83
 Steel Worker (Reinforcing).....	\$ 15.83

TRUCK DRIVER

Lowboy-Float.....\$ 14.30  
 Off Road Hauler.....\$ 12.23  
 Single Axle.....\$ 10.30  
 Single or Tandem Axle Dump..\$ 12.28  
 Tandem Axle Tractor with  
 Semi Trailer.....\$ 12.50

-----

WELDERS - Receive rate prescribed for craft performing  
 operation to which welding is incidental.

=====

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 [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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) (ii)).

-----

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.

---

#### 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



Regional Office for the area in which the survey was conducted because those Regional Offices have 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.

=====

END OF GENERAL DECISION

"

## SECTION 01110

### SUMMARY OF WORK

#### PART 1 GENERAL

##### 1.01 SCOPE INFORMATION

- A. The Contractor shall complete the work in strict accordance with the Plans and these Specifications and, in the event no such requirements are determined, in conformance with the Owner's and Engineer's written direction.

##### 1.02 WORK COVERED BY CONTRACT DOCUMENTS

- A. The work covered by these contract documents comprises the construction of the FEMA Culvert Repairs within the City of San Augustine. In general terms, the following items are included:
  - 1. Culvert Replacement that includes the removal of existing culvert, installation of new culvert, removal of existing pavement, installation of new asphalt pavement, removal of existing guard rails, installation of new guard rails, and installation of new headwalls.
- B. The scope of work to be completed is defined by the Plans and these Specifications. In general terms the work consists of furnishing all labor, materials, equipment, tools and related items as required to complete the Project

##### 1.03 REFERENCE SPECIFICATIONS AND STANDARDS

- A. Perform Work to comply with Federal, State and Local ordinances and regulations.
- B. Provide materials and equipment that has National Science Foundation 60/61 approval for use in potable water supply systems. Advise the Engineer of any material requirements in these Contract Documents that conflict with National Science Foundation 60/61 requirements.
- C. Comply with the requirements of the various specifications and standards referred to in these Specifications, except where they conflict with the requirements of these Specifications. Such reference specifications and standards shall be the date of latest revision in effect at the time of receiving bids, unless the date is given.
- D. If the abbreviation TxDOT appears in these Specifications, it shall mean the 2014 edition of the Texas Department of Transportation specifications entitled "STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF HIGHWAYS, STREETS AND BRIDGES", including all applicable Addenda in effect at the time of receipt of bids. The TxDOT specifications may be obtained from the local Texas Department of Transportation District Office at (800) 558-9368, or may be downloaded via the internet at the following web address:  
<http://www.txdot.gov/business/specifications.htm>.
- E. Comply with applicable building codes.
  - 1. Comply with all Federal, State and Local Codes as a minimum or the requirements of these documents if more stringent than codes.

2. All work is to be inspected by the appropriate Code Enforcement Officers, as required.

#### **1.04 LOCATION**

- A. The improvements to be constructed herein are located within San Augustine County, Texas as shown on the location map of the Plans.
- B. Contractor's storage facilities, if necessary, shall be determined by the Contractor. Location of storage facilities is subject to Owner and Engineer approval. All storage costs and transportation are the responsibility of the Contractor.

#### **1.05 PERMITS, CERTIFICATES, LAW AND ORDINANCES**

- A. Contractor shall comply with all federal, state and local laws, ordinances or rules and regulations relating to the performance of the work.
- B. Obtain a building permit, if required, for the Project from the local authorities having jurisdiction.
- C. Obtain and pay for all other necessary permits including any and all necessary highway, street and road permits for transporting pipe and/or heavy equipment necessary for construction of the Project.
- D. Obtain and pay for other permits, certificates and licenses required by law necessary to conduct any part of the Work unless said permits have been previously acquired by the Owner and included in the Contract Documents.
- E. Retain copies of permits and licenses at the Site and observe and comply with all regulations and conditions of the permit or license, including additional insurance requirements.
- F. Arrange for inspections and certification by agencies having jurisdiction over the Work.
- G. Make arrangements with private utility companies and pay for fees associated with obtaining services, or for inspection fees.

#### **1.06 MEASUREMENT AND PAYMENT**

- A. Measurement and payment shall be as described in the "Bid Form" and Section 01270. Payment shall constitute complete compensation for all work involved in furnishing labor, materials, equipment, tools and related items to execute this contract.

#### **1.07 PUBLIC UTILITY COORDINATION**

- A. Construction shall accommodate the Owner's use of the premises during the construction period.
- B. Connection to existing piping may require water and/or wastewater system shutdown(s) or isolation. Contractor shall coordinate connections and shutdown/isolation requirements with the Owner.
- C. At no time shall Contractor or his employees modify operation of the existing water or wastewater treatment, water distribution or wastewater collection systems without permission from the Owner. In an emergency condition, Owner shall be notified immediately.

## 1.08 CONTRACTOR'S USE OF SITE

- A. Contractor shall assume full responsibility for the protection and safekeeping of all materials and products under this contract, stored at the site.
- B. Limit the use of Site for Work and storage to those areas designated on the Drawings or approved by the Engineer. Coordinate the use of the premises with the Engineer. Contractor shall move any materials or products stored outside the designated storage areas which interfere with operations of the Owner or other contractors, if applicable.
- C. Contractor shall maintain roads and access during construction and restore all roads and surrounding properties to their original condition.
- D. All driveways and thoroughfares cut by trenching or otherwise damaged, outside of the limits of construction, as a result of the Contractor's operations shall be repaired and resurfaced by the Contractor at his expense. All damaged driveways and thoroughfares shall be resurfaced with like materials equal to or better than the damaged surface. The Contractor shall be responsible for notifying all affected persons prior to cutting driveways. The Contractor shall at all times accommodate any person desiring passage across the open trench.
- E. The Contractor must use public easement and rights-of-way for execution of the work and will at no time enter onto private property. The Owner assumes no responsibility for Contractor equipment left on-site at any time.
- F. The Contractor shall be responsible for any damage that may occur to the existing improvements and facilities as a result of improper construction procedures or negligent practices. The extent of responsibility will be determined by the Owner and or Engineer.
- G. Contractor, during construction, shall coordinate with businesses to provide access during operating hours.
- H. Contractor shall notify all affected businesses and residents 24 hours prior to construction on the adjacent road or street. Notification shall be in the form of a leaflet or door-to-door.
- I. Do not permit alcoholic beverages or illegal substances on the Site. Do not allow persons under the influence of alcoholic beverages or illegal substances to enter or remain on the Site at any time. Persons on Site under the influence of alcoholic beverages or illegal substances will be permanently prohibited from returning to the Site. Criminal or civil penalties may also apply.
- J. Park construction equipment in designated areas only and provide spill control measures as discussed in Section 01500 – Temporary Facilities and Controls.
- K. Park employees' vehicles in designated areas only.
- L. Do not allow the use of audio devices, obnoxious, vulgar or abusive language, or sexual harassment in any form. These actions will cause immediate and permanent removal of the offender from the premises. Criminal or civil penalties may apply.
- M. Require Workers to wear clothing that is inoffensive and meets safety requirements. Do not allow sleeveless shirts, shorts, exceedingly torn, ripped or soiled clothing to be worn on the project.
- N. Do not allow firearms or weapons of any sort to be brought on to the Site under any conditions. No exception is to be made for persons with concealed handgun permits.

Remove any firearms or weapons and the person possessing these firearms or weapons permanently and immediately from the Site.

#### **1.09 ACCESS TO THE SITE**

- A. Maintain access to the facilities at all times. Do not obstruct roads, pedestrian walks, or access to the various buildings, structures, stairways, or entrances. Provide safe temporary walks or other structures to allow access for normal operations during construction.
- B. Provide adequate and safe access for inspections. Leave ladders, bridges, scaffolding and protective equipment in place until inspections have been completed. Construct additional safe access if required for inspections.
- C. Provide security at the Site as necessary to protect against vandalism and loss by theft.
- D. Use State, County, or City roadways for construction traffic only with written approval of the appropriate representatives of each entity. State, County, or City roadways may not all be approved for construction traffic. Obtain written approval to use State, County, City or private roads to deliver pipe and/or heavy equipment to the Site. Copies of the written approvals must be furnished to the Owner as Record Data before Work begins. No additional compensation will be paid because the Contractor is unable to gain access to the easement from public roadways.

#### **1.10 PROTECTION OF UTILITIES AND PERMANENT STRUCTURES**

- A. Examine the project site and review the available information concerning the site. Locate utilities, streets, driveways, fences, drainage structures, sidewalks, curbs, and gutters. Verify the elevations of the structures adjacent to excavations. Report these to the Engineer before beginning construction.
- B. The Contractor shall exercise care when working in the vicinity of existing utility lines. All utilities are **not** shown on the plans. Cutting or breaking of existing telephone lines, water lines, sewer lines, gas lines and oil pipelines shall be avoided. The Contractor shall contact each utility authority and verify location of all utility lines. Such lines, if broken or cut, shall be promptly restored to their original condition by the Contractor at his expense.
- C. Make adequate provisions to maintain the flow of storm sewers, sanitary sewers, drains and water courses encountered during the construction. Provide temporary service around the construction or otherwise construct the structure in a manner that the flow is not curtailed. Restore structures which may have been disturbed during construction to their original position as soon as construction in the area is completed. When active sanitary sewer lines are cut in the excavation operations, temporary flumes shall be constructed across the trench. The lines shall be restored to their original condition and elevation when backfilling has progressed to the original bedding lines.
- D. The Contractor should use care and judgment to realign proposed water mains to avoid disturbing any and all permanent structures situated in and along the proposed route of the water main and note such realignment on the Record Drawings. The term permanent structures includes, but is not limited to, power poles, light poles, and trees. The Contractor shall contact the Engineer in any situation where a permanent structure cannot be avoided.
- E. Protect buildings, utilities, street surfaces, driveways, sidewalks, curb and gutter, fences, wells, drainage structures, piping, valves, manholes, electrical conduits, and other systems or structures unless they are shown to be replaced or relocated on the Drawings. Restore

damage to items to be protected to the satisfaction of the Engineer, utility owner and Owner without additional compensation from the Owner.

- F. Protect trees, fences, signs, poles, guy wires, and all other property unless their removal is authorized. Restore any property damaged to equal or better. All fences crossed by the new construction or otherwise damaged as a result of Contractor's operations, shall be repaired at his expense. Repair shall be accomplished immediately after the work has progressed past the damaged areas. The damaged fences shall be mended to a condition equal to, or better than, their existing state.
- G. Carefully support and protect all structures and/or utilities so that there will be no failure or settlement where excavation or demolition endangers adjacent structures and utilities. Do not take existing utilities out of service unless shown in the Contract Documents or approved by the Engineer. Notify and cooperate with the utility owner if it is necessary to move services, poles, guy wires, pipelines or other obstructions.
- H. Protect existing trees and landscaping at the site.
  - 1. Visit site with Engineer to identify trees that may be removed during construction.
  - 2. Mark trees to be removed with paint.
  - 3. Protect trees to remain from damage by wrapping trunks with 2 x 4 timbers around the perimeter, securely wired in place, where machinery must operate around existing trees. Protect branches and limbs from damage by equipment.
- I. Protect buildings from damage when handling material or equipment. Protect finished surfaces, including floors, doors, and jambs. Remove doors and install temporary wood protective coverings over jambs.

#### **1.11 DISRUPTION TO SERVICES / CONTINUED OPERATIONS**

- A. Existing facilities are to continue in service as usual during the construction unless noted otherwise. Owner or utilities must be able to operate and maintain the facilities. Disruptions to existing utilities, piping, process piping, or electrical services shall be kept to a minimum.
  - 1. Do not restrict access to critical valves, operators, or electrical panels.
  - 2. Do not store material or products inside structures.
  - 3. Limit operations to the minimum amount of space needed to complete the specified Work.
  - 4. Maintain storm sewers and sanitary sewers in service at all times. Provide temporary service around the construction or otherwise construct the structure in a manner that the flow is not restricted.

#### **1.12 CLEANING DURING CONSTRUCTION**

- A. Provide positive methods to minimize raising dust from construction operations and provide positive means to prevent air-borne dust from discharging into the atmosphere. Control dust and dirt from demolition, cutting, and patching operations.
- B. Clean the Project as Work progresses and dispose of waste materials, keeping the Site free from accumulations of waste or rubbish. Provide containers on Site for waste collection. Do not allow waste materials or debris to blow around or off of the Site. Control dust from waste materials. Transport waste materials with as few handlings as possible.

- C. Comply with codes, ordinances, regulations, and anti-pollution laws. Do not burn or bury waste materials. Remove waste materials, rubbish and debris from the Site and legally dispose of these at public or private dumping areas.

**1.13 MAINTENANCE OF ROADS, DRIVEWAYS AND ACCESS**

- A. Maintain roads and streets in a manner that is suitable for safe operations of public vehicle during all phases of construction unless the Owner approves a street closing. Submit a written request for Owner's approval of a street closing. The request shall state:
  - 1. The reason for closing the street.
  - 2. How long the street will remain closed.
  - 3. Procedures to be taken to maintain the flow of traffic.
  - 4. Do not close public roads overnight.
- B. Construct temporary detours, including by-pass roads around construction, with adequately clear width to maintain the free flow of traffic at all times. Maintain barricades, signs, and safety features around the detour and excavations.
- C. Maintain barricades, signs, and safety features around the Work in accordance with all provisions of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD).
- D. Assume responsibility for any damage resulting from construction along roads or drives.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**



## SECTION 01270

### BID ITEM DESCRIPTIONS

#### PART 1 GENERAL

##### 1.01 GENERAL INFORMATION

- A. This section of the Specifications covers the components considered to be a portion of each pay item as may or may not be listed in the Unit Price Schedule and is furnished to aid the Contractor in preparing his bid.
  - 1. Of necessity, the items described as components of the various items are discussed in a general manner only, describing the major pieces of equipment and/or materials.
  - 2. Any items and/or appurtenances not specifically mentioned shall be considered a portion of the bid item to which, in the opinion of the Engineer, its function is most directly related.
  - 3. Failure to list all items and/or appurtenances does not relieve the Contractor from furnishing all apparatuses, devices, labor, or materials of whatever nature required for a complete and operating installation in accordance with the intent of the Drawings, approved Shop Drawings, and the Specifications.
- B. The successful Contractor shall, as soon as possible after award of the Contract, submit a list itemizing the components of each Lump Sum Bid Item and their respective costs to be used as an aid in the preparation of partial payments.
- C. The work called for by these Contract Documents shall be paid for under a single contract on a unit price basis.
- D. The total price bid shall constitute full compensation for all work indicated on the bid proposal.
- E. Partial payments shall be made to the Contractor based on monthly estimates submitted to the Engineer for approval in accordance with the General and Supplemental Conditions.
- F. All estimates for partial payment shall be based on completed work and corresponding dollar amounts as provided in the bid proposal and in accordance with the following schedule.
- G. Estimated Quantities
  - 1. Where estimated quantities are shown for the various classes of work to be done and material to be furnished under this contract, they are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the proposals offered for the work.
  - 2. It is understood that the actual amount of work to be done and material to be furnished under this contract may differ somewhat from these estimates, and that where the basis of payment is the unit price method, payment shall be made for the actual amount of work done and the material furnished.
- H. The items for which payment is to be made to the Contractor are listed in the Proposal.
  - 1. Reference to any other statements in the Standard Specifications, which refer to additional pay items are hereby deleted.

2. Items shown on the plans for which there is no payment item included in the Bid Proposal shall be considered subsidiary to the other major bid items.

## 1.02 UNIT PRICE DESCRIPTIONS

### A. Mobilization, Insurance, and Bonding:

1. Item shall consist of all preparatory work and operations, including but not limited to insurance and bonds; those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of all offices, buildings, and other facilities necessary for work on the project; and for all work and operations which must be performed or costs incurred prior to beginning work on the various items on the project site.
2. All work covered by this section shall be paid for at the contract lump sum price for "Mobilization."
3. Item shall include all cost associated with the coordination and payment for the right-of-entry permits, flagging, liability insurance, and appurtenances associated with the installation of utilities under the railroad.
4. Partial payments for this item shall be made with the first and second partial pay estimates paid on the contract, and shall be made at the rate of fifty percent (50%) of the lump sum price for "Mobilization, Insurance, & Bonding" on each of these partial pay estimates, provided the amount bid for "Mobilization, Insurance, & Bonding" does not exceed five percent (5%) of the total amount bid for the contract.
5. Where the amount bid for "Mobilization, Insurance & Bonding" exceeds five percent (5%) of the total amount bid for the contract, two and one-half percent (2<sup>1/2</sup>%) of the total amount bid shall be paid on each of the first two partial pay estimates, and that portion exceeding five percent (5%) shall be paid on the last partial pay estimate.

### B. Barricades, Signs, and Traffic Handling:

1. Item shall consist of furnishing all labor, materials, supplies, equipment and appurtenances necessary to install and maintain the required barricades, signs, and other traffic handling devices throughout the length of the project.
2. Measurement and payment of this item shall be on a lump sum basis.
3. A portion of the total lump sum price for this item shall be paid monthly. The monthly payment amount shall be calculated as the total lump sum amount bid for this item divided by the Contract time (in months).

### C. Stormwater Pollution Prevention:

1. Furnish labor, materials, equipment and incidentals, including pumps, piping, filter fabric fence, hay bales, etc. and other facilities necessary to meet and maintain all of the requirements and regulation of the Texas Commission on Environmental Quality (TCEQ) throughout the life of the project construction.
2. Create and maintain the necessary documentation required to keep the Stormwater Pollution Prevention current throughout this project.
3. Stormwater Pollution Prevention Features will be paid on a lump sum basis.

4. The monthly payment amount shall be calculated as the total lump sum amount divided by the contract time (in months).
- D. Right-of-Way Preparation:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to prepare the right of way for the proposed improvements including removal of existing drainage structures, headwalls, existing fences, clearing and removal of all trees and plants, grubbing, and proper disposal as detailed in the Plans and Specifications.
  2. Item includes costs associated with the demolition, removal, and disposal of existing roadway and driveway pavements (all types and depths).
  3. Item shall include all costs associated with video-taping and photographing the existing site prior to any construction and demolition activities. All items to be protected and reused, as shown on the Plans, shall be photographed or video-taped.
  4. Measurement shall be by the 100-foot station regardless of the width of the right of way and the width of preparation.
  5. Payment for this item shall be based on the station measurement for work performed in accordance with the Contract Documents and as approved by the Engineer.
- E. Excavation/Embankment:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to excavate and backfill the culvert installation to the lines and grades as shown in the Plans and Specifications.
  2. Measurement and payment of this item shall be on a lump sum basis.
  3. Payment for this item shall include all costs associated with removal of excavated material, legal disposal of material, select backfill material, hauling and transport costs, compaction, and all other required items for a complete installation in accordance with the Contract Documents and as approved by the Engineer.
- F. 8" Cement Treated Subgrade (3%) (Road Mixed):
1. This item shall be measured by the square yard of cement treated subgrade in its final position as shown in the Plans and approved by the Engineer.
  2. This price shall be full compensation for all labor tools, equipment, and materials necessary for placing, compacting, finishing, working, reworking, incidentals, and appurtenances necessary to complete the cement treated subgrade.
  3. Cement required for cement treated subgrade at 3% will NOT be measured and paid separately. Cement shall be considered subsidiary to this item.
- G. 9" Limestone Base Course (Type A, Grade 2):
1. This item shall be measured by the square yard of base course in its final position as shown in the Plans and approved by the Engineer.

2. This price shall be full compensation for all labor, tools, equipment, materials, hauling, handling, storage, and appurtenances necessary to provide cement for cement treated subgrade as shown in the Proposal and approved by the Engineer.
- H. 3" HMAC (Type D) Surface:
1. Item shall consist of furnishing all tools, equipment, materials, and labor to install 3-in Type D HMAC pavement. Subsidiary to this bid item is the placement of MC-30 prime coat prior to overlay installation as detailed in the Plans and in these Specifications.
  2. The contract price per square yard shall be full compensation for saw cutting, removal and replacement of existing materials necessary to complete the repair.
  3. Measurement and payment of this item shall be per square yard of pavement installed based on plan quantity measurements as shown in the Plans and approved by the Engineer.
  4. No payment shall be made for asphalt pavement damaged by the Contractor outside of the construction easements or damage due to lack of care and protection by the Contractor.
- I. Asphalt Pavement Repair:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to remove and replaced existing pavement removed for culvert replacement.
  2. Measurement and payment for this item shall be per square yard of pavement removed and replaced as shown on the Plans and as approved by the Engineer.
- J. Remove Existing Drainage Culvert (Various Sizes):
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to remove the existing culvert regardless of size, type, and material.
  2. Measurement and payment for this item shall be per each culvert removed as shown on the Plans and as approved by the Engineer.
- K. Furnish and Install 24" Reinforced Concrete Pipe:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install 24" reinforced concrete pipe as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, filter fabric wrapping, and appurtenances.
  2. Measurement and payment for this item shall be per linear foot of culvert complete and in place as shown on the Plans and as approved by the Engineer.
- L. Furnish and Install 30" Reinforced Concrete Pipe:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install 30" reinforced concrete pipe as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, filter fabric wrapping, and appurtenances.
  2. Measurement and payment for this item shall be per linear foot of culvert complete and in place as shown on the Plans and as approved by the Engineer.

- M. Furnish and Install 42" Reinforced Concrete Pipe:
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install 42" reinforced concrete pipe as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, filter fabric wrapping, and appurtenances.
  2. Measurement and payment for this item shall be per linear foot of culvert complete and in place as shown on the Plans and as approved by the Engineer.
- N. Furnish and Install Concrete Headwall
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install concrete headwall as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, and appurtenances.
  2. Measurement and payment for this item shall be per each headwall of the type and size noted on the plans and in the Bid Form complete and in place as shown on the Plans and as approved by the Engineer.
- O. Furnish and Install Metal Beam Guard Fence
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install metal beam guard fence as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, and appurtenances.
  2. Measurement and payment for this item shall be lump sum for the metal beam guard fence complete and in place as shown on the Plans and as approved by the Engineer.
- P. Furnish and Install Metal Beam Guard Fence Terminal Anchor Section
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install metal beam guard fence as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, filter fabric wrapping, and appurtenances.
  2. Measurement and payment for this item shall be lump sum for the metal beam guard fence complete and in place as shown on the Plans and as approved by the Engineer.
- Q. Furnish and Install Metal Beam Guard Fence Driveway Terminal Anchor Section
1. Item shall consist of furnishing all tools, equipment, materials, and labor necessary to install metal beam guard fence as detailed in the Plans and Specifications including excavation, backfill, compaction, embedment, filter fabric wrapping, and appurtenances.
  2. Measurement and payment for this item shall be lump sum for the metal beam guard fence complete and in place as shown on the Plans and as approved by the Engineer.
- R. Site Restoration and Vegetation
1. Item shall consist of furnishing all tools, equipment, materials and labor necessary to replace topsoil, and to re-establish vegetation in all areas disturbed by construction in accordance with the Contract Documents. For areas that are not called out for sodding, hydroseed shall be installed

2. Measurement and payment for this item shall be lump sum for seeding and fertilizing disturbed areas by hydroseed and hydromulch method as approved by the Engineer.
- S. Trench Safety
1. Item shall consist of furnishing all tools, equipment, materials and labor necessary to develop a trench safety plan in accordance with the Plans and Specifications.
  2. Measurement and payment for this item shall be lump sum for the trench safety complete and in place.
  3. No evaluation of the adequacy of the trench safety systems used by the Contractor will be made by the Engineer since the means, methods and responsibility for trench safety rests solely with the Contractor.
  4. By approving the Contractor's request for payment of trench safety, the Engineer makes no representation that the Contractor's work for this pay item has been performed in a manner consistent with the Contract Documents.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

## SECTION 01310

### PROJECT MANAGEMENT AND COORDINATION

#### PART 1 GENERAL

##### 1.01 WORK INCLUDED

- A. Administer contract requirements to construct the project. Provide documentation per the requirements of this Section. Provide information as requested by the Engineer or Owner.
- B. Furnish equipment, manpower, products, and other items necessary to complete the Project with an acceptable standard of quality and within the contract time. Construct Project in accordance with current safety practices.
- C. Manage Site to allow access to Site and control construction operations.
- D. Provide labor, materials, equipment and incidentals necessary to construct temporary facilities to provide and maintain control over environmental conditions at the Site. Remove temporary facilities when no longer needed.
- E. Construct temporary impounding works, channels, diversions, furnishing and operation of pumps, installing piping and fittings, and other construction for control of conditions at the Site. Remove temporary controls at the end of the Project.
- F. Provide temporary controls for pollutions, management of water and management of excess earth as required.
- G. Cost for Project Management and Coordination as described in this section are to be included in the Contract Price.

##### 1.02 QUALITY ASSURANCE

- A. Employ competent workmen, skilled in the occupation for which they are employed. Provide Work meeting quality requirements of the Contract Documents as determined by the Engineer and Owner.
- B. Remove defective Work from the Site immediately unless provisions have been made and approved by the Engineer to allow repair of the product at the Site. Clearly mark the Work as "defective" until it is removed or allowable repairs have been completed.

##### 1.03 SUBMITTALS

- A. Provide submittals in accordance with Section 01330 – Shop Drawings and Submittals:
  - 1. Provide copies of Supplier's printed storage instructions prior to furnishing materials or products and installation instructions prior to beginning the installation. Maintain one copy of these documents at the Site until the Project is complete. Incorporate this information into submittals.
  - 2. Incorporate field notes, sketches, recordings, and computations made by the Contractor in Record Drawings.

##### 1.04 COMMUNICATION DURING THE PROJECT

- A. The Engineer is to be the first point of contact for all parties on matters concerning this project.

- B. The Engineer will coordinate correspondence concerning:
  - 1. Submittals, including Applications for Payment
  - 2. Clarification and interpretation of the Contract Documents
  - 3. Contract modifications
  - 4. Observation of work and testing
  - 5. Claims
- C. The Engineer will normally communicate only with the Contractor. Any required communication with Subcontractors or Suppliers will only be with the direct involvement of the Contractor.
- D. Direct written communications to the Engineer at the address indicated at the Pre-construction Conference. Include the following with communications as a minimum:
  - 1. Name of the Owner
  - 2. Project name
  - 3. Contract title
  - 4. Project number
  - 5. Date
  - 6. A reference statement
- E. Submit communications on the forms referenced in this Section or in Section 01330 – Shop Drawings and Submittals.

#### **1.05 PROJECT MEETINGS**

- A. Pre-construction Conference
  - 1. Attend a pre-construction meeting.
  - 2. The location of the conference will be determined by the Engineer.
  - 3. The time of the meeting will be determined by the Engineer but will be after the Notice of Award is issued and not later than fifteen (15) days after the Notice to Proceed is issued.
  - 4. The Owner, Engineer, representatives of utility companies, the Contractor's project manager and superintendent, and representatives from major Subcontractors and Suppliers.
  - 5. Provide and be prepared to discuss:
    - a. Preliminary construction schedule per Section 01320 – Construction Progress Schedule.
    - b. Preliminary submittal schedule per Section 01330 – Shop Drawings and Submittals.
    - c. Schedule of values and anticipated schedule of payments.
    - d. List of Subcontractors and Suppliers.
    - e. Contractor's organizational chart as it relates to this project.



- f. Letter indicating the agents of authority for the Contractor and the limit of that authority with respect to the execution of legal documents, contract modifications and payment requests.
  6. Letter indicating the agents of authority for the Contractor and the limit of that authority with respect to the execution of legal documents, contract modifications and payment requests.
- B. Progress Meetings
  1. Attend meetings with the Engineer and Owner.
    - a. Meet on a monthly basis or as requested by the Engineer to discuss the project.
    - b. Meet at the project site or other location as designated by the Engineer.
    - c. Contractor's superintendent and other key personnel are to attend the meeting. Other individuals may be requested to attend to discuss specific matters.
    - d. Notify the Engineer of any specific items to be discussed a minimum of one week prior to the meeting.
  2. Provide information as requested by the Engineer or Owner concerning this project. Prepare to discuss:
    - a. Status of overall project schedule
    - b. Contractor's detailed schedule for the next month
    - c. Anticipated delivery dates for equipment
    - d. Coordination with the Owner
    - e. Status of submittals
    - f. Information or clarification of the Contract Documents
    - g. Claims and proposed modifications to the contract
    - h. Field observations, problems, or conflicts
    - i. Maintenance of quality standards
  3. Engineer will prepare minutes of meetings. Review the minutes of the meeting and notify the Engineer of any discrepancies within ten days of the date of the meeting memorandum. The minutes will not be corrected after the ten days have expired. Corrections will be reflected in the minutes of the following meeting or as an attachment to the minutes.
- C. Pre-submittal and Pre-installation Meetings
  1. Conduct pre-submittal and pre-installation meetings as required in the individual technical Specifications or as determined necessary by the Engineer (for example, instrumentation, roofing, concrete mix design, etc.).
  2. Set the time and location of the meetings when ready to proceed with the associated Work. Submit a Notification by Contractor in accordance with paragraph 1.08 for the meeting two weeks before the meeting. Engineer and Owner must approve of the proposed time and location.

3. Attend the meeting and require the participation of appropriate Subcontractors and Suppliers in the meeting.
4. Prepare minutes of the meeting and submit to the Engineer and Owner for review. Owner and Engineer will review the minutes of the meeting and notify the Contractor of any discrepancies within ten days of the date of the meeting memorandum. The minutes will not be corrected after the ten days have expired. Corrections will be reflected in a revised set of meeting minutes.

#### **1.06 REQUESTS FOR INFORMATION**

- A. Submit Request for Information (RFI) to the Engineer to obtain additional information or clarification of the Contract Documents.
  1. Submit a separate RFI for each item on the form provided by the Engineer.
  2. Attach adequate information to permit a written response without further clarification. Engineer will return requests that do not have adequate information to the Contractor for additional information. Contractor is responsible for all delays resulting from multiple submittals due to inadequate information.
  3. A response will be made when adequate information is provided. Response will be made on the RFI form or in attached information.
- B. Response to an RFI is given to provide additional information, interpretation or clarification of the requirements of the Contract Documents and does not modify the Contract Documents.
- C. Engineer will initiate a Contract Modification Request per Paragraph 1.09 if the RFI indicates that a contract modification is required.
- D. Use a Project Issues Log to document decisions made at meetings and actions to be taken in Accordance with Paragraph 1.07.

#### **1.07 PROJECT ISSUES LOG**

- A. Engineer will maintain a project issues log to document key decisions made at meeting and track action on these issues:
  1. Review the log prior to each regular meeting.
  2. Report actions taken subsequent to the previous progress meeting on items in the log assigned to the Contractor or through the Contractor to a Subcontractor or Supplier to the Engineer. Report on status of progress one week prior to each progress meeting established in Paragraph 1.05 to allow Engineer to update the log prior to the Progress meetings.
  3. Be prepared to discuss the status at each meeting.
- B. Decisions or action items in the log that require a change in the Contract Documents will have the preparation of a contract modification as an action item, if appropriate. The Contract Documents can only be changed by a Change Order or Field Order.

## **1.08 NOTIFICATION BY CONTRACTOR**

- A. Notify the Engineer of:
  - 1. Need for testing
  - 2. Intent to work outside regular working hours
  - 3. Request to shut down facilities or utilities
  - 4. Proposed utility connections
  - 5. Required observation by Engineer or inspection agencies prior to covering work
  - 6. Training
- B. Provide notification a minimum of two (2) weeks in advance in order to allow Owner and Engineer time to respond appropriately to the notification.

## **1.09 REQUESTS FOR MODIFICATIONS**

- A. Submit a request to the Engineer for any change in the Contract Documents.
  - 1. Assign a number to the Contract Modification Request when issued.
  - 2. Include with the Contract Modification Request:
    - a. A complete description of the proposed modification.
    - b. The reason the modification is requested.
    - c. A detailed breakdown of the cost of the change (necessary only if the modification requires a change in contract amount). The itemized breakdown is to include:
      - 1) List of materials and equipment to be installed
      - 2) Man hours for labor by classification
      - 3) Equipment used in construction
      - 4) Consumable supplies, fuels and materials
      - 5) Royalties and patent fees
      - 6) Bonds and insurance
      - 7) Overhead and profit
      - 8) Field office costs
      - 9) Home office cost
      - 10) Other items of cost
    - d. Provide the level of detail outline in the paragraph above for each Subcontractor or Supplier actually performing the Work if work is to be provided by a Subcontractor or Supplier. Indicate appropriate Contractor mark-ups for Work provided through Subcontractors and Suppliers. Provide the level of detail outline in the paragraph above for self-performed Work.
    - e. Provide a revised schedule indicating the effect on the critical path for the project and a statement of the number of days the project may be delayed by the modification.

3. Submit a Contract Modification Request to the Engineer to request a field change.
  4. A Contract Modification Request is required for all substitutions or deviations from the Contract Documents.
  5. Engineer will evaluate the request for a contract modification.
- B. Owner will initiate changes through the Engineer.
1. Engineer will prepare a description of proposed modifications to the Contract Documents.
  2. Engineer will assign a number to the Contract Modification Request when issued.
  3. Return the Contract Modification Request with a proposal to incorporate the requested change. Include a breakdown of costs into materials and labor in detail outline above to allow evaluation by the Engineer.
- C. Engineer will issue a Field Order or a Change Order per the General Conditions if a contract modification is appropriate.
1. Modifications to the contract can only be made by a Field Order or a Change Order.
  2. Changes in the project will be documented by a Field Order or by a Change Order.
  3. Field Orders may be issued by the Engineer for contract modifications that do not change the Contract Price or Contract Time.
  4. Any modifications that require a change in Contract Price or Contract Time can only be approved by Change Order.
    - a. Proposals issued by the Contractor in response to a Contract Modification Request will be evaluated by the Engineer.
    - b. If a Change Order is recommended, the Engineer will prepare the Change Order.
    - c. The Change Order will be sent to the Contractor for execution with a copy to the Owner recommending approval.
    - d. Change Orders can only be approved by the Owner.
      - 1) Work performed on the proposed contract modifications prior to the approval of the Change Order will be performed at the Contractor's risk.
      - 2) No payment will be made for work on Change Orders until approved by the Owner.
- D. The Contractor may be informed that the Contract Modification Request is not approved and construction is to proceed in accordance with the Contract Documents.

#### **1.10 RECORD DOCUMENTS**

- A. Maintain at the site one complete record copy of:
1. Drawings
  2. Specifications
  3. Addenda

4. Contract modifications
  5. Approved Shop Drawings and record data
  6. One set of construction photographs
  7. Test records
  8. Clarifications and other information provided in Request for Information responses
  9. Reference standards
- B. Store documents and samples in the Contractor's field office or other storage location approved by the Engineer.
1. Documents are to remain separate from documents used for construction. Do not use these documents for construction.
  2. Provide a secure storage space for the storage of samples.
  3. Maintain documents in clean, dry, legible conditions and in good order.
  4. Make documents and samples available at all times for inspection by the Engineer and Owner.
- C. Marking Drawings
1. Label each document as "Project Record" in large printed letters.
  2. Record information as construction is being performed.
    - a. Do not conceal any Work until the required information is recorded.
    - b. Mark drawings to record actual construction, including the following:
      - 1) Depths of various elements of the foundation in relation to finished first floor datum or the top of walls.
      - 2) Horizontal and vertical locations of underground utilities and appurtenances constructed and existing utilities encountered during construction.
      - 3) Location of internal utilities and appurtenances concealed in the construction. Refer measurements to permanent structure on the surface. Include the following equipment:
        - a) Piping
        - b) Ductwork
        - c) Equipment and control devices requiring periodic maintenance or repair
        - d) Valves, unions, traps and tanks
        - e) Services entrance
        - f) Feeders
        - g) Outlets
      - 4) Changes of dimension and detail
      - 5) Changes made by Field Order and Change Order

- 6) Details not on the original Drawings. Include field verified dimensions and clarifications, interpretations and additional information issued in response to RFI's.
- c. Mark Specifications and Addenda to identify products provided.
  - 1) Record product name, trade name, catalog number and each Supplier (with address and phone number) of each product and item of equipment actually installed.
  - 2) Record changes made by Field Order and Change Order.
- d. Mark additional Work or information in erasable pencil.
  - 1) Use red for new or revised indication.
  - 2) Use purple for Work deleted or not installed (lines to be removed).
  - 3) Highlight items constructed per the Contract Documents in yellow.
- e. Submit record documents to Engineer for review and acceptance 30 days prior to final completion of the project.
  - 1) Provide one (1) set of marked-up drawings.
  - 2) Provide one (1) set of specifications.
- D. Applications for Payment will not be recommended for payment if record documents are found to be incomplete or not in order. Final payment will not be recommended without complete record documents.

#### **1.11 SAFETY REQUIREMENTS**

- A. Assume sole responsibility for safety at the Site. Protect the safety and welfare of persons at the Site.
- B. Provide safe access to move through the Site. Provide and maintain barricades, guard rails, covered walkways, and other protective devices to warn and protect from hazards at the Site.
- C. Comply with latest provisions of the Occupational Health and Safety Administration and other regulatory agencies in performing Work.
- D. Cooperate with accident investigations related to the Site. Provide two copies of all reports, including insurance company reports, if requested by the Owner, prepared concerning accidents, injury, or death on the Site to the Engineer as Record Data per Section 01300 – Shop Drawings and Submittals.

#### **1.12 COORDINATION**

- A. Coordinate the Work of various trades having interdependent responsibilities for installing, connecting to, and placing equipment in service.
- B. Coordinate requests for substitutions to provide compatibility of space, operating elements, effect on the Work of other trades, and on the Work scheduled for early completion.
- C. Coordinate the use of Project space and the sequence of installation of equipment, elevators, walks, mechanical, electrical, plumbing, or other Work that is indicated diagrammatically on the Drawings.

1. Follow routings shown for tubes, pipes, ducts, conduits, and other items as closely as practical, with due allowance for available physical space.
  2. Utilize space efficiently to maximize accessibility for Owner's maintenance and repairs.
  3. Schematics are diagrammatic in nature. Adjust routing of piping, ductwork, utilities, and location of equipment as needed to resolve spatial conflicts between the various trades. Document the actual routing on the Record Drawings.
- D. Conceal ducts, pipes, wiring, and other non-finish items in finished areas, except as otherwise shown. Coordinate locations of concealed items with finish elements.
- E. Coordinate with architectural reflected ceiling plans the exact location and dimensioning of items which occur within hung ceilings. Request clarification from the Engineer prior to proceeding with fabrication or installation if a conflict exists.
- F. Schedule construction activities in sequence required to obtain best results where installation of one part of the Work is dependent on installation of other components, either before or after its own installation.
- G. Make adequate provisions to accommodate items scheduled for later installation, including:
1. Accepted alternates,
  2. Installation of products purchased with allowances,
  3. Work by others, and
  4. Owner-supplied, Contractor-installed items.
- H. Sequence, coordinate, and integrate the various elements of mechanical, electrical, and other systems, materials, and equipment. Comply with the following requirements:
1. Coordinate mechanical and electrical systems, equipment, and materials installation with other building components.
  2. Verify all dimensions by field measurements.
  3. Arrange for chases, slots, and openings in other building components during progress of construction.
  4. Coordinate the installation of required supporting devices and sleeves to be set in cast-in-place concrete and other structural components, as they are constructed.
  5. Install systems, materials, and equipment as permitted by codes to provide the maximum headroom possible where mounting heights are not detailed or dimensioned.
  6. Coordinate the connection of systems with exterior underground and overhead utilities and services. Comply with the requirements of governing regulations, franchised service companies, and controlling agencies. Provide required connection for each service.
  7. Install systems, materials, and equipment to conform with approved submittal data, including coordination drawings, to the greatest extent possible. Conform to arrangements indicated by the Contract Documents, recognizing that portions of the Work are shown only in diagrammatic form. Adjust routing of piping, ductwork, utilities, and location of equipment as needed to resolve spatial conflicts between

the various trades. Document changes in the indicated routings on the Record Drawings.

8. Install systems, materials, and equipment level and plumb, parallel and perpendicular to other building systems and components.
9. Install systems, materials, and equipment to facilitate servicing, maintenance, and repair or replacement of components. As much as practical, connect for ease of disconnecting, with minimum of interference with other installations. Extend grease fittings to accessible locations.
10. Install access panel or doors where units are concealed behind finished surfaces.
11. Install systems, materials, and equipment giving right-of-way priority to systems required to be installed at a specified slope.

### **1.13 FIELD MEASUREMENTS**

- A. Perform complete field measurements for products required to fit existing conditions prior to purchasing products or beginning construction.
- B. Verify property lines, control lines, grades, and levels indicated on the Drawings.
- C. Verify pipe class, equipment capacities, existing electrical systems and power sources for existing conditions.
- D. Check Shop Drawings and indicate the actual dimensions available where products are to be installed.
- E. Include field measurements in record drawings as required in Paragraph 1.10.

### **1.14 REFERENCE DATA AND CONTROL POINTS**

- A. The Engineer will provide the following control points:
  1. Benchmarks, base line, or grid reference points for horizontal control.
  2. Benchmarks for vertical control.
  3. Designated control points may be on an existing structure or monument.
- B. Locate and protect control points prior to starting the Work and preserve permanent reference points during construction. Do not change or relocate points without prior approval of the Engineer. Notify Engineer when the reference point is lost, destroyed, or requires relocation. Replace Project control points on the basis of the original survey.
- C. Provide complete engineering layout of the work needed for construction.
  1. Provide competent personnel. Provide equipment including accurate surveying instruments, stakes, platforms, tools, and materials.
  2. Provide surveying with accuracy meeting the requirements established for Category 5 Construction Surveying as established in the Manual of Practice of Land Surveying in Texas published by the Texas Society of Professional Surveyors, latest revision.
  3. Record data and measurements per standards.

### **1.15 DELIVERY AND STORAGE**

- A. Deliver products and materials to the Site in time to prevent delays in construction.



- B. Deliver packaged products to Site in original undamaged containers with identifying labels attached. Open cartons as necessary to check for damage and to verify invoices. Reseal cartons and store properly until used. Leave products in packages or other containers until installed.
- C. Deliver products that are too large to fit through openings to the Site in advance of the time enclosing walls and roofs are erected. Set in place, raised above floor on cribs.
- D. Assume full responsibility for the protection and safekeeping of products stored at the Site.
- E. Store products at locations acceptable to the Engineer and to allow Owner access to maintain and operate existing facilities.
- F. Store products in accordance with the Supplier's storage instructions immediately upon delivery. Leave seals and labels intact. Arrange storage to allow access for maintenance of stored items and for inspection. Store unpacked and loose products on shelves, in bins, or in neat groups of like items.
- G. Obtain and pay for the use of any additional storage areas as needed for construction. Store products subject to damage by elements in substantial weather-tight enclosures or storage sheds. Provide and maintain storage sheds as required for the protection of products. Provide temperature, humidity control and ventilation within the ranges stated in the Supplier's instructions. Remove storage facilities at the completion of the Project.
- H. Protect the pipe interior. Keep all foreign materials such as dirt, debris, animals, or other objects out of the pipe during the Work. Cap or plug ends of installed pipe in an approved manner when pipe is not being installed. Clean or wash out pipe sections that become contaminated before continuing with installation. Take precautions to prevent the pipe from floating or moving out of the proper position during or after laying operations. Immediately correct any pipe that moves from its correct position.
- I. Provide adequate exterior storage for products that may be stored out-of-doors.
  - 1. Provide substantial platforms, blocking, or skids to support materials and products above ground; slope to provide drainage. Protect products from soiling or staining.
  - 2. Cover products subject to dislocation or deterioration from exposure to the elements, with impervious sheet materials. Provide ventilation to prevent condensation below covering.
  - 3. Store loose, granular materials on clean, solid surfaces, or on rigid sheet materials, to prevent mixing with foreign matter.
  - 4. Provide surface drainage to prevent erosion and ponding of water.
  - 5. Prevent mixing of refuse or chemically injurious materials or liquids with stored materials.
  - 6. Pipes and conduits stored outdoors are to have open ends sealed to prevent the entrance of dirt, moisture, and other injurious materials. Protect PVC pipe from ultraviolet light exposure.
  - 7. Store light weight products to prevent wind damage.

- J. Protect and maintain mechanical and electrical equipment in storage.
  - 1. Provide Supplier's service instructions on the exterior of the package.
  - 2. Service equipment on a regular basis as recommended by the Supplier. Maintain a log of maintenance services. Submit the log as Record Data at the completion of the Project.
  - 3. Provide power to and energize space heaters for all equipment for which these devices are provided.
  - 4. Provide temporary enclosures for all electrical equipment, including electrical systems on mechanical devices. Provide and maintain heat in the enclosures until equipment is energized.
- K. Maintain storage facilities. Inspect stored products on a weekly basis and after periods of severe weather to verify that:
  - 1. Storage facilities continue to meet specified requirements.
  - 2. Supplier's required environmental conditions are continually maintained.
  - 3. Surfaces of products exposed to the elements are not adversely affected.
- L. Replace any stored item damaged by inadequate protection or environmental controls.
- M. Payment may be withheld for any products not properly stored.

#### **1.16 BLASTING**

- A. Blasting for excavations is not allowed.

#### **1.17 ARCHAEOLOGICAL REQUIREMENTS**

- A. Cease operations immediately and contact the Engineer for instructions if an historical or archaeological find is made during construction.
- B. Conduct all construction activities to avoid adverse impact on the Sites where significant historical or archaeological Sites have been identified at the Site.
  - 1. Obtain details for Working in these areas.
  - 2. Maintain confidentiality regarding the Site.
  - 3. Adhere to the requirements of the Texas Historical Commission.
  - 4. Notify the Owner and appropriate State Agencies as required.
- C. Do not disturb Archaeological Sites.
  - 1. Obtain the services of a qualified archaeological specialist to instruct construction personnel on how to identify and protect archaeological finds on an emergency basis.
  - 2. Coordinate activities to permit Archaeological Work to take place within the area.
    - a. Attempt to archaeologically clear areas needed for construction as soon as possible.
    - b. Provide a determination of priority for such areas.

- D. Assume responsibility for any unauthorized destruction that might result to such Sites by construction personnel, and pay all penalties assessed by the State or Federal agencies for non-compliance with these requirements.
- E. Contract time will be modified to compensate for delays caused by such archaeological finds. No additional compensation shall be paid for delays.

#### **1.18 CUTTING AND PATCHING**

- A. Perform cutting, fitting, and patching required to complete the work or to:
  - 1. Uncover work to provide for installation of new work or the correction of defective work.
  - 2. Provide routine penetrations of non-structural surfaces for installation of mechanical, electrical, and plumbing work.
  - 3. Uncover work that has been covered prior to observation by the Engineer.
- B. Submit written notification to the Engineer in advance of performing any cutting which affects:
  - 1. Work of any other Contractor or the Owner.
  - 2. Structural integrity of any structure or system of the project.
  - 3. Integrity or effectiveness of weather exposed or moisture resistant structure or systems.
  - 4. Efficiency, operational life, maintenance, or safety of any structure or system.
  - 5. Appearance of any structure or surfaces exposed occasionally or constantly to view.
- C. The notification shall include:
  - 1. Identification of the project.
  - 2. Location and description of affected work.
  - 3. Reason for cutting, alteration, or excavation.
  - 4. Effect on the work of any separate contractor or Owner.
  - 5. Effect on the structural or weatherproof integrity of the project.
  - 6. Description of proposed work, including:
    - a. Scope of cutting, patching, or alteration.
    - b. Trades that will perform the work.
    - c. Products proposed for use.
    - d. Extent of refinishing to be performed.
    - e. Cost proposal, when applicable.
  - 7. Alternatives to cutting and patching.
  - 8. Written authorization from any separate contractor whose work would be affected.
  - 9. Date and time work will be uncovered or altered.

- D. Examine the existing conditions, including structures subject to damage or to movement during cutting or patching.
  - 1. Inspect conditions affecting installation of products or performance of the work after uncovering the work.
  - 2. Provide a written report of unacceptable or questionable conditions to the Engineer. The Contractor shall not proceed with work until Engineer has provided further instructions. Beginning work will constitute acceptance of existing conditions by the Contractor.
- E. Protect the structure and other parts of the work and provide adequate support to maintain the structural integrity of the affected portions of the work. Provide devices and methods to protect adjacent work and other portions of the project from damage. Provide protection from the weather for portions of the project that may be exposed by cutting and patching work.
- F. Execute cutting and demolition by methods which will prevent damage to other work, and will provide proper surfaces to receive installation of repairs.
- G. Execute fitting and adjustment of products to provide a finished installation to comply with specified products, functions, tolerances, and finishes.
- H. Cut, remove, and legally dispose of selected mechanical equipment, components, and materials as indicated, including but not limited to, the removal of mechanical piping, heating units, plumbing fixtures and trim, and other mechanical items made obsolete by the modified work.
- I. Restore work which has been cut or removed. Install new products to provide completed work per the Contract Documents.
- J. Fit work air-tight to pipes, sleeves, ducts, conduit, and other penetrations through the surfaces. Where fire rated separations are penetrated, fill the space around the pipe or insert with materials with physical characteristics equivalent to fire resistance requirements of penetrated surface.
- K. Patch finished surfaces and building components using new products specified for the original installation.
- L. Refinish entire surfaces as necessary to provide an even finish to match adjacent finishes:
  - 1. For continuous surfaces, refinish to the nearest intersection.
  - 2. For an assembly, refinish the entire unit.

#### **1.19 PRELIMINARY OCCUPANCY**

- A. Owner may deliver, install and connect equipment, furnishings, or other apparatus in buildings or other structures. These actions do not indicate acceptance of any part of the building or structure and does not affect the start of warranties or correction periods.
- B. Protect the Owner's property after installation is complete.
- C. Owner or Engineer may use any product for testing to determine that the product meets the requirements of the Contract Documents. This use does not constitute acceptance by either the Owner or Engineer. These actions do not indicate acceptance of any part of the product and does not affect the start of warranties or correction periods.

## **1.20 INITIAL MAINTENANCE AND OPERATION**

- A. Maintain equipment until the project is accepted by the Owner. Ensure that mechanical equipment is properly maintained as recommended by the Supplier.
- B. Do not operate air handling equipment unless filters are in place and are clean. Change filters weekly during construction.
- C. Provide maintenance and start-up services prior to acceptance of equipment.
- D. Remove and clean screens and strainers in piping systems.
- E. Clean insects from intake louver screens.
- F. Provide documentation of maintenance and operations when Owner takes over operation and control of the Project.

## **1.21 ENDANGERED SPECIES RESOURCES**

- A. No activity is authorized that is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Federal Endangered Species Act (ESA), and/or the State of Texas Parks and Wildlife Code on Endangered Species, or to destroy or adversely modify the habitat of such species.
- B. If a threatened or endangered species is encountered during construction, the Contractor shall immediately cease work in the area of the encounter and notify the Owner, who will immediately implement actions in accordance with the ESA and applicable State statutes. These actions shall include reporting the encounter to the TWDB, the U. S. Fish and Wildlife Service, and the Texas Parks and Wildlife Department, obtaining any necessary approvals or permits to enable the work to continue, or implement other mitigative actions. The Contractor shall not resume construction in the area of the encounter until authorized to do so by the Owner.

## **PART 2 PRODUCTS**

### **2.01 MATERIALS**

- A. Provide materials in accordance with the requirements of the individual Sections.

## **PART 3 EXECUTION**

### **3.01 COMPLETION OF WORK**

- A. Perform the Work per the Supplier's published instructions. Do not omit any preparatory step or installation procedure unless specifically exempted or modified by Field Order.

**END OF SECTION**

*This Page Intentionally Left Blank!*

## SECTION 01320

### CONSTRUCTION PROGRESS SCHEDULE

#### PART 1 GENERAL

##### 1.01 REQUIREMENTS

- A. Prepare and submit a progress schedule for the Work and update the schedule on a monthly basis for the duration of the Project.
- B. Provide schedule in adequate detail to allow Owner to monitor the Work progress, to anticipate the time and amount of Applications for Payment, and to relate submittal processing to sequential activities of the work.
- C. Incorporate and specifically designate the dates of anticipated submission of submittals and the dates when submittals must be returned to the Contractor into the schedule.
- D. Assume complete responsibility for maintaining the progress of the Work per the schedule submitted.
- E. Take all Project requirements into consideration when preparing schedule.

##### 1.02 SUBMITTALS

- A. Submit progress schedules in accordance with Section 01330 – Shop Drawings and Submittals. Submit schedules within the following times:
  - 1. Preliminary schedule within 10 days after the Notice of Award. The schedule is to be available at the pre-construction conference.
  - 2. Detailed schedule at least 10 days prior to the first payment request.
- B. Submit progress schedules with Applications for Payment. Schedules may be used to evaluate the Applications for Payment. Failure to submit the schedule may cause delay in the review and approval of Applications for Payment.

##### 1.03 SCHEDULE REQUIREMENTS

- A. Schedule is to be in adequate detail to:
  - 1. Assure adequate planning, scheduling, and reporting during the execution of the Work.
  - 2. Assure the coordination of the Work of the Contractor and the various Subcontractors and Suppliers.
  - 3. Assist in monitoring the progress of the work.
  - 4. Assist in evaluating proposed changes to Contract Time and project schedule.
  - 5. Assist the Owner in review of Contractor's Application for Payment.
- B. Provide the schedule in the form of a time scaled horizontal bar chart which indicates graphically the Work scheduled at any time during the Project. The graph is to indicate:
  - 1. Complete sequence of construction by activity.
  - 2. Identification of the activity by structure, location, and type of Work.
  - 3. Chronological order of the start of each item of work.

4. The activity start and stop dates.
  5. The activity duration.
  6. Successor and predecessor relationships for each activity. Group related activities or use lines to indicate relationships.
  7. A clearly indicated critical path. Indicate only one critical path on the schedule. The subsystem with the longest time of completion is the critical path where several subsystems each have a critical path. Float time is to be assigned to other subsystems.
  8. Project percentage of completion, based on dollar value of the Work included in each activity to the last day of the pay period for each Application for Payment.
- C. Submit a separate submittal schedule indicating the dates when the submittals are to be sent to the Engineer.
1. List specific dates submittal is to be sent to the Engineer.
  2. List specific dates submittal must be processed in order to meet the proposed schedule.
  3. Allow a reasonable time to review submittals, taking into consideration the size and complexity of the submittal, the submission of other submittals, and other factors that may affect review time.
  4. Allow time for re-submission of the submittals for each item. Contractor is responsible for delays associated with additional time required to review incomplete or erroneous submittals and for the time lost when submittals are submitted for products that do not meet specification requirements.
- D. Update the schedule at the end of each monthly partial payment period to indicate the progress made on the project to that date.

#### **1.04 SCHEDULE REVISIONS**

- A. Submit a written report if the schedule indicates that the Project is more than thirty (30) days behind schedule. The report is to include:
1. Number of days Project is behind schedule.
  2. Narrative description of the steps to be taken to bring the Project back on schedule.
  3. Anticipated time required to bring the Project back on schedule.
  4. Submit a revised schedule indicating the action that the Contractor proposes to take to bring the Project back on schedule.
- B. Revise the schedule to indicate any adjustments in Contract Time approved by Change Order.
1. Revised schedule is to be included with Contract Modification Request for which an extension of time is requested.
  2. Failure to submit a revised schedule indicates that the modification shall have no impact on the ability of the Contractor to complete the project on time and that the cost associated with the change of additional plant or work force have been included in the cost proposed for the modification.



- C. Updating the project schedule to reflect actual progress is not considered a revision to the project schedule.
- D. Applications for Payment will not be recommended for payment without a revised schedule and if required, the report indicating the Contractor's plan for bringing the project back on schedule.

**1.05 FLOAT TIME**

- A. Define float time as the amount of time between the earliest start date and the latest start date of a chain of activities on the construction schedule.
- B. Float time is not for the exclusive use or benefit of either the Contractor or Owner.
- C. Contract time cannot be changed by the submission of this schedule. Contract Time can only be modified by approved Change Order.
- D. Schedule completion date must be the same as the contract completion date. Time between the end of construction and the contract final completion date is to be indicated as float time.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

*This Page Intentionally Left Blank!*

## SECTION 01330

### SHOP DRAWINGS AND SUBMITTALS

#### PART 1 GENERAL

##### 1.01 WORK INCLUDED

- A. Submit documentation as required by the Contract Documents and as reasonably requested by the Owner and Engineer to:
  - 1. Record the products incorporated into the Project for the Owner.
  - 2. Provide information for operation and maintenance of the Project.
  - 3. Provide information for the administration of the Contract.
  - 4. Allow the Engineer to advise the Owner if products proposed for the project by the Contractor conform, in general, to the design concepts of the Contract Documents.
- B. Contractor's responsibility for full compliance with the Contract Documents is not relieved by the Engineer's review of submittals. Contract modifications can only be approved by Change Order or Field Order.

##### 1.02 CONTRACTOR'S RESPONSIBILITIES

- A. Review and certify all submittals prior to submission.
- B. Determine and verify:
  - 1. Field measurements.
  - 2. Field construction requirements.
  - 3. Location of all existing structures, utilities and equipment related to the submittals.
  - 4. Submittals are complete for their intended purpose.
  - 5. Conflicts between the submittals related to the various Subcontractors and Suppliers have been resolved.
  - 6. Quantities and dimensions shown on the submittals.
- C. Submit information per the procedures described in this section and the detailed specifications.
- D. Furnish the following submittals:
  - 1. Schedules, data and other documentation as described in detail in this section or referenced in the General Conditions and Contract Documents.
  - 2. Shop Drawings required for consideration of a contract modification per Paragraph 1.08.
  - 3. Submittals as required in the detailed specifications.
  - 4. Submittals not required will be returned without Engineer's review.
- E. Submit a schedule indicating the date submittals will be sent to the Engineer and proposed dates that the product will be incorporated into the project. Make submittals promptly in accordance with the schedule to cause no delay in the Project.

1. Send submittals to the Engineer allowing a reasonable time for delivery, review and marking submittals. Include time for review of a resubmission if necessary. Allow adequate time for the submittal review process, ordering, fabrication, and delivery of the product to not delay progress on the Project.
  2. Schedule submittal to provide all information for interrelated work at one time. No review will be performed on submittals requiring coordination with other submittals. Engineer will return submittals for resubmission as a complete package.
- F. Submit information for all of the components and related equipment required for a complete and operational system in the same submittal.
1. Include electrical, mechanical, and other information required to indicate how the various components of the system function.
  2. Provide certifications, warranties, and written guarantees with the submittal package for review when they are required.
  3. Fabrication or installation of any products prior to the approval of Shop Drawings is done at the Contractor's risk. Products not meeting the requirements of Contract Documents are defective and may be rejected at the Owner's option.
- G. Payment will not be made for products for which submittals are required until the submittals have been received. Payment will not be made for products for which Shop Drawings or Samples are required until these are approved by the Engineer.

### **1.03 QUALITY ASSURANCE**

- A. Submit legible, accurate, complete documents presented in a clear, easily understood manner. Submittals not meeting these criteria will be returned without review.
- B. Demonstrate that the proposed products are in full and complete compliance with the design criteria and requirements of the Contract Documents including Drawings and Specifications as modified by Addenda, Field Orders, and Change Orders.
- C. Furnish and install products that fully comply with the information included in the submittal.

### **1.04 SUBMITTAL PROCEDURES**

- A. Submit copies of each submittal to the Engineer in the quantities required under Paragraph 1.14.
  1. All submittals shall only contain information required pertaining to the item specified. Submittals containing extraneous information not pertaining to the specific item specified will be rejected by Engineer and will require resubmittal.
  2. Create and submit color documents where color is important to the evaluation of the submittal and/or where comments will be lost if only black and white documents are provided. Submit sample and color charts per Paragraph H.
- B. Transmit all submittals, with a properly completed Submittal Transmittal Form as provided by the Engineer. Failure to use transmittal form, or incomplete transmittal forms shall constitute return of submittal to Contractor without review.
  1. Use a separate transmittal form for each specific product, class of material, and equipment system.

2. Submit items specified in different sections of the Specifications separately unless they are part of an integrated system.
  3. Submit all required shop drawings, product data, and samples for a product at one time. Organize and index information and drawings, regardless of size. Shop drawings larger than 11"x17" may be submitted with remaining product data either rolled or folded. In all cases each product submittal package shall contain an index listing the items contained in the submittal
- C. Contractor shall complete transmittal form with as much information as possible to facilitate Engineer's timely review of the submittal data.
1. Assign each submittal a Contractor's Submittal Number consisting of a prefix, a sequence number, and a letter suffix. Prefixes shall be as follows:

<b>Prefix</b>	<b>Description</b>	<b>Originator</b>
AP	Application for Payment	Contractor
CO	Change Order	Engineer
CMR	Contract Modification Request	Contractor
CTR	Certified Test Report	Contractor
EIR	Equipment Installation Report	Contractor
FO	Field Order	Engineer
NBC	Notification by Contractor	Contractor
O&M	Operation & Maintenance Manuals	Contractor
PD	Product Data	Contractor
RD	Record Data	Contractor
RFI	Request for Information	Contractor
SAM	Sample	Contractor
SD	Shop Drawing	Contractor
SCH	Progress Schedule	Contractor

2. The Contractor's Submittal Number shown on the transmittal form shall be a three-digit number (001-999) assigned to each separate submittal under the associated specification section.
3. The submittal number shall be suffixed with a letter designating the review cycle of the submittal (i.e. "A"=initial submittal, "B"=first re-submittal, "C"=second re-submittal, etc.). For example: SD 025 A represents shop drawing number twenty-five and the letter "A" designates this is the first time this submittal has been sent for review.
4. Correct assignment of numbers is essential since different submittal types are processed in different ways.

- D. Submit documents with uniform markings.
  - 1. Mark submittals to:
    - a. Highlight Contractor's corrections in green.
    - b. Highlight items pertinent to the products being furnished in yellow and delete items that are not when the Supplier's standard drawings or information sheets are provided.
    - c. Cloud items and highlight in yellow where selections by the Engineer or Owner are required.
    - d. Mark dimensions with the prefix FD to indicate field verified dimensions on the Shop Drawings.
  - 2. Define abbreviations and symbols used in Shop Drawings.
    - a. Use terms and symbols in Shop Drawings consistent with the Contract Drawings.
    - b. Provide a list of abbreviations and their meaning as used in the Shop Drawings.
    - c. Provide a legend for symbols used on Shop Drawings.
- E. Mark submittals to reference the Drawing number and/or section of the Specifications, detail designation, schedule or location that corresponds with the data submitted. Other identification may also be required, such as layout drawings or schedules to allow the reviewer to determine where a particular product is to be used.
- F. Deliver samples required by the Specifications to the project site. Provide a minimum of two samples.
- G. Construct mock-ups from the actual products to be used in construction per detailed Specifications.
- H. Submit color charts and Samples for every product requiring color, texture or finish selection.
  - 1. Submit all color charts and Samples at one time.
  - 2. Do not submit color charts and Samples until all record data have been submitted or Shop Drawings for the products have been approved.
  - 3. Submit color charts and Samples not less than thirty (30) days prior to when these products are to be ordered or released for fabrication to comply with the schedule for construction of the Project.
- I. Submit Contract Modification Request to request modifications to the Contract Documents.

#### **1.05 REVIEW PROCEDURES**

- A. Shop drawings are reviewed in the order received, unless Contractor request that a different priority be assigned.
- B. Mark a submittal as "Priority" to place the review for this submittal ahead of submittals previously delivered. Priority submittals will be reviewed before other submittals for this Project which have been received but not reviewed. Use discretion in the use of "Priority" submittals as this may delay the review of submittals previously submitted. Revise the Schedule of Contractor's Submittals for substantial deviations from the previous schedule.
- C. Review procedures vary with the type of submittal as described in Paragraph 1.06.

## 1.06 SUBMITTAL REQUIREMENTS

- A. Shop Drawings are required for those products that cannot adequately be described in the Contract Documents to allow fabrication, erection or installation of the product without additional detailed information from the Supplier.
1. Shop Drawings are requested so that the Engineer can:
    - a. Assist the Owner in selecting colors, textures or other aesthetic features.
    - b. Compare the proposed features of the product with the specified features so as to advise the Owner that the product does, in general, conform to the Contract Documents.
    - c. Compare the performance features of the proposed product with those specified so as to advise the Owner that it appears that the product will meet the designed performance criteria.
    - d. Review required certifications, guarantees, warranties, and service agreements for compliance with the Contract Documents.
  2. Certify on the submittal transmittal form that the Contractor has reviewed the Shop Drawings and made all necessary corrections such that the products, when installed, will be in full compliance with the Contract Documents. Shop Drawings submitted without this certification will be returned without review.
  3. Submit Shop Drawings for:
    - a. Products indicated in the submittal schedule following this section.
    - b. When a substitution or equal product is proposed in accordance with Paragraph 1.08 of this Section.
  4. Include a complete description of the material or equipment to be furnished. Information is to include:
    - a. Type, dimensions, size, arrangement, model number, and operational parameters of the components.
    - b. Weights, gauges, materials of construction, external connections, anchors, and supports required.
    - c. Performance characteristics, capacities, engineering data, motor curves, and other information necessary to allow a complete evaluation of mechanical components.
    - d. All applicable standards such as ASTM or Federal specification numbers.
    - e. Fabrication and installation drawings, setting diagrams, manufacturing instructions, templates, patterns, and coordination drawings.
    - f. Wiring and piping diagrams and related controls.
    - g. Mix designs for concrete, asphalt, or other materials proportioned for the Project.
    - h. Complete and accurate field measurements for products which must fit existing conditions. Indicate on the submittal that the measurements represent actual dimensions obtained at the site.

5. Provide all required statements of certification, guarantees, extended service agreements, and other related documents with the Shop Drawing. The effective date of these documents shall be the date of acceptance of the work by the Owner.
6. Comments will be made on items called to the attention of the Engineer for review and comment. Any marks made by the Engineer do not constitute a blanket review of the submittal or relieve the Contractor from responsibility for errors or deviations from the Contract requirements.
  - a. Submittals that are reviewed will be returned with one or more of the following designations:
    - 1) Approved: Submittal is found to be acceptable as submitted.
    - 2) Approved as Noted: Submittal is acceptable with corrections or notations made by Engineer and may be used as corrected.
    - 3) Revise and Resubmit: Submittal has deviations from the Contract Documents, significant errors, or is inadequate and must be revised and resubmitted for subsequent review.
    - 4) Rejected: Products are not acceptable.
    - 5) Filed as Received: Submittal has been received by Engineer, but no review or other action has been taken by the Engineer. Submittals with this designation are typically informational only and do not require formal action.
    - 6) Additional Information Required: Submittal is being returned as incomplete and required additional information before a complete review can be completed.
    - 7) See Comments: Submittal is being returned with comments. Unless other designations are indicated, no formal action has been taken regarding approval of the submittal.
    - 8) Returned Without Review: Submittal does not conform to these specifications or is not required by the Contract Documents. Non-conforming submittals shall be corrected and returned to the Engineer for review.
  - b. Drawings with a significant or substantial number of markings by the Contractor may be marked "Approved as Noted" and "Revise and Resubmit." These drawings are to be revised to provide a clean record of the submittal.
  - c. Dimensions or other data that do not appear to conform to the Contract Documents will be marked as "At Variance With" (AVW) the Contract Documents or other information provided. The Contractor is to make revisions as appropriate to comply with Contract Documents.
7. The use of reproductions of the Contract Plans by any contractor, subcontractor, erector, fabricator, or material supplier in lieu of preparation of shop drawings will be permitted. However, it will signify his acceptance of all information shown therein as correct, and obligates himself to any job expense, real or implied, arising due to any errors that may occur thereon. In addition, all references to the Engineer and its sub-consultants, including all engineer's seals, are to be removed if these Contract Drawings are to be used as shop drawings.



- B. Certifications, Warranties and Service Agreements include documents as specified in the detailed specifications or as follows:
1. Certified Test Reports (CTR): A report prepared by an approved testing agency giving results of tests performed on products to indicate their compliance with the specifications. (Refer to Section 01450 – Testing Laboratory Services.)
  2. Certification of Local Field Service (CLS): A certified letter stating that field service is available from a factory or supplier approved service organization located within a 300 mile radius of the project site. List names, addresses, and telephone numbers of approved service organizations on or attach it to the certificate.
  3. Extended Warranty (EW): A guarantee of performance for the product or system beyond the normal one (1) year warranty described in the General Conditions. Issue the warranty certificate in the name of the Owner.
  4. Extended Service Agreement (ESA): A contract to provide maintenance beyond that required to fulfill requirements for warranty repairs, or to perform routine maintenance for a definite period beyond the warranty period. Issue the service agreement in the name of the Owner.
  5. Certification of Adequacy of Design (CAD): A certified letter from the manufacturer of the equipment stating that they have designed the equipment to be structurally stable and to withstand all imposed loads without deformation, failure, or adverse effects to the performance and operational requirements of the unit. The letter shall state that mechanical and electrical equipment is adequately sized to be fully operational for the conditions specified or normally encountered by the product's intended use.
  6. Certification of Applicator/Subcontractor (CSQ): A certified letter stating that the Applicator or Subcontractor proposed to perform a specified function is duly designated as factory authorized and trained for the application of the specified product.
- C. Submit record data to provide information to allow the Owner to adequately identify the products incorporated into the project and allow replacement or repair at some future date.
1. Provide record data for all products per the submittal schedule. Record data is not required for items for which Shop Drawings and/or operations and maintenance manuals are required.
  2. Provide information only on the specified products. Submit a Contract Modification Request for approval of deviations or substitutions and obtain approval by Field Order or Change Order prior to submitting record data.
  3. Provide the same information required for Shop Drawings.
  4. Record data will be received by the Engineer, logged, and provided to Owner for the Project record.
    - a. Record data may be reviewed to see that the information provided is adequate for the purpose intended. Inadequate drawings may be returned as unacceptable.
    - b. Record data is not reviewed for compliance with the Contract Documents. Comments may be returned if deviations from the Contract Documents are

noted during the cursory review performed to see that the information is adequate.

- D. Provide Samples for comparison with products delivered to the Site for use on the Project.
  - 1. Samples shall be of sufficient size and quantity to clearly illustrate the functional characteristics of the product, with integrally related parts and attachment devices.
  - 2. Indicate the full range of color, texture, and patterns.
  - 3. Dispose of Samples when related Work has been completed and approved, and disposal is requested by the Engineer. At Owner's option Samples will become the property of the Owner.
- E. Construct mock-ups for comparison with the Work being performed.
  - 1. Construct mock-ups of the size or area indicated in the detailed Specifications.
  - 2. Construct mock-ups complete with texture and finish to represent the finished product.
  - 3. Protect mock-ups until Work has been completed and accepted by the Owner.
  - 4. Dispose of mock-ups when related Work has been completed and disposal is approved by the Engineer.
- F. Submit Operation and Maintenance manuals (O&M) for all equipment, mechanical devices, or components described in the Contract Documents per Section 01780 – Operation and Maintenance Data. Include copies of approved Shop Drawings in the manual.
- G. Submit Application for Payment (AP) in accordance with Section 01290 – Payment Procedures.
- H. Submit Progress Schedules (SCH) in accordance with Section 01320 – Construction Progress Schedule.
- I. Submit Certified Test Reports (CTR) from independent testing laboratories in accordance with Section 01450 – Testing Laboratory Services.
  - 1. Submit test reports for material fabricated for this project with Shop Drawings for that product.
  - 2. Submit test reports produced at the point of production for standard production products with the record data for that product.
- J. Submit a list of Suppliers and Subcontractors as record data.
- K. Submit Equipment Installation Reports (EIR) in accordance with Section 01750 – Starting and Adjusting.

#### **1.07 SUBMITTALS REQUIRED FOR THIS PROJECT**

- A. Furnish the following Submittals:
  - 1. Products as indicated in the detailed plans and specifications.
  - 2. When a substitution or equal product is proposed in accordance with Paragraph 1.08 of this Section.

## **1.08 REQUESTS FOR DEVIATION**

- A. Submit requests for deviation from the Contract Documents for any product that does not fully comply with the Contract Documents.
- B. Submit request by Contract Modification Request (CMR). Identify the deviations and the reason the change is requested.
- C. Include the amount of cost savings to the Owner for deviations that result in a reduction in cost.
- D. A Change Order or Field Order will be issued by the Engineer for deviations approved by the Owner. Deviations from the Contract Documents may only be approved by Change Order or Field Order.

## **1.09 SUBMITTALS FOR EQUAL NON-SPECIFIED PRODUCTS**

- A. The products of the listed suppliers are to be furnished where detailed specifications list several manufacturers but do not specifically list "or equal" or "or approved equal" products. Use of any products other than those specifically listed is a substitution and must be approved per Paragraph 1.09.
- B. Contractor may submit other manufacturers' products that are in full compliance with the specification where detailed specifications list one or more manufacturers followed by the phrase "or equal" or "or approved equal."
  - 1. Submit Shop Drawings of adequate detail to document that the proposed product is equal or superior to the specified product.
  - 2. Prove that the product is equal. It is not the Engineer's responsibility to prove the product is not equal.
    - a. Indicate on a point by point basis for each specified feature that the product is equal to the Contract Document requirements.
    - b. Make a direct comparison with the specified manufacturer's published data sheets and available information. Provide this printed material with the submittal.
    - c. The decision of the Engineer regarding the acceptability of the proposed product is final.
  - 3. Provide a typewritten certification that, in furnishing the proposed product as an equal, the Contractor:
    - a. Has thoroughly examined the proposed product and has determined that it is equal or superior in all respects to the product specified.
    - b. Has determined that the product will perform in the same manner and result in the same process as the specified product.
    - c. Will provide the same warranties and/or bonds as for the product specified.
    - d. Will assume all responsibility to coordinate any modifications that may be necessary to incorporate the product into the construction and will waive all claims for additional Work which may be necessary to incorporate the product into the Project which may subsequently become apparent.
    - e. Will maintain the same time schedule as for the specified product.

4. A modification request is not required for any product that is in full compliance with the Contract Documents.

#### **1.10 SUBMITTALS FOR SUBSTITUTIONS**

- A. Substitutions are defined as any product that the Contractor proposes to provide for the Project in lieu of the specified product.
- B. Submit the following for consideration of approval of a Supplier or product which is not specified:
  1. Contract Modification Request for deviation from the Contract Documents per Paragraph 1.08.
  2. Prove that the product is acceptable as a substitute. It is not the Engineer's responsibility to prove the product is not acceptable as a substitute.
    - a. Indicate on a point by point basis for each specified feature that the product is acceptable to meet the intent of the Contract Documents requirements.
    - b. Make a direct comparison with the specified Suppliers published data sheets and available information. Provide this printed material with the submittal.
    - c. The decision of the Engineer regarding the acceptability of the proposed substitute product is final.
  3. Provide a written certification that, in making the substitution request, the Contractor:
    - a. Has determined that the substituted product will perform in substantially the same manner and result in the same ability to meet the specified performance as the specified product.
    - b. Will provide the same warranties and/or bonds for the substituted product as specified or as would be provided by the Manufacturer of the specified product.
    - c. Will assume all responsibility to coordinate any modifications that may be necessary to incorporate the substituted product into the project and will waive all claims for additional Work which may be necessary to incorporate the substituted product into the Project which may subsequently become apparent.
    - d. Will maintain the same time schedule as for the specified product.
- C. Pay engineering cost for review of substitutions.
  1. Cost for additional review time will be billed to the Owner by the Engineer for the actual hours required for the review and marking of Shop Drawings by Engineer and in accordance with the Engineer's current rate schedule.
  2. Cost for the additional review shall be paid to the Owner by the Contractor on a monthly basis.

### **1.11 WARRANTIES AND GUARANTEES**

- A. Submit warranties and guarantees required by the Contract Documents with the Shop Drawings or record data.
- B. Provide additional copies for equipment and include this additional copy in the Operation and Maintenance Manuals. Refer to Section 01780 – Operation and Maintenance Data.
- C. Provide a separate manual for warranties and guarantees.
  - 1. Provide a log of all products for which warranties or guarantees are provided, and for all equipment. Index the log by Specification section number.
  - 2. Indicate the start date, warranty or guarantee period and the date upon which the warranty or guarantee expires for products or equipment for which a warranty or guarantee is required.
  - 3. Indicate the date for the start of the correction period specified in the General Conditions for each piece of equipment and the date on which the specified correction period expires.
  - 4. Provide a copy of the warranty or guarantee under a tab indexed to the log.

### **1.12 RESUBMISSION REQUIREMENTS**

- A. Make all corrections or changes in the submittals required by the Engineer and resubmit until approved.
- B. For Shop Drawings:
  - 1. Revise initial drawings or data and resubmit as specified for the original submittal.
  - 2. Highlight in yellow those revisions which have been made in response to the first review by the Engineer.
  - 3. Highlight in blue any new revisions which have been made or additional details of information that has been added since the previous review by the Engineer.
- C. For Samples:
  - 1. Submit new Samples as required for the initial Sample.
  - 2. Remove Samples which have been rejected.
- D. For mock-ups:
  - 1. Construct a new mock-up as initially required.
  - 2. Dispose of mock-ups which have been rejected.
- E. Pay for excessive review of Shop Drawings.
  - 1. Excessive review of Shop Drawings is defined as any review required after the original review has been made and the first resubmittal has been checked to see that corrections have been made.
  - 2. Cost for additional review time will be billed to the Owner by the Engineer for the actual hours required for the review and marking of shop drawings by Engineer and in accordance with the Engineer's current rate schedule.

3. Pay cost for the additional review to the Owner on a monthly basis as billed by the Owner.
4. Need for more than one resubmission or any other delay of obtaining Engineer's review of submittals, will not entitle the Contractor to an extension of Contract Time. All costs associated with such delays shall be at the Contractor's expense.

**1.13 ENGINEER'S DUTIES**

- A. Review the submittals and return with reasonable promptness.
- B. Indicate approval, rejection, and the need for resubmittal.
- C. Distribute documents.

**1.14 NUMBER OF COPIES REQUIRED**

- A. For all data which requires review, the Contractor shall submit the required number of copies in the original submittal.

1. The minimum number of copies required for review and distribution shall be as follows:

Engineer's File (1 copy for RPR).....	2
Owner's File.....	2
Contractor's File.....	1
<u>Suppliers Copy (returned to Contractor)</u>	<u>1</u>
Total (minimum)	6

- B. For non-review items, such as parts lists, and operation and maintenance manuals, the required number of copies for distribution shall be as follows:

1. The minimum number of copies required for distribution shall be as follows:

Engineer's File.....	1
<u>Owner's File</u>	<u>2</u>
Total (minimum)	3

- C. In lieu of hardcopy submittals, electronic submittals may be submitted to the Engineer in PDF format. Electronic submittals shall meet all the requirements of hardcopy submittals and one reviewed electronic submittal will be returned to the Contractor for his use.

**PART 2 PRODUCTS (Not Used)**

**PART 3 EXECUTION (Not Used)**

**END OF SECTION**

## SECTION 01430

### QUALITY CONTROL

#### PART 1 GENERAL

##### 1.01 SECTION INCLUDES

- A. Quality Assurance - Control of Installation
- B. Tolerances
- C. References and Standards
- D. Inspecting and Testing Laboratory Services
- E. Manufacturers' Field Services

##### 1.02 RELATED SERVICES

- A. Section 01450 - Testing and Laboratory Services
- B. Section 01330 - Submittals: Submission of manufacturer's instructions and certificates.
- C. Section 01610 - Material and Equipment: Requirements for material and product quality.

##### 1.03 QUALITY ASSURANCE - CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, Products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Engineer before proceeding.
- D. Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Perform Work by persons qualified to produce required and specified quality.
- F. Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- G. Secure Products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.

##### 1.04 TOLERANCES

- A. Monitor fabrication and installation tolerance control of Products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.
- C. Adjust Products to appropriate dimensions; position before securing Products in place.

## **1.05 REFERENCES AND STANDARDS**

- A. For Products or workmanship specified by association, trade or other consensus standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard which are current based upon the dates indicated in the Contract Documents.
- C. Maintain copies of all applicable reference standards on-site during submittal review, planning, and construction of the specific work, until Substantial Completion.
- D. Should specified reference standards conflict with Contract Documents, request clarification from the Engineer before proceeding.
- E. Neither the contractual relationship, duties and responsibilities of the parties in Contract, nor those of the Engineer shall be altered by the Contract Documents by mention or inference otherwise in any reference document.

## **1.06 TESTING SERVICES**

- A. The Contractor shall be responsible for all costs associated with performing test on the utilities installed including but not limited to, pressure testing of water and sewer lines, disinfection of waterlines, and pressure testing of manholes.
- B. Owner may appoint, employ and pay for specified services of an independent firm to perform testing.
- C. The independent firm will perform tests and other services specified in individual specification sections and as required by the Engineer.
- D. Testing and source quality control may occur on or off the project site. Perform off-site testing as required by the Engineer or the Owner.
- E. Reports will be submitted by the independent firm to the Engineer and Contractor, in duplicate, indicating observations and results of tests and indicating compliance or non-compliance with Contract Documents.
- F. Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.
  - 1. Notify Engineer and independent firm 24 hours prior to expected time for operations requiring services.
  - 2. Make arrangements with independent firm and pay for additional samples and tests required for Contractor's use.
- G. Testing does not relieve Contractor from performing Work to contract requirements.
- H. Re-testing required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by the Engineer. Payment for re-testing will be charged to the Contractor by deducting testing charges from the Contract Sum/Price.

## **1.07 MANUFACTURERS' FIELD SERVICES**

- A. When specified in individual specification sections, require material or Product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of



surfaces and installation, quality of workmanship, start-up of equipment, test, adjust and balance of equipment as applicable, and to initiate instructions when necessary.

- B. Submit qualifications of observer to Engineer thirty (30) days in advance of required observations. Observer subject to approval of Engineer.
- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

## **PART 2 PRODUCTS (NOT USED)**

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

- A. The Engineer or Engineer's Representative shall be present for all testing performed on the utilities installed. Test results will not be accepted if the Engineer or Engineer's Representative is not present at the time of the testing. Additional testing required for test results that were not accepted shall be performed at no additional cost to the Owner.
- B. Verify that existing site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.
- C. Verify that existing substrate is capable of structural support or attachment of new Work being applied or attached.
- D. Examine and verify specific conditions described in individual Specifications Sections.
- E. Verify that utility services are available, of the correct characteristics and in the correct locations.

### **3.02 PREPARATION**

- A. Clean substrate surfaces prior to applying next material or substance.
- B. Seal cracks or openings of substrate prior to applying next material or substance.
- C. Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond..

**END OF SECTION**

*This Page Intentionally Left Blank!*

## SECTION 01450

### TESTING LABORATORY SERVICES

#### PART 1 GENERAL

##### 1.01 DESCRIPTION

- A. This section specifies materials testing activities and inspection services required during project construction to be provided by a Testing Laboratory retained by, and paid for by, Contractor

##### 1.02 RELATED SECTIONS

- A. Section 01330 – Shop Drawings and Submittals
- B. Section 01700 – Execution and Closeout Requirements

##### 1.03 REFERENCES

- A. ASTM C802 - Practice for Conducting an Interlaboratory Test Program to Determine the Precision of Test Methods for Construction.
- B. ASTM D3740 - Practice for Evaluation of Agencies Engaged in Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction.
- C. ASTM E329 - Practice for Use in the Evaluation of Inspection and Testing Agencies as Used in Construction.
- D. ASTM E543 - Practice for Determining the Qualification of Nondestructive Testing Agencies.
- E. ASTM E548 - Practice for Preparation of Criteria for Use in the Evaluation of Testing Laboratories and Inspection Bodies.
- F. ASTM E699 - Practice for Criteria for Evaluation of Agencies Involved in Testing, Quality Assurance, and Evaluating Building Components in Accordance with Test Methods Promulgated by ASTM Committee E6.

##### 1.04 SELECTION AND PAYMENT

- A. Owner may employ services of an independent testing agency or laboratory to perform specified testing. Contractor will pay for testing required.
- B. Employment of testing agency or laboratory in no way relieves Contractor of obligation to perform Work in accordance with requirements of Contract Documents.
- C. The Contractor shall furnish at his own expense, suitable evidence that all the material he proposes to incorporate into the work are in accordance with the Specifications. Manufacturer's or supplier's test results will be acceptable for such items as pipe and fittings, when it is definite that the materials being furnished are those to which the test results apply. Should the Contractor fail to provide the above information, the Engineer shall have the right to require tests to be made by the Contractor's laboratory to obtain the information and the cost shall be borne by the Contractor.
- D. Mix designs for asphaltic concrete and for Portland cement concrete shall be furnished by the Contractor at his own expense. Testing and mix design shall be performed by an independent certified testing laboratory approved by the Engineer.

- E. In any event, the Engineer may have further tests made by commercial laboratory or may make test himself, to insure that the Specifications are complied with by the Contractor. Cost of these tests will be borne by the Owner unless such tests indicate the material tested fail to meet the specifications. In this case the cost will be borne by the Contractor.
- F. Any testing laboratory utilized on the project shall meet "Recommended Requirements for Independent Laboratory Qualifications", latest edition, published by the American Council of Independent Laboratories, and shall be currently state certified.

#### **1.05 QUALITY ASSURANCE**

- A. Laboratory: Authorized to operate in State in which Project is located.
- B. Laboratory Staff: Maintain a full time registered Engineer on staff to review services.
- C. Testing Equipment: Calibrated at reasonable intervals with devices of an accuracy traceable to either National Bureau of Standards or accepted values of natural physical constants.

#### **1.06 AGENCY/LABORATORY RESPONSIBILITIES**

- A. Test samples of mixes submitted by Contractor.
- B. Provide qualified personnel at site. Cooperate with Engineer and Contractor in performance of services.
- C. Perform specified sampling and testing of Products in accordance with specified standards.
- D. Ascertain compliance of materials with requirements of Contract Documents.
- E. Promptly notify Engineer and Contractor of observed irregularities or non-conformance of Work or Products.
- F. Perform additional tests required by Engineer.

#### **1.07 AGENCY/LABORATORY REPORTS**

- A. After each test, promptly submit two copies of report to Engineer and to Contractor.
- B. Include:
  - 1. Date Issued
  - 2. Project Title and Number
  - 3. Name of Inspector
  - 4. Date and Time of Sampling or Inspection
  - 5. Identification of Product and Specifications Section
  - 6. Location in the Project
  - 7. Type of Inspection or Test
  - 8. Date of Test
  - 9. Results of Tests
  - 10. Conformance with Contract Documents
- C. When requested by Engineer, provide interpretation of test results.

## **1.08 LIMITS ON TESTING AUTHORITY**

- A. Agency or laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.
- B. Agency or laboratory may not approve or accept any portion of the Work.
- C. Agency or laboratory may not assume any duties of Contractor.
- D. Agency or laboratory has no authority to stop the Work.

## **1.09 CONTRACTOR RESPONSIBILITIES**

- A. Deliver to agency or laboratory at designated location, adequate samples of materials proposed to be used which require testing.
- B. Cooperate with laboratory personnel, and provide access to the Work.
- C. Provide incidental labor and facilities:
  - 1. To provide access to Work to be tested.
  - 2. To obtain and handle samples at the site or at source of Products to be tested.
  - 3. To facilitate tests.
  - 4. To provide storage and curing of test samples.
- D. Notify Engineer and laboratory 24 hours prior to expected time for operations requiring testing services.

## **PART 2 PRODUCTS (NOT USED)**

## **PART 3 EXECUTION**

### **3.01 EARTHWORK**

- A. General: The Testing Laboratory shall provide qualified personnel, materials, equipment, and transportation as required to perform the services identified/required herein, within the agreed to schedule and/or time frame. The work to be performed shall be as identified herein and shall include but not be limited to the following:
  - 1. Observe fill and subgrades during proof-rolling to evaluate suitability of surface material to receive fill or base course. Provide recommendations to the Resident Engineer regarding suitability or unsuitability of areas where proof-rolling was observed. Where unsuitable results are observed, witness excavation of unsuitable material and recommend to Resident Engineer extent of removal and replacement of unsuitable materials and observe proof-rolling of replaced areas until satisfactory results are obtained.
  - 2. Provide part time of fill placement and compaction and field density testing in building areas and provide part time observation of fill placement and compaction and field density testing in pavement areas to verify that earthwork compaction obtained is in accordance with contract documents.
  - 3. Provide supervised geotechnical technician to inspect excavation, subsurface preparation, and backfill for structural fill.

- B. Testing Compaction
1. Determine maximum density and optimum moisture content for each type of fill, backfill and subgrade material used, in compliance with ASTM D698 and/or ASTM D1557.
  2. Make field density tests in accordance with the primary testing method following ASTM D2922 wherever possible. Field density tests utilizing ASTM D1556 or ASTM D2167 shall be utilized on a case by case basis only if there are problems with the validity of the results from the primary method due to specific site field conditions. Should the testing laboratory propose these alternative methods, they should provide satisfactory explanation to the Resident Engineer before the tests are conducted.
    - a. Trenches: In open fields – two locations per 1,000 linear feet; along roads or in right-of-way – two locations per 500 linear feet; under pavement cuts or within two feet of pavement edge – one location per 400 linear feet.
    - b. Footing Subgrade: At least one test for each layer of soil on which footings will be placed. Subsequent verification and approval of each footing subgrade may be based on a visual comparison of each subgrade with related tested subgrade when acceptable to Resident Engineer. In each compacted fill layer below wall footings, perform one field density test for every 30 m (100 feet) of wall. Verify subgrade is level, all loose or disturbed soils have been removed, and correlate actual soil conditions observed with those indicated by test borings.
    - c. For Select Fill: On 30 foot intervals on all sides of the structure for every compacted lift, but not less than one per lift on each side of the structure for structures less than 60 feet long on a side.
    - d. For General Fill: One per 1,000 square feet on every compacted lift.
- C. Testing for Footing Bearing Capacity: Evaluate if suitable bearing capacity material is encountered in footing subgrade.
- D. Testing Materials: Test suitability of on-site and off-site borrow as directed by Engineer.

### **3.02 SUBGRADE (STABILIZED OR NON-STABILIZED)**

- A. Field moisture-density tests shall be taken at the rate of one test for each 1000 square yards of subgrade area or a minimum of three tests, whichever is greater. Thickness determination of the stabilized subgrade shall be made at random locations.
- B. After the stabilized subgrade has been compacted and density tests performed; the subgrade shall be allowed to cure for a period of 72 hours. After 72 hours the entire subgrade shall be proof-rolled with a heavily loaded vehicle. The vehicle shall have a loaded GVW of 50,000 pounds with a single axle weight of at least 18,000 pounds and a tire pressure of 90 psi. Subgrade that is pumping or deforming shall be reworked, replaced or otherwise modified to form a smooth, stable, non-yielding base for subsequent paving courses, at no additional cost to the Owner. The Engineer shall be notified at least 48 hours before final proof-rolling.
- C. The results of field density tests, thickness and proof-rolling shall be submitted for approval by the Engineer. Provided all tests are acceptable, the subgrade will be approved and the next paving course can be placed.

### 3.03 ASPHALT CONCRETE PAVING

#### A. Density

1. Hot mix asphaltic concrete will be accepted for density and depth on a street by street basis. Each street will consist of one day's production and a minimum of four (8) tests shall be made for each street unless otherwise determined by the Engineer the amount of HMAC to be placed warrants fewer tests.
2. Each paved street will be accepted, with respect to density, when the average field density is equal to or greater than 94.0 percent of the average maximum theoretical density (94% to 95% is optimum) as determined in accordance with ASTM D2041, and when no individual determination is less than 90.0 % of the average maximum theoretical density. Cores or sawed samples taken from the pavement will be used to determine the field density. The density of the cored or sawed samples shall be determined in accordance with ASTM D2726.
3. When the average field density is less than 94.0 % or when one core is less than 90.0%, the Contractor's pay schedule for this item shall be adjusted in accordance with the following table. Deficient samples shall be averaged and used in determining the adjusted payment for HMAC. This collected average shall be applied to the entire street.

Average Percent Density <sup>(1)</sup>	Payment Adjustment
94.0 and above	100%
91.5 – 93.9	90%
90.0 – 91.4	75%
Below 90.0	Rejected <sup>(2)</sup>

Notes:

(1) Average of 8 Samples

(2) If the Owner agrees to accept densities below 90%, the payment factor shall be 50%

4. Specimens used for field density determination shall be carefully crumbled, using heat if necessary, and maximum theoretical density determined in accordance with ASTM D2041. If heating is necessary, the specimen shall be heated to the lowest temperature required for proper preparation of the sample.
5. The use of nuclear field density determinations shall not be used as the basis for acceptance with respect to density

#### B. Thickness

1. In-place compacted thickness shall not be less than thickness specified on the drawings. If tests results indicate two (2) or more samples are less than the plan specified depth, the Contractor's pay schedule for this item shall be adjusted in accordance with the following table. Deficient samples shall be averaged and used in determining the adjusted payment for HMAC. This collected average shall be applied to the entire street.

Core Thickness (inches)	Payment Adjustment
2 or Greater	100%
1.81 – 1.95	95%
1.66 – 1.80	80%
1.51 – 1.65	75%
1.5 or less	Rejected

2. Any one (1) sample that is 1.5" or less in thickness shall be cause for rejection. At the discretion of Owner, the entire street shall receive a tack coat and a minimum 1" overlay; or shall be removed and replaced to the proper thickness until specified thickness of the course is met or exceeded at no additional expense to the Owner.
  3. Coring holes shall be immediately filled with full depth asphalt.
- C. Copies of all haul tickets shall be provided to the Engineer. Should these tests indicate that the material does not meet specifications; the material shall be removed and replaced by the Contractor, at no additional cost to the Owner.

### **3.04 CONCRETE**

- A. The Contractor shall engage an independent testing laboratory to conduct concrete tests on structural concrete and concrete pavement. Unless otherwise informed, the Contractor will be responsible for sampling concrete for test cylinders, recording, and delivering them to the laboratory, providing all materials required, and for making all slump tests in the field directed by the Engineer. All costs in connection with work performed by the laboratory will be paid by the Contractor. The Contractor shall be responsible for the costs of work performed by the laboratory required for redesign of concrete proportions and retesting of in place concrete when cylinders indicate low strength concrete has occurred.
- B. At least one test shall be made on fresh concrete for each seventy-five (75) cu. yd. of each strength of concrete (or fraction thereof) placed on any one day and in any event, not less than one test for each class of concrete each day it is used. Testing shall be done in accordance with the following ASTM Specifications, latest edition:
1. C172 – Standard Method of Sampling Fresh Concrete
  2. C31 – Standard Method of Making and Curing Concrete Compression & Flexure Test Specimens in the Field
  3. C39 – Standard Method of Test of Compressive Strength of Molded Concrete Cylinders
  4. C143 – Standard Method of Slump Test for Consistency of Portland Cement Concrete
- C. Before any concrete is poured, the Contractor shall construct a storage box in accordance with ASTM Specification C31. Each set of tests shall consist of one slump test and four compression test cylinders. All cylinders shall be kept in the storage box for the first 24 hours.
- D. The four cylinders shall be laboratory cured and tested for adequacy of the design for strength of the concrete in accordance with ASTM Specification C31. Two cylinders shall be tested at 7 days and two at 28 days.
- E. Failure of Concrete to Meet Strength Requirements:
1. The concrete shall be considered acceptable if, for any one class of concrete, the average of all tests or any five consecutive tests is equal to or greater than the specified strength, provided that no more than one test of the five falls between 90% and 100% of the specified strength. The only cylinders to be used for determination of concrete acceptability will be those laboratory cured and tested at 28 days. When it appears the tests of laboratory-cured cylinders will fail to meet these requirements, the Engineer may require changes in the proportions of



concrete for the remainder of the work in order to meet the strength requirements. In addition, the Engineer may also require additional curing not to exceed a total of 21 days on portions of the concrete already poured.

2. The Engineer may also require tests in accordance with Methods of Securing, Preparing and Testing Specimen from Hardened Concrete for Compressive and Flexural Strengths (ASTM Specifications C42) when the concrete cylinder tests fail to meet strength requirements. In the event there still is question as to the quality of the concrete in the structure, the Engineer may require load tests for that portion where the questionable concrete has been placed. Such load tests will be made as outlined in Chapter 20 of American Concrete Institute Building Code. (ACI 318-71), and shall be at the expense of the Contractor.

F. Removal of Under Strength Concrete:

1. If the above tests indicate that a particular batch of previously placed concrete is under strength, the Engineer may direct that the under strength batch be removed and replaced. The removal of the under strength concrete shall also include the removal of concrete that has obtained the required strength if the Engineer deems this necessary to obtain structural or visible continuity when the concrete is replaced.
2. The removal, and replacement of any under strength concrete, shall be made at no additional cost to the Owner. This shall include any new formwork required or any reinforcing steel that may be required. The Owner shall not be charged any additional costs for any extra work that is required because of the failure of any concrete to meet the minimum test requirements.

- G. Mix Designs for portland cement concrete shall be furnished by the Contractor at his own expense. Testing and mix design shall be performed by an independent certified testing laboratory approved by the Contractor.

**END OF SECTION**

*This Page Intentionally Left Blank!*

## SECTION 01500

### TEMPORARY FACILITIES AND CONTROLS

#### PART 1 GENERAL

##### 1.01 SUMMARY

- A. Temporary facilities and the necessary controls for the project including utilities, sanitary facilities, field office, storage sheds and building, safety requirements, first aid equipment, fire protection, security measures, access roads and parking, environmental controls, pest and rodent control.
- B. The facilities and controls specified in this section are considered minimum for the Project. The Contractor may provide additional facilities and controls for the proper execution of the Work and to meet Contractor's responsibilities for protection of persons and property.

##### 1.02 SYSTEM DESCRIPTION

- A. Maintain and operate temporary facilities and systems to assure continuous service.
- B. Modify and extend systems as Work progress requires.
- C. Completely remove temporary materials and equipment when their use is no longer required.
- D. Restore existing facilities used for temporary services to specified or to original condition.

#### PART 2 PRODUCTS (NOT USED)

#### PART 3 EXECUTION

##### 3.01 PREPARATION

- A. Temporary Utilities
  - 1. Make arrangements with utility service companies for temporary services.
  - 2. Abide by rules and regulations of the utility service companies or authorities having jurisdiction.
  - 3. Be responsible for utility service costs until the Work is substantially complete. Included are fuel, power, light, heat, and other utility services necessary for execution, completion, testing, and initial operation of the Work.
- B. Water
  - 1. The Contractor shall arrange for the necessary temporary water service, including but not limited to all required piping, valves, the securing of any permits and the acquisition of a temporary water meter.
  - 2. The Contractor shall make the necessary arrangements to supply water required for testing the work prior to acceptance, and maintain an adequate supply of potable water for domestic consumption by the Contractor personnel and Owner or its representatives.
  - 3. The cost of water usage will be borne by the Owner.

C. Electricity and Lighting

1. Provide electric powered service as required for the Work, including testing of Work. Provide power for lighting, operation of the Contractor's equipment, or for any other use by Contractor.
2. Electric power service includes temporary power service or generator to maintain facility operations during any scheduled shutdown if specifically stated elsewhere.
3. Minimum lighting level shall be 5-foot candles for open areas and 10-foot candles for stairs and shops.
4. The Contractor shall maintain all temporary power service for the duration of the Contract at his expense including but not limited to the Owner's Field Office.

~~D. Temporary Heat and Ventilation~~

- ~~1. Provide temporary heat as necessary for protection or completion of the Work.~~
- ~~2. Provide temporary heat and ventilation to assure safe working conditions; maintain enclosed areas at a minimum of 50°F.~~

E. Sanitary Facilities

1. Provide and maintain sanitary facilities for persons on the job site; comply with the regulations of State and local departments of health.
2. Enforce the use of sanitary facilities by construction personnel at the job site. Such facilities shall be enclosed. Pit-type toilets will not be permitted. No discharge will be allowed from these facilities. Collect and store sewage and waste so as not to cause a nuisance or health problem; have sewer and waste hauled off-site and properly disposed of, in accordance with local regulations.
3. Locate toilets near the Work site and secluded from view insofar as possible. Keep toilets clean and supplied throughout the course of the Work. Toilets shall not be placed within 50-feet of a public water supply well.

~~F. Field Office~~

~~1. Furnish and Locate~~

- ~~a. Furnish, install, and maintain a field office approximately 12' x 40' for the exclusive use of the Owner's Representative. Provide sufficient room for project meetings and office for Engineer. Locate the office on the Site or in a place approved by the Owner, Engineer or other authorized site representative.~~
- ~~b. Provide office space ready for occupancy ten (10) days after date fixed in Notice to Proceed.~~
- ~~c. Construct two all weather, hard surfaced parking spaces suitable for weather and duration of Project for use by the Engineer. Provide an all weather surfaced walk between the parking spaces and the office.~~

~~2. Minimum Construction~~

- ~~a. Structurally sound foundation and superstructure.~~
- ~~b. Completely weather tight with insulated roof walls.~~
- ~~c. Exterior finish and interior finish acceptable to Engineer.~~

- d. ~~Stairs or walkway with handrail and entrance platform (4' x 4') with a mud scraper at door.~~
- e. ~~Resilient floor covering.~~
- f. ~~Screened windows with an area equal to approximately 10 percent of floor area sufficient for light, view, and ventilation. Provide windows with operable sash.~~
- g. ~~Secure, lockable exterior doors with dead bolt cylinder locks.~~

3. ~~Minimum Services~~

- a. ~~Exterior light at entrance.~~
- b. ~~Interior lighting of 50 foot candles at desk top height.~~
- c. ~~Automatic heating to maintain 65°F in winter.~~
- d. ~~Automatic cooling to maintain 75°F in summer.~~
- e. ~~Electric power service.~~
- f. ~~Four electric wall outlets.~~
- g. ~~Separate sanitary facilities. No connection to public sanitary service is available at the site.~~

4. ~~Minimum Furnishings~~

- a. ~~Two (2) 5-drawer desks~~
- b. ~~Two (2) swivel desk chairs.~~
- c. ~~One (1) drafting table with built-in drawer, drafting stool, and light.~~
- d. ~~Two (2) 4-drawer legal file cabinets.~~
- e. ~~Book shelving and bookcase with a minimum of 15 feet of shelf space.~~
- f. ~~Two (2) waste baskets.~~
- g. ~~One (1) tack board, 30" x 36".~~
- h. ~~Fire extinguishers.~~
- i. ~~Identifying exterior sign acceptable to Engineer.~~
- j. ~~First aid kit.~~
- k. ~~Six (6) protective helmets (hard hats) and safety glasses for use by Owner, Engineer and visitors.~~
- l. ~~Conference table and chairs to accommodate ten (10) persons.~~
- m. ~~Other furnishings at Contractors' options.~~

5. ~~Maintenance~~

- a. ~~Schedule continuous maintenance of office, walkways, and services. Office to be cleaned not less than once per week.~~
- b. ~~Provide soap, paper towels, cleansers, janitorial service and appurtenances.~~
- c. ~~Immediately repair any damage, leaks, or defective service.~~

~~d. Provide adequate space for one set of Contract Documents in the office for ready reference.~~

G. Storage Facilities

1. Provide adequately ventilated, watertight storage facilities with floor above ground level for materials and equipment susceptible to weather damage.
2. Storage of materials not susceptible to weather damage may be on blocks off the ground.
3. Store materials in a neat and orderly manner. Place materials and equipment to permit easy access for identification, inspection, and inventory.
4. Fill and grade site for temporary structures to provide drainage away from temporary and existing buildings.

H. Safety Requirements

1. When required, submit and follow a safety program.
2. Conduct operations in strict accord with applicable federal, state and local safety codes and statutes and with good construction practice. The Contractor is fully responsible and obligated to establish and maintain procedures for safety of all work, personnel, and equipment involved in the Project.
3. Observe and comply with Texas Occupational Safety Act (Art. 5182a, V.C.S.) and with all safety and health standards promulgated by Secretary of Labor under Section 107 of Contract Work Hours and Standards Act, published in 29 CFR Part 1926 and adopted by Secretary of Labor as occupational safety and health standards under the Williams-Steiger Occupational Safety and Health Act of 1970, and observe and comply with any other legislation enacted for safety and health of Contractor's employees. Such safety and health standards apply to subcontractors and their employees as well as to the Contractor and its employees.
4. Observance of, and compliance with, the regulations shall be solely and without qualification of the responsibility of the Contractor without reliance or superintendence of, or direction by, the Owner, or the Engineer. Immediately advise the Owner of investigation or inspection by federal safety and health inspectors of the Contractor of subcontractor's work or place of work on the job site under this Contract, and after such investigation or inspection, advise the Owner of the results. Submit one (1) copy of accident reports to Owner within ten (10) days of the occurrence.
5. Protect areas occupied by workmen using the best available devices for detection of lethal and combustible gases. Test such devices frequently to assure their functional capability. Constantly observe infiltration of liquids into the Work area for visual or odor evidences of contamination. Immediately take appropriate steps to seal off entry of contaminated liquids to the Work area.
6. Safety measures, including but not limited to safety personnel, first-aid equipment, ventilating equipment, and safety equipment, in the specifications and shown on the Drawings, are obligations of the Contractor.
7. Maintain required coordination with local police and fire departments during the entire period covered by the Contract.

- I. First Aid Equipment
  - 1. Provide a first-aid kit throughout the construction period. List telephone numbers for physicians, hospitals, and ambulance services in each first-aid kit.
  - 2. Have at least one person thoroughly trained in first aid procedures present on the site whenever Work is in progress.
- J. Fire Protection
  - 1. Fire Protection Standards
    - a. Conform to specified fire protection and prevention requirements as well as to those which may be established by federal, state, or local governmental agencies.
    - b. Comply with all applicable provisions of NFPA Standard No. 241, Safeguarding Building Construction and Demolition Operations.
    - c. Provide portable fire extinguishers, rated not less than 2A or 5B in accordance with NFPA Standard No. 10, Portable Fire Extinguishers, for each temporary building, and for every 3,000 square feet of floor area of facilities under construction.
    - d. Locate portable fire extinguishers within 50 feet maximum from any point in the Project area.
  - 2. Fire Prevention and Safety Measures
    - a. Prohibit smoking in hazardous areas. Post suitable warning signs in areas which are continuously or intermittently hazardous.
    - b. Use metal safety containers for storage and handling of flammable and combustible liquids.
    - c. Do not store flammable or combustible liquids in or near stairways or exits.
    - d. Maintain clear exits from all points within a structure.
- K. Security Measures
  - 1. Protect all Work materials, equipment, and property from loss, theft, damage, and vandalism. Contractor's duty to protect property includes Owner's property and Inspector's property used in connection with the performance of the Contract.
  - 2. If existing fencing or barriers are breached or removed for purposes of constructions, provide and maintain temporary security fencing equal to existing.
- L. Environmental Controls
  - 1. The Contractor shall, without additional expense to the Owner, be responsible for complying with any applicable Federal, State and Municipal laws, codes and regulation, in connection with the prosecution of the Work. He shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others. He shall also be responsible for all materials delivered and work performed.

M. Pollution Controls

1. Provide methods, means, and facilities required to prevent contamination of soil, water or atmosphere by discharge of noxious substance from construction operations.
2. Provide equipment and personnel to perform emergency measure required to contain any spillage, and to remove contaminated soils or liquids. Excavate and dispose of any contaminated earth off-site and replace with suitable compacted fill and topsoil.
3. Take special measures to prevent harmful substances from entering public waters. Prevent disposal of wastes, effluents, chemicals, or other such substances adjacent to streams, or in sanitary or storm sewers.
4. Provide systems for control of atmospheric pollutants
  - a. Prevent toxic concentrations of chemicals.
  - b. Prevent harmful dispersal of pollutants into the atmosphere.
5. Use equipment during construction that conforms to current federal, state, and local laws and regulations.

N. Pest and Rodent Control

1. Provide rodent and pest control as necessary to prevent infestation of construction or storage areas.
2. Employ methods and use materials which will not adversely affect conditions at the site or on adjoining properties.

O. Dust Control

1. Control objectionable dust caused by operation of vehicles and equipment. Apply water or use other methods, subject to approval of the Owner, which will control the amount of dust generated.

**END OF SECTION**



## SECTION 01610

### MATERIAL AND EQUIPMENT

#### PART 1 GENERAL

##### 1.01 SECTION INCLUDES

- A. Transportation and Handling
- B. Storage and Protection
- C. Product Options
- D. Substitutions

##### 1.02 TRANSPORTATION AND HANDLING

- A. Transport and handle Products in accordance with manufacturer's instructions.
- B. Promptly inspect shipments to ensure that Products comply with requirements, quantities are correct, and Products are undamaged.
- C. Provide equipment and personnel to handle Products by methods to prevent soiling, disfigurement, or damage.

##### 1.03 STORAGE AND PROTECTION

- A. Store and protect Products in accordance with manufacturers' instructions.
- B. Store with seals and labels intact and legible.
- C. Store sensitive Products in weather tight, climate controlled, enclosures in an environment favorable to Product.
- D. For exterior storage of fabricated Products, place on sloped supports above ground.
- E. Provide off-site storage and protection when site does not permit on-site storage or protection.
- F. Cover Products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of Products.
- G. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.
- H. Provide equipment and personnel to store Products by methods to prevent soiling, disfigurement, or damage.
- I. Arrange storage of Products to permit access for inspection. Periodically inspect to verify Products are undamaged and are maintained in acceptable condition.

##### 1.04 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Any Product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Products of manufacturers named and meeting specifications, no options or substitutions allowed.

- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named in accordance with the following article.

#### **1.05 SUBSTITUTIONS**

- A. Engineer will consider requests for Substitutions only within fifteen (15) days after date established in Notice to Proceed.
- B. Substitutions may be considered when a Product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.
- D. A request constitutes a representation that the Contractor:
  - 1. Has investigated proposed Product and determined that it meets or exceeds the quality level of the specified Product.
  - 2. Will provide the same warranty for the Substitution as for the specified Product.
  - 3. Will coordinate installation and make changes to other Work which may be required for the Work to be complete with no additional cost to Owner.
  - 4. Waives claims for additional costs or time extension which may subsequently become apparent.
  - 5. Will reimburse Owner and Engineer for review or redesign services associated with re-approval by authorities.
- E. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals without separate written request or when acceptance will require revision to the Contract Documents.
- F. Substitution Submittal Procedure:
  - 1. Submit three (3) copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
  - 2. Submit shop drawings, product data, and certified test results attesting to the proposed Product equivalence. Burden of proof is on the Contractor.
  - 3. The Engineer will notify Contractor in writing of decision to accept or reject request.

#### **PART 2 PRODUCTS (NOT USED)**

#### **PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

## SECTION 01700

### EXECUTION AND CLOSEOUT REQUIREMENTS

#### PART 1 GENERAL

##### 1.01 WORK INCLUDED

- A. Comply with requirements of the General Conditions and specified administrative procedures in closing out the Construction Contract.

##### 1.02 SUBMITTALS

- A. Submit affidavits and releases on forms provided by the Engineer.

##### 1.03 SUBSTANTIAL COMPLETION

- A. Submit written notification that the work or designated portion of the work is substantially complete to the Engineer when the work is considered to be substantially complete per the General Conditions. Include a list of the items remaining to be completed or corrected before the project will be considered to be complete.
- B. Engineer shall visit the project site to observe the work within a reasonable time after notification is received to determine the status of completion.
- C. Engineer shall issue notification to the Contractor that the work is either substantially complete or that additional work must be performed before the project may be considered substantially complete.
  - 1. Engineer shall notify the Contractor in writing of items that must be completed before the project can be considered substantially complete.
    - a. Correct the noted deficiencies in the work.
    - b. Issue a second written notice with a revised list of deficiencies when work has been completed.
    - c. Engineer shall revisit the site and the procedure shall begin again.
  - 2. Engineer shall issue a Certificate of Substantial Completion to the Owner when the project is considered to be substantially complete. Certificate shall include a tentative list of items to be corrected before final payment.
    - a. Owner will review and revise the list of items and notify the Engineer of any objections or other items that are to be included in the list.
    - b. Engineer shall prepare and send to the Contractor a definite Certificate of Substantial Completion with a revised tentative list of items to be corrected or completed.
    - c. Review the list and notify the Engineer in writing of any objections within 10 days of receipt of the Certificate of Substantial Completion.

##### 1.04 FINAL INSPECTION

- A. Submit written certification to the Engineer when the project is complete and:
  - 1. Contract Documents have been reviewed.
  - 2. Work has been completed in compliance with the Contract Documents.

3. Equipment and systems have been tested per Contract Documents and are fully operational.
  4. Final Operations and Maintenance Manuals have been provided to the Owner and all operator training has been completed.
  5. Specified spare parts and special tools have been provided.
  6. Work is complete and ready for final inspection.
- B. Engineer shall make an inspection with the Owner and appropriate regulatory agencies to determine the status of completeness within a reasonable time after the receipt of the Certificate.
- C. Engineer shall issue notice that the project is complete or notify the Contractor that work is not complete or is defective.
1. Submit the request for final payment with Closeout submittals described in Paragraph 1.07 if notified that the project is complete and the work is acceptable.
  2. Upon receipt of notification from the Engineer that work is incomplete or defective, take immediate steps to remedy the stated deficiencies. Send a second certification to the Engineer when work has been completed or corrected.
  3. Engineer shall re-visit the site and the procedure will begin again.

#### **1.05 REINSPECTION FEES**

- A. Pay fees to the Owner to compensate the Engineer for re-inspection of the work required by the failure of the work to comply with the claims of status of completion made by the Contractor.
- B. Owner may withhold the amount of these fees from the Contractor's final payment.
- C. Cost for additional inspections will be billed to the Owner by the Engineer for the actual hours required for the re-inspection and preparation of related reports in accordance with the Engineer's current rate schedule.

#### **1.06 CLOSEOUT SUBMITTALS TO THE ENGINEER**

- A. Record Drawings per Section 01310 – Project Management and Coordination.
- B. Keys and keying schedule (if applicable).
- C. Warranties and bonds.
- D. Evidence of payment or release of liens on the forms provided by the Engineer and as required by the General Conditions.
- E. Consent from Surety to Final Payment.
- F. Equipment installation reports on equipment.
- G. Shop drawings, record data, Operations and Maintenance Manuals, and other submittals as required by the Contract Documents.
- H. Specified spare parts and special tools.
- ~~I. Certificates of Occupancy, operating certificates, or other similar releases required to allow the Owner unrestricted use of the work and access to services and utilities.~~

- J. Evidence of final, continuing insurance, and bond coverage as required by the Contract Documents.

#### **1.07 FINAL APPLICATION FOR PAYMENT REQUEST**

- A. Submit a preliminary final Application for Payment. This application is to include adjustments to the Contract Amount for:
  - 1. Approved Change Orders
  - 2. Allowances not previously adjusted by Change Order
  - 3. Unit prices
  - 4. Deductions for defective work that has been accepted by the Owner
  - 5. Penalties and bonuses
  - 6. Deductions for liquidated damages
  - 7. Deductions for re-inspection payments per Paragraph 1.05
  - 8. Other adjustments
- B. Engineer shall prepare a final Change Order, reflecting the approved adjustments to the contract amount which have not been covered by previously approved Change Orders.
- C. Submit the final application for payment per the General Conditions, including the final Change Order and Affidavit of Bills Paid.

#### ~~**1.08 TRANSFER OF UTILITIES**~~

- ~~A. Transfer utilities to the Owner when the Certificate of Substantial Completion has been issued, final cleaning has been completed per Section 01741 – Final Cleaning, and the work has been occupied by the Owner.~~
- ~~B. Submit final meter readings for utilities and similar data as of the date the Owner occupied the work.~~

#### **1.09 WARRANTIES, BONDS AND SERVICE AGREEMENTS**

- A. Provide warranties, bonds, and service agreements required by Section 01330 – Shop Drawings and Submittals or by the individual sections of the specifications.
- B. The date for the start of warranties, bonds, and service agreements is established per the General Conditions.
- C. Compile warranties, bonds, and service agreements and review these documents for compliance with the Contract Documents.
  - 1. Each document is to be signed by the respective Supplier or Subcontractor.
  - 2. Each document is to include:
    - a. The product or work item description
    - b. The firm, with the name of the principal, address, and telephone number
    - c. Scope of warranty, bond or services agreement
    - d. Date, duration, and expiration date for each warranty bond and service agreement

- e. Procedures to be followed in the event of a failure
  - f. Specific instances that might invalidate the warranty or bond
- D. Submit two copies of each document to the Engineer for review and transmittal to the Owner.
- 1. Submit duplicate sets.
  - 2. Documents are to be submitted on 8-1/2" x 11" paper, punched for a standard three-ring binder.
  - 3. Submit each set in a commercial quality three-ring binder with a durable and cleanable plastic cover. The title "Warranties, Bonds, and Services Agreements", the project name and the name of the Contractor are to be typed and affixed to the cover.
- E. Submit warranties, bonds and services agreements:
- 1. At the time of final completion and before final payment.
  - 2. Within 10 days after inspection and acceptance for equipment or components placed in service during the progress of construction.

#### **1.10 CLAIMS AND DISPUTES**

- A. Claims and disputes must be resolved prior to recommendations of final Application for Payment. Acceptance of final payment by the Contractor will indicate that any outstanding claims or disputed issues have been resolved to the full satisfaction of the Contractor.

#### **PART 2 PRODUCTS (NOT USED)**

#### **PART 3 EXECUTION (NOT USED)**

**END OF SECTION**

## SECTION 01740

### CLEANING AND WASTE MANAGEMENT

#### PART 1 GENERAL

##### 1.01 DESCRIPTION

- A. This item shall govern for furnishing of all labor, equipment, materials and incidentals to restore any disturbed or damaged surfaces and/or items to a condition equal to or better than that which existed before work began. The Contractor shall leave the construction site clean.

##### 1.02 MEASUREMENT AND PAYMENT

- A. No separate or extra payment will be made for restoration and clean up. It shall be included in the prices bid for the various items of work.

#### PART 2 PRODUCTS (NOT USED)

#### PART 3 EXECUTION

##### 3.01 CONSTRUCTION METHODS

- A. As soon as the work is completed in any area, the Contractor shall, to the satisfaction of the Owner, clean the construction site and any adjoining areas used by Contractor and shall make any restorations necessary to leave the site in a condition equal to or better than prior to construction. This work shall be done without any additional expense to the Owner.
- B. The Contractor shall restore and/or replace any paving, curbing, sidewalks, culverts, gutters, shrubbery, or other plants, fences, sod or other disturbed surfaces or structures. The size, thickness, strength, texture, or condition of restored items shall be equal to that which existed before work began, all to the satisfaction of the Owner.
- C. Private roads used by the Contractor shall be restored to former condition to the satisfaction of the Engineer.
- D. Any rock, including loose rock having a dimension three inches or more, encountered by the grading, trenching or boring operations, not backfilled according to the specifications, shall be removed from the construction site and disposed of at locations and in a manner that is satisfactory to the Engineer.
- E. Unless directed otherwise by the Owner, all materials used for providing temporary roadways for construction equipment shall be removed and disposed of.
- F. All debris, pavement and excess earth from excavations shall be removed and disposed of by the Contractor in a manner satisfactory to the Owner.
- G. If the Contractor attempts to perform cleanup operations during adverse weather or wet ground conditions, the Contractor shall assume full risk of acceptance and the Contractor may be required to again perform such cleanup at the Contractor's expense in order to meet the required standard of normal dry weather cleanup.
- H. At no time during the progress of the work shall the completed cleanup operation be a greater distance behind the completed work than is deemed advisable by the Owner. It is

the intent of this specification that site cleanup be a continuous effort and the Contractor is expected to take whatever measures are required to keep the site clean.

- I. Before the final acceptance of the project, the entire project site shall be cleared of all surplus and waste materials from the work and otherwise restored to a condition equal to or better than that which existed before the work began.

**END OF SECTION**



## SECTION 01741

### FINAL CLEANING

#### PART 1 GENERAL

##### 1.01 WORK INCLUDED

- A. This section specifies administrative and procedural requirements for final cleaning at substantial completion.
- B. Perform a thorough cleaning of the project sites and structures prior to Final Completion. Leave the project clean and in as good or better condition than the existing project site conditions.

##### 1.02 SUBMITTALS

- ~~A. Provide data for maintenance per Section 01780—Operation and Maintenance Data.~~

##### 1.03 QUALITY CONTROL

- A. Use experienced workmen or professional cleaners for final cleaning.

#### PART 2 PRODUCTS

##### 2.01 MATERIALS

- A. Furnish the labor and products needed for cleaning and finishing as recommended by the Manufacturer of the surface material being cleaned.
- B. Use cleaning products only on the surfaces recommended by the Supplier.
- C. Use only those cleaning products which will not create hazards to health or property and which will not damage surfaces.

#### PART 3 EXECUTION

##### 3.01 FINAL CLEANING

- A. Thoroughly clean the entire site and make ready for final completion.
  - 1. Remove construction debris, boxes, and trash from the site.
  - 2. Remove construction storage sheds and field offices.
  - 3. Restore grade to match surrounding condition and remove excess dirt.
  - 4. Sweep all drives and parking lots clean of dirt and debris. Use water truck or hose down paved site to like new appearance.
- ~~B. Clean floors and inspect for damage.
  - 1. Remove oil, grease, paint drippings, and other contaminants from floors, then mop repeatedly until thoroughly clean. Replace damaged flooring.
  - 2. Clean resilient flooring with an approved cleaner and provide one (1) coat liquid floor polish as recommended by the flooring Supplier. Polish to a buffed appearance with powered floor buffer.
  - 3. Vacuum all carpets with powered floor sweeper to remove dirt and dust. Remove glue or other substances from nap of carpet.~~

- C. ~~Clean and polish inside and outside glass surfaces. Wash with window cleaner and water, apply a coat of high quality glass polish and wipe clean. Do not scratch or otherwise mar glass surfaces.~~
- D. ~~Clean wall surfaces to remove dirt or scuff marks. Remove excess adhesive along top edges of wall base. Remove adhesive from surfaces of vinyl wall coverings.~~
- E. ~~Align tile to fit properly in grid and replace cracked or damaged tile. Remove smear marks and other dirt from tile and clean surface of grid system.~~
- F. ~~Spot paint nicks and other damage. If spot painting does not blend into the existing color and texture of the surrounding surfaces, repaint wall from inside corner to inside corner. Touch up damaged surfaces on factory finished equipment using special paint furnished by the Manufacturer.~~
- G. ~~Clean plumbing fixtures, valves, and trim. Clean toilet seats and covers. Remove labels and adhesive from fixtures. Remove floor drains and clean baskets or buckets. Polish strainers and exposed chrome or brass.~~
- H. ~~Remove dirt, oil, grease, dust and other contaminants from floors, equipment and apparatus in mechanical and electrical rooms with vacuum.~~
- I. ~~Clean and polish ceramic tile floors and wall surfaces to remove mildew or other stains. Tuck point defective joints.~~
- J. ~~Inspect exterior painted surfaces. Spot paint any damaged surfaces.~~
- K. ~~Clean permanent filters and replace disposable filters on heating, ventilating, and air conditioning systems. Clean ducts, blowers, and coils if units were operated without filters during construction.~~
- L. ~~Clean roof areas of debris; flush roof drainage systems with water until clear.~~
- M. Broom clean exterior paved surfaces and rake clean other surfaces of the grounds.
- N. ~~Clean and polish all electrical equipment and exposed conduits. Remove paint overspray. Provide a blemish free appearance on all exposed equipment and conduits.~~

**END OF SECTION**

## SECTION 02000

### REFERENCES TO TXDOT STANDARD SPECIFICATIONS

#### PART 1 GENERAL

##### 1.01 GENERAL INFORMATION

- A. All pavement and culvert construction for this project shall be performed in accordance with the 2014 edition of the Texas Department of Transportation (TxDOT) "STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF HIGHWAYS, STREETS AND BRIDGES".

The items contained in this Section set forth clarifications to, or enlargement upon, the TxDOT Specifications and are made a part thereof by their reference in this Section. In the event of a conflict between these amendments and the TxDOT Specifications, these amendments control

In the event of a conflict between the TxDOT Specifications and the Contract Documents Division 0 through Division 16, the Contract Documents Division 0 through Division 16 control.

##### 1.02 STANDARD SPECIFICATIONS

- A. The Texas Department of Transportation (TxDOT) "STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF HIGHWAYS, STREETS AND BRIDGES" applicable to this project are identified as follows:

Item No.	Description
100	Preparing Right of Way
105	Removing Treated and Untreated Base and Asphalt Pavement
110	Excavation
132	Embankment
134	Backfilling Pavement Edges
160	Topsoil
164	Seeding for Erosion Control
166	Fertilizer
168	Vegetative Watering
204	Sprinkling
210	Rolling
216	Proof Rolling
247	Flexible Base
260	Lime Treatment (Road-Mixed)
300	Asphalts, Oils and Emulsions
310	Prime Coat
340	Dense-Graded Hot-Mix Asphalt
351	Flexible Pavement Structure Repair
400	Excavation and Backfill for Structures
420	Concrete Substructures
421	Hydraulic Cement Concrete
440	Reinforcement for Concrete
464	Reinforced Concrete Pipe

Item No.	Description
466	Headwalls and Wingwalls
500	Mobilization
502	Barricades, Signs and Traffic Handling
506	Temporary Erosion, Sedimentation, and Environmental Controls

**1.03 MODIFICATIONS TO STANDARD SPECIFICATIONS**

- A. The following modifications shall govern and take precedence over the Standard Specifications.
- B. All items
  - 1. Measurement and payment shall only be made for those items listed in the Bid Proposal. The unit of measurement shall be as shown in the Bid Proposal.
  - 2. Items not listed in the Bid Proposal shall be considered subsidiary to the item(s) of work for which it pertains.

**PART 2 PRODUCTS (NOT USED)**

**PART 3 EXECUTION (NOT USED)**

**END OF SECTION**