



CITY OF HAMPTON, GEORGIA
WEST MAIN STREET IMPROVEMENTS
PHASE I

ITB #2020-800

COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

JUNE, 2020

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CITY OF HAMPTON, GEORGIA

WEST MAIN STREET IMPROVEMENTS

PHASE I

ITB #2020-800

COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

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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. *Design Engineer (Whitley Engineering, Inc. Design Consultants)*** - The engineering design firm contracted by the City of Hampton to provide detailed engineering plans for the project.
- B. *Issuing Office (City of Hampton Website)*** – The location where all the Bidding Documents are to be issued and where the bidding procedures are administered. All documents associated with the bidding of this project are located solely on the city's website.
- C. *Plan Holders List – not used***
- D. *Community Development Block Grant (CDBG)*** – Funding from the Federal Department of Housing and Urban Development (HUD) that is directed by the Georgia Department of Community Affairs (DCA) and administered by the Henry County Community Development Department.
- E. *Contract Administrator (Falcon Design Consultants, LLC)*** – The independent engineering firm contracted by the City of Hampton to provide contract administration and construction observation for the project.

ARTICLE 2 – CITY OF HAMPTON REQUIRED FORMS

2.01 Attention is called to the fact that the City of Hampton requires a document package to be supplied with all bids received that is fully and completely executed by the Bidder. These required documents are found in “Part I - Bidding / Agreements / Bonds / Conditions; Section XV - City of Hampton Required Forms” contained in this bid package and listed as follows:

- A. Appendix B: Required Forms Submittals**
- B. City of Hampton – Vendor’s Information Form**
- C. City of Hampton – Vendor’s Execution A Bid Form**
- D. Federal W-9 Form**
- E. City of Hampton – Business Entity Certificate**
- F. City of Hampton – Non-Conflict of Interest**
- G. City of Hampton – Non-Collusion Affidavit**
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ARTICLE 3 – FUNDING AND FEDERAL REQUIREMENTS

- 3.01 Attention is called to the fact that this project is being funded fully or partially through the Community Development Block Grant (CDBG) Program of the U.S. Department of Housing and Urban Development. The bidder is asked to pay special attention to the Federal Regulations are found in “Part I - Bidding / Agreements / Bonds / Conditions; Section XVI - Federal CDBG Construction Exhibits” contained in this bid package. The contractor must comply with the terms and conditions of all documents and listed as follows:
 - A. Exhibit A: Equal Employment Opportunity**
 - B. Standard Federal Equal Employment Opportunity Construction Contact Specification**
 - C. Exhibit B: Federal Funding Termination**
 - D. Exhibit C: Federal Labor Standards Provision for CDBG**
 - E. Exhibit D: Wage Rate Determination**
 - F. Exhibit E: Affirmative Action for Handicapped Workers**
 - G. Exhibit F: Architectural Barriers**
 - H. Section 3 Certification Forms**
- 3.02 CDBG Supplemental Conditions have been attached to these Contract Documents and supersede the requirements of the General Conditions of this contract. Included in the CDBG Supplemental Conditions is the applicable Federal Department of Labor - Wage Rate Decision to be utilized in the payment of all persons employed relative to the construction of this project.

ARTICLE 4 – COPIES OF BIDDING DOCUMENTS

- 4.01 Complete sets of the Bidding Documents will be posted on the city’s website and it is the responsible of each bidder to obtain all documents prior to bidding.
- 4.02 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.

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4.03 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 5 – QUALIFICATIONS OF BIDDERS

5.01 To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit written evidence with bid such as financial data, previous experience, present commitments, and such other data as may be called for below.

A. Required Bidder Qualification Statement with Supporting Data (Business License, Corporate Resolution to Bid, Financial Statement, Current Workload)

B. GDOT Prequalification Number.

ARTICLE 6 – EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

6.01 *Subsurface and Physical Conditions*

A. The Supplementary Conditions identify:

1. Those reports known to Owner of explorations and tests of subsurface conditions at or contiguous 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).

B. Copies of reports and drawings, if any, referenced in Paragraph 4.01.A will be made available by Owner to any Bidder upon written request. Those reports and drawings are not part of the Contract Documents, but the “technical data” contained therein as provided in Paragraph 4.02 of the General Conditions has been identified and established in Paragraph 4.02 of 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.

6.02 *Underground Facilities*

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.

6.03 *Hazardous Environmental Condition*

A. The Supplementary Conditions identify any reports and drawings known to Owner relating to a Hazardous Environmental Condition identified at the Site.

B. Copies of reports and drawings referenced in Paragraph 4.03.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents,

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but the “technical data” contained therein as provided in Paragraph 4.06 of the General Conditions has been identified and established in Paragraph 4.06 of 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.

6.04 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 4.02, 4.03, and 4.04 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 4.06 of the General Conditions. On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. 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. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

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

- A.** examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents;
- B.** visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C.** become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;
- D.** consider the information known to Bidder; 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, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder’s safety precautions and programs;
- E.** agree at the time of submitting its Bid that 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(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- F.** 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;

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G. 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; and

H. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

6.06 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 7 – NON-MANDATORY PRE-BID CONFERENCE

7.01 A **Non-Mandatory Prebid Conference** will be held at 11:00 AM local time on Thursday, July 9, 2020 via the ZOOM meeting with all details posted on the City's website. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the yellow conference; this meeting is not mandatory. The City will post meeting minutes for this pre-bid conference on the City's website. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 8 – SITE AND OTHER AREAS

8.01 The Site is identified in the Bidding Documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 9 – INTERPRETATIONS AND ADDENDA

9.01 Any questions regarding this ITB should be submitted in writing and emailed to acohilas@hamptonga.gov, and slayton@fdc-llc.com on or before Friday, July 17, 2020 at 12:00 P.M. Noon, (Locally Prevailing Time) Questions received after the designated period may not be considered. Responses made by the City will be provided in writing to all Bidders via Addendum. It is the responsibility of each Bidder to obtain a copy of any Addendum issued for this solicitation by monitoring the City's website at <https://hamptonga.gov/293/Bid-Opportunities>. No Bidder may rely on any verbal response to any question submitted concerning this ITB. All Bidders and

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representatives of Bidders are strictly prohibited from contacting any other City employees, City Officials or any third-party representatives of the City on any matter having to do with this ITB.

- 9.02 Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 9.03 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer and all Addenda will be posted on the City's website.

ARTICLE 10 – BID SECURITY

- 10.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price and in the form of a certified check, bank money order, or a Bid bond (on the form attached) issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.
- 10.02 The Bid security of the Successful Bidder will be retained until 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 returned. 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. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of even days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 10.03 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 11 – CONTRACT TIMES

- 11.01 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 12 – LIQUIDATED DAMAGES

- 12.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 13 – SUBSTITUTE AND “OR-EQUAL” ITEMS

- 13.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitutes or “or-equal” materials and equipment approved by Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or “or-equal” item. No item of material or equipment will be considered by Engineer as a substitute or “or-equal” 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

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request shall conform to the requirements of Paragraph 6.05 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 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.

ARTICLE 14 – SUBCONTRACTORS, SUPPLIERS AND OTHERS

- 14.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. 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, individual, or entity if requested by Owner. 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 a substitute, without an increase in the Bid.
- 14.02 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, individuals, or entities. Declining to make requested substitutions will not 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 revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.
- 14.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

ARTICLE 15 – PREPARATION OF BID

- 15.01 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from Engineer.
- 15.02 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 section listed therein.
- 15.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.

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- 15.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 15.05 A Bid by a limited liability company shall be executed in the name of the firm by a member 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.
- 15.06 A Bid by an individual shall show the Bidder's name and official address.
- 15.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 15.08 All names shall be printed in ink below the signatures.
- 15.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 15.10 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 15.11 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 16 – BASIS OF BID; COMPARISON OF BIDS

16.01 *Unit Price*

- A.** Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B.** The value of items required by the Contract Documents but not show in the line items on the Bid Form shall be included in the unit price of the line item that relates to this work.
- C.** The total of all estimated prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with Paragraph 11.03 of the General Conditions.
- D.** 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.

16.02 *Allowances*

- A.** In the amount bid on the Bid Form submitted, the Bidder shall include a **\$40,000** Contingency Allowance. This allowance is for additional work as directed by the Owner. Monies not utilized

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by the Owner for this project will be removed from the final contract price at the completion of the project by use of a Change Order.

ARTICLE 17 – SUBMITTAL OF BID

17.01 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 following documents:

- A.** Required Bid Security;
- B.** GDOT Prequalification Number;
- C.** Complete City of Hampton Required Forms Package;
- D.** List of Proposed Suppliers;
- E.** Certificate of Insurance
- F.** Contractor Affidavit and Agreement
- G.** Subcontractor Affidavit

17.02 Ownership of Bids: Each Bid submitted to the City will become the property of the City, without compensation to a Bidder, for the City's use, in its discretion. The City shall not be liable for any Bid preparation costs incurred by Bidders.

17.03 Georgia Open Records Act: Information provided to the City is subject to disclosure under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et. seq. Pursuant to O.C.G.A. § 50-18-72(a)(34), “[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.]”.

17.04 A Bid shall be submitted 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 in accordance with the requirements of “Part I - Bidding / Agreements / Bonds / Conditions; Section XV - City of Hampton Required Forms; Appendix B: Required Forms Submittals” 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 – WEST MAIN STREET IMPROVEMENTS – PHASE I; REFERENCE: ITB#2020-800”**. A mailed Bid shall be addressed to the **City of Hampton; Attention: Office of the City Manager; 17 E. Main St. S.; Hampton, Georgia 30228.**

17.05 Bid packages submitted shall include **one (1)** complete set of bid documents, as required by this section, with original signatures and seals as required and this document set shall be labeled

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“Original”. Additionally, **two (2)** complete copy sets of the bid documents, as required by this section, labeled **“Copy”** shall be included in the bid package.

ARTICLE 18 – MODIFICATION AND WITHDRAWAL OF BID

- 18.01 A Bid may be modified or 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.
- 18.02 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 19 – OPENING OF BIDS

- 19.01 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 20 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 20.01 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 21 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 21.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible.
- 21.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 21.03 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.
- 21.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

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- 21.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.
- 21.06 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Owner.

ARTICLE 22 – CONTRACT SECURITY AND INSURANCE

- 22.01 Article 5 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 executed Agreement to Owner, it shall be accompanied by such bonds.

ARTICLE 23 – SIGNING OF AGREEMENT

- 23.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within ten (10) calendar days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten calendar days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

SECTION II
INVITATION TO BID



CITY OF HAMPTON, GEORGIA

**WEST MAIN STREET IMPROVEMENTS - PHASE I
ITB #2020-800**

DATE: JUNE 23, 2020

Sealed unit price bids will be received by the City of Hampton, Georgia from prospective contractors for the City of Hampton, Georgia's "**West Main Street Improvements - Phase I**" project. The work consists of furnishing and installing all materials, labor, tools, equipment, and related services required for a complete project in accordance with the Contract Documents. This project includes but is not limited the improvements of approximately 1,500 L.F. of existing roadway that requires reducing the existing lane width, milling, leveling and resurfacing of the new one-way vehicle lane with a bike lane, related traffic striping and signage, new water main, new stormwater collection infrastructure, curb and gutter, concrete sidewalk and related driveway turnouts, related grading, erosion and sediment control, traffic control, permanent grassing, and related appurtenances within the project limits that will comprise the City of Hampton's "**West Main Street Improvements - Phase I**" project.

The activity is proposed to be funded or partially funded with Community Development Block Grant (CDBG) Program funds. The selected contractor must comply with federal laws including but not limited to provisions covering Equal Employment Opportunity, the Copeland Anti-Kickback Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Rights to Inventions Made Under Contract or Agreement, the Clean Air Act, the Byrd Anti-Lobbying Amendment, Debarment and Suspension, the Drug-Free Workplace Requirements and Section 3 Clause of the Urban Development Act of 1968.

Bid Documents may be obtained from the City of Hampton's website <https://hamptonga.gov/293/Bid-Opportunities>. All documents and addendum related to this project will be posted on the City's website and it will be the Bidders responsibility to verify they have all documents necessary prior to submission of their bid.

A non-mandatory Pre-Bid Conference will be held on **Thursday, July 9, 2020 at 11:00 AM (Local Prevailing Time)** via a ZOOM meeting posted on the City's website. Any questions pertaining to the requirements of the Contract Documents either procedural or technical, shall be in writing and are to be submitted via email to acohilas@hamptonga.gov and slayton@fdc-llc.com by **12:00 PM on Friday, July 17, 2020**.

SECTION II

Sealed Bids will be received until **11:00 AM (Local Prevailing Time)** on, **Friday, July 31, 2020**, and then publicly opened and read aloud. Bids are to be submitted at the Hampton City Hall – Attention: Office of the City Manager; 17 E. Main St. S.; Hampton, GA 30228 **Reference: ITB# 2020-800 – “West Main Street Improvements - Phase I”**.

No bid may be modified, withdrawn, or canceled for a period of one hundred twenty (120) days after the time designated for the receipt of Bids or until the Bidder is notified by the City whichever is sooner. The City reserves the right to accept or reject any/or all bids and to waive irregularities, technicalities, and formalities.

Each bid shall be accompanied by a Bid Bond in an amount of not less than 5% of the total bid amount. The Bid Bond may be in the form of a bond issued by a surety acceptable to the City or a cashier's check made payable to the City of Hampton, Georgia.

The successful bidder will be required to furnish a Performance Bond and a Payment Bond, each in the sum of 100% of the total amount bid and provide insurance coverage as required in the Contract Documents.

Note: For more information please refer to the Instruction to Bidders and the Contract Documents, which govern and supersede this Invitation to Bid.

SECTION III
BID FORM



CITY OF HAMPTON, GEORGIA
WEST MAIN STREET IMPROVEMENTS
PHASE I
ITB #2020-800
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

Bid Date: July 31, 2020

Bid Time: 11:00 AM

SECTION III
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SECTION III

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

City of Hampton, Georgia

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 120 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, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.

Addendum Date

_____	_____
_____	_____
_____	_____
_____	_____

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

D. Bidder has considered the information known to Bidder; 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, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder’s safety precautions and programs.

E. Based on the information and observations referred to in Paragraph 3.01.D above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are

SECTION III

necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

- F. 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.
- G. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
 - 1. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

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 anything 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 following price(s). Any incomplete or illegible bid prices will make this bid subject to rejection by the Owner:

SECTION III

<u>ITEM NO.:</u>	<u>ESTIMATED QUANTITY</u>	<u>UNITS</u>	<u>DESCRIPTION</u>	<u>TOTAL COST</u>	<u>COST PER SQ. FT.</u>
1.	1	L.S.	MOBILIZATION, TRAFFIC CONTROL, AND PROJECT SIGNAGE FOR CONSTRUCTION	\$ _____	\$ _____
2.	1	L.S.	CLEARING, GRUBBING, AND GRADING	\$ _____	\$ _____
3.	1	L.S.	TOPSOIL REMOVAL AND DISPOSAL	\$ _____	\$ _____
4.	475	C.Y.	SUITABLE SOIL FILL MATERIAL - IMPORTED	\$ _____	\$ _____
5.	375	S.Y.	DEMOLITION – REMOVAL AND DISPOSAL OF ASPHALT AND CONCRETE DRIVEWAYS	\$ _____	\$ _____
6.	215	L.F.	REMOVE AND DISPOSE EXISTING STORM CULVERTS	\$ _____	\$ _____
7.	17	L.F.	REMOVE AND DISPOSAL OF EXISTING RETAINING WALL	\$ _____	\$ _____
8.	150	TONS	GDOT GRADED AGGREGATE BASE FOR TEMPORARY DRIVES AND DRIVEWAY BASE	\$ _____	\$ _____
9.	12	EA.	REMOVE AND RELOCATE EXISTING MAILBOXES	\$ _____	\$ _____
10.	1500	L.F.	GDOT TYPE A SILT FENCE INSTALLED AND MAINTAINED	\$ _____	\$ _____
11.	4	EA.	INLET SEDIMENT TRAP - SD2-F (FABRIC)	\$ _____	\$ _____
12.	5	EA.	CURB INLET PROTECTION SD2-P	\$ _____	\$ _____
13.	1	L.S.	CONSTRUCTION STAKEOUT BY LICENSED SURVEYOR	\$ _____	\$ _____
14.	1	ACRE	TEMPORARY GRASSING/MULCHING - 2 EVENTS (DS1, DS2)	\$ _____	\$ _____
15.	1	L.S.	TREE REMOVAL (ALLOWANCE)	\$ 15,000.00	\$ 15,000.00
16.	23,100	S.F.	BERMUDA SOD – TIFTON 419 OR APPROVED EQUIVALENT (SD4)	\$ _____	\$ _____
17.	0.5	ACRE	PERMANENT GRASSING (SD3)	\$ _____	\$ _____

SECTION III

18.	1800	L.F.	SAW CUTTING OF PAVEMENT FOR CURB AND GUTTER, WATER LINE CROSSING, AND DRIVEWAY TRANSITIONS	\$ _____	\$ _____
19.	1550	L.F.	GDOT 6" x 24" CONCRETE CURB AND GUTTER; CLASS "A" 3000 PSI	\$ _____	\$ _____
20.	75	TONS	RECYCLED ASPHALTIC CONCRETE PATCHING, INCLUDING BITUMINOUS MATERIAL & H LIME	\$ _____	\$ _____
21.	1800	S.Y.	MILL ASPHALTIC CONCRETE PAVEMENT, 1 1/2" - 3" DEPTH AS REQUIRED	\$ _____	\$ _____
22.	200	TONS	RECYCLED ASPHALTIC CONCRETE LEVELING, INCLUDING BITUMINOUS MATERIAL & H LIME	\$ _____	\$ _____
23.	150	GAL.	TACK COAT; 0.06 GAL./S.Y.	\$ _____	\$ _____
24.	210	TONS	RECYCLED ASPHALTIC CONCRETE 12.5 MM SUPERPAVE, TYPE 1, GP 1 OR 2, INCLUDING BITUMINOUS MATERIAL & H LIME; 1 1/2" THICKNESS	\$ _____	\$ _____
25.	1600	L.F.	8" C900 PVC WATER MAIN INSTALLED COMPLETE	\$ _____	\$ _____
26.	100	L.F.	8" DUCTILE IRON WATER MAIN W/ WEDGE LOCK GASKETS; CLASS 350	\$ _____	\$ _____
27.	3	EA.	5 1/4" FIRE HYDRANT ASSEMBLY INSTALLED; COMPLETE	\$ _____	\$ _____
28.	3	EA.	REMOVE EXISTING FIRE HYDRANT AND DELIVER TO THE CITY; COMPLETE		
29.	12	EA.	NEW 1" WATER SERVICE CONNECTION TO NEW C-900 PVC WATER MAIN	\$ _____	\$ _____
30.	120	L.F.	1" TYPE "K" COPPER WATER SERVICE LINE INSTALLED	\$ _____	\$ _____
31.	12	EA	RELOCATE EXISTING WATER METER AND BOX AND CONNECT TO NEW SERVICE LINE AND	\$ _____	\$ _____

SECTION III

			RECONNECT TO PROPERTY SERVICE		
32.	3	EA.	6" x 6" TAPPING SLEEVE AND VALVE WITH BOX INSTALLED	\$ _____	\$ _____
33.	500	LBS.	DUCTILE IRON FITTINGS	\$ _____	\$ _____
34.	3	EA.	6" WET CONNECTION COMPLETE WITH FITTINGS TO PLUG AND ABANDON EXISTING ASBESTOS CONCRETE (AC) WATER MAIN	\$ _____	\$ _____
35.	1	L.S.	GDOT #57 STONE EMBEDMENT AND STABILIZATION INSTALLED AT EXISTING SANITARY SEWER FORCE MAIN	\$ _____	\$ _____
36.	652	L.F.	18" CLASS III REINFORCED CONCRETE STORM CULVERT INSTALLED	\$ _____	\$ _____
37.	40	L.F.	10" N-12 DUAL WALL HDPE STORM CULVERT INSTALLED	\$ _____	\$ _____
38.	5	EA.	GDOT STANDARD DROP INLET 1019A - TYPE "E" COMPLETE	\$ _____	\$ _____
39.	1	EA.	GDOT STANDARD DROP INLET 1019A - TYPE "A" COMPLETE	\$ _____	\$ _____
40.	1	EA.	GDOT DOUBLE WING CATCH BASIN 1034D COMPLETE	\$ _____	\$ _____
41.	3	EA.	10" NYLOPLAST YARD INLET COMPLETE OR APPROVE EQUIVALENT	\$ _____	\$ _____
42.	250	S.Y.	DRIVEWAY W/ TAPERED ENTRANCES CONCRETE VALLEY GUTTER PER GDOT STANDARD "A1"; 6" THICK; CLASS "A" 3000 PSI	\$ _____	\$ _____
43.	875	S.Y.	4" THICK CONCRETE SIDEWALK COMPLETE; CLASS "A" 3000 PSI	\$ _____	\$ _____
44.	3	EA.	HANDICAP RAMP WITH DETECTOR PADS PER GDOT STD. DETAIL "A3"	\$ _____	\$ _____

SECTION III

45.	45	S.Y.	GDOT CLASS "A" PAVEMENT REPLACEMENT COMPLETE	\$ _____	\$ _____
46.	26	L.F.	8' WIDE WHITE THERMOPLASTIC CROSSWALK STRIPING PER GDOT DETAIL T-11A	\$ _____	\$ _____
47.	3000	L.F.	5" WIDE SOLID WHITE THERMOPLASTIC ROADWAY STRIPING	\$ _____	\$ _____
48.	100	L.F.	5" WIDE WHITE THERMOPLASTIC ROAD MINI-SKIP STRIPING	\$ _____	\$ _____
49.	4	EA.	WHITE THERMOPLASTIC HELMET BICYCLIST SYMBOL	\$ _____	\$ _____
50.	5	Ea.	WHITE THERMOPLASTIC ONE-WAY DIRECTIONAL ARROW	\$ _____	\$ _____
51.	20	L.F.	24" WIDE SOLID WHITE THERMOPLASTIC STOP BARS	\$ _____	\$ _____
52.	1	EA.	GDOT R6-1R ONE-WAY SIGN COMPLETE INSTALLED	\$ _____	\$ _____
52.	1	EA	GDOT R6-2R ONE-WAY SIGN COMPLETE INSTALLED	\$ _____	\$ _____
53.	1	EA.	GDOT R3-1 NO RIGHT TURN SIGN COMPLETE INSTALLED	\$ _____	\$ _____
54.	1	EA.	GDOT R3-2 NO LEFT TURN SIGN COMPLETE INSTALLED	\$ _____	\$ _____
55.	2	EA.	GDOT R5-1 DO NOT ENTER SIGN COMPLETE INSTALLED	\$ _____	\$ _____
56.	4	EA.	GDOT R3-17 BIKE LANE SIGN COMPLETE INSTALLED	\$ _____	\$ _____
57.	2	EA.	GDOT R1-1 STOP SIGN COMPLETE INSTALLED	\$ _____	\$ _____
5.	1	L.S	CONTINGENCY ALLOWANCE (AS DIRECTED BY OWNER)	\$ 40,000.00	\$ 40,000.00

Total Base Bid in Words:

_____ Dollars

In Numbers: \$ _____

SECTION III

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 135 calendar days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 150 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. GDOT Prequalification Number;
- C. Complete City of Hampton Required Forms Package;
- D. List of Proposed Suppliers;
- E. Certificate of Insurance
- F. Contractor Affidavit and Agreement
- G. Subcontractor Affidavit

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

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

SECTION III

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: _____ (SEAL)

State of Incorporation: _____
Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____

Date of Qualification to do business in _____ is ____/____/____.

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

SECTION III

Second Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address _____

Phone No. _____ Fax No. _____

E-mail _____

SUBMITTED on _____, 20____.

State Contractor License No. _____.

SECTION IV

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*):

BID

Bid Due Date: July 31, 2020

Description (*Project Name and Include Location*):

CITY OF HAMPTON - WEST MAIN STREET IMPROVEMENTS - PHASE I

BOND

Bond Number:

Date (*Not earlier than Bid due 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

Bidder's Name and Corporate Seal

By:

Signature

Print Name

Title

Attest:

Signature

Title

SURETY

(Seal) _____ (Seal)
Surety's Name and Corporate Seal

By:

Signature (Attach Power of Attorney)

Print Name

Title

Attest:

Signature

Title

SECTION IV

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 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 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.

SECTION V

CONTRACTOR FURNISHED DOCUMENTS

SECTION VI

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation that is contracting with the City of Hampton, Georgia, has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

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

EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Contractor Name)

Date

Title of Authorized Officer of Contractor

Printed Name of Authorized Officer or Agent

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

Notary Public I

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

RETURN THIS FORM WITH PROPOSAL DOCUMENTS

SECTION VII

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. \$1 3-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of City of Hampton, Georgia, has registered with and is participating in a federal work authorization program*[or any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

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

Notary Public
My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

RETURN THIS FORM WITH PROPOSAL DOCUMENTS

SECTION VIII

FORM OF AGREEMENT **BETWEEN OWNER AND CONTRACTOR** **FOR CONSTRUCTION CONTRACT**

THIS AGREEMENT is by and between Hampton, Georgia (“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: All material, labor, tools, equipment, and any other miscellaneous items necessary to complete the work as described in the Construction Drawings & Specifications.

ARTICLE 2 – THE PROJECT

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: City of Hampton, Georgia’s “West Main Street Improvements – Phase I” project. The work consists of furnishing and installing all materials, labor, tools, equipment, and related services required for a complete project in accordance with the Contract Documents. This project includes but is not limited the improvements of approximately 1,500 L.F. of existing roadway that requires reducing the existing lane width, milling, leveling and resurfacing of the new one-way vehicle lane with a bike lane, related traffic striping and signage, new water main, new stormwater collection infrastructure, curb and gutter, concrete sidewalk and related driveway turnouts, related grading, erosion and sediment control, traffic control, permanent grassing, and related appurtenances within the project limits that will comprise the City of Hampton’s “West Main Street Improvements - Phase I” project.

ARTICLE 3 – ENGINEER/ARCHITECT (OWNER’S REPRESENTATIVE)

3.01 The Project has been designed for the City by Whitley Engineering, Inc. Falcon Design Consultants, LLC (Engineer), is 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.

SECTION VIII

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within 135 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 150 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 loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. 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), Contractor shall pay Owner \$250 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$500 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

A. For all Work at the Unit Price Base Bid of: DOLLARS (\$0.00)

B. All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of PAYMENTS*

A. Contractor shall submit Applications for Payment in accordance with Article 14 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 25th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General

SECTION VIII

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 in the General Requirements.

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 Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
 - 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 as Engineer shall determine in accordance with Paragraph 14.02.B.5 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 tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 1.0 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site 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.

SECTION VIII

- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has considered the information known to Contractor; 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, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- E. Based on the information and observations referred to in Paragraph 8.01.D above, Contractor does not consider that 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 Documents.
- F. 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.
- G. 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.
- H. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement.
 - 2. Performance Bond.
 - 3. Payment Bond.
 - 4. General Conditions.
 - 5. Supplemental General Conditions
 - 6. City of Hampton Required Forms
 - 7. Federal CDBG Construction Exhibits
 - 8. Specifications.

SECTION VIII

9. Drawings
10. Addenda.
11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid.
 - b. Documentation submitted by Contractor prior to Notice of Award.
 - c. Certificate of Insurance.
12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change 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 Paragraph 3.04 of 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. 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, moneys that may become due and moneys that are 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.

SECTION VIII

10.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, 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 anything 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.

SECTION VIII

10.06 *Other Provisions*

1. *Indemnification:* The CONTRACTOR shall indemnify and hold harmless the OWNER and Consulting ENGINEER (also known as Falcon Design Consultants, LLC) and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the WORK, provided that any such claim, damage, loss, expense or attorney's fees is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and is caused in whole or in part by any negligent act or omission of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not the negligent act is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Clause. In any and all claims against the OWNER or the Consulting ENGINEER (Falcon Design Consultants, LLC) or any of their agents or employees, by any employee of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation set forth in this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any Subcontractor under workers' or workman's compensation acts, disability benefit acts or other employee benefit acts.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

City of Hampton, Georgia

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

17 E. Main Street

Hampton, GA 30228

Phone: (770) 946-4306

CONTRACTOR

By: _____

Title: _____

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

Attest: _____

Title: _____

Address for giving notices:

Phone: _____

License No.: _____

(Where applicable)

Agent for service of process:

SECTION IX

NOTICE TO PROCEED

Date: _____

Project: West Main Street Improvements - Phase I

Owner: City of Hampton, Georgia	Owner's Contract No.: ITB #2020-800
Contract:	Engineer's Project No.:

Contractor:

Contractor's Address:

You are notified that the Contract Times under the above Contract will commence to run on _____ On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the date of Completion is _____, and the number of consecutive calendar days to achieve Substantial Completion is **135**, and the number of consecutive calendar days to achieve readiness for Final Completion including Closeout Documents is **150**.

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Contractor:

Authorized Signature

Title

Date

Owner: **City of Hampton, Georgia**

Authorized Signature

Title

Date

SECTION X
PERFORMANCE BOND

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

City of Hampton, Georgia

17 E. Main Street

Hampton, GA 30228

CONTRACT

Effective Date of Agreement:

Amount: \$ _____

Description (*Name and Location*): West Main Street Improvements – Phase I

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

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

(Seal)

(Seal)

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

By:

Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest:

Signature

Attest:

Signature

Title

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

SECTION X

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
 - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; or
 2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.
3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
 - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

SECTION X

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the 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 Owner or its heirs, executors, administrators, or successors.
7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.
8. 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 Contractor Default or within two years after Contractor ceased working or within two years after 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 period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.
10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – *(Name, Address and Telephone)*

Surety Agency or Broker:

Owner's Representative *(Engineer or other party)*:

SECTION XI
PAYMENT BOND

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

CONTRACTOR (Name and Address):

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

OWNER (Name and Address):

City of Hampton, Georgia
17 E. Main Street
Hampton, GA 30228

CONTRACT

Effective Date of Agreement:

Amount: \$_____.

Description (Name and Location): West Main Street Improvements – Phase I

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

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

Note: Provide execution by additional parties, such as joint venturers, if necessary.

SECTION XI

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

SECTION XI

9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

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

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, 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 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.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

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

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 **Claimant:** An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and 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.

15.2 **Contract:** The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 **Owner Default:** Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – *(Name, Address, and Telephone)*

Surety Agency or Broker:

Owner's Representative *(Engineer or other)*:

SECTION XII



CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of the **City of Hampton, Georgia**, do hereby certify as follows:

I have examined the attached Contract and the manner of execution thereof by the authorized City representatives, and I am of the opinion that each of the aforesaid agreements are adequate and have been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the City of Hampton, Georgia; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

Signature: _____

Date: _____

SECTION XIII

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. 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 which is evidence of the agreement between Owner and Contractor covering the Work.
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. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
9. *Change Order*—A document recommended by Engineer 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, issued on or after the Effective Date of the Agreement.
10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop

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Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *General Requirements*—Sections of Division 1 of the Specifications.
22. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
23. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
24. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
26. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

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28. *Notice to Proceed*—A written notice given 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 under the Contract Documents.
29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
30. *PCBs*—Polychlorinated biphenyls.
31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
32. *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.
33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
34. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
35. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
37. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
39. *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.
40. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
41. *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 for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

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42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
43. *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 at the Site.
44. *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.
45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
46. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
47. *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 Subcontractor.
48. *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 those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
49. *Unit Price Work*—Work to be paid for on the basis of unit prices.
50. *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, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

- A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

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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 Paragraph 9.09 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 14.04 or 14.05).

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. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

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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. 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 Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 *Copies of Documents*

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

2.03 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 15th day after the Effective Date of the Agreement 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 15 days after the Effective Date of the Agreement. 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 Agreement, whichever date is earlier.

2.04 *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 the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), 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 Documents;
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

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performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *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 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, 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 instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *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 2.05.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 component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, 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. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.

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C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

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

1. Reference to standards, specifications, manuals, 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, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement 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, 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 Contract Documents. 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 Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, 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) any standard, specification, manual, or code, or (c) 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 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.
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:*

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1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); 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 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 1. A Field Order;
 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
 3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier 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
 2. 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.
- 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.

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole

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risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *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. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefore as provided in Paragraph 10.05.
- 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 the Work is to be performed.
- 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.

4.02 *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 contiguous to the Site; and
2. those drawings known to Owner of physical conditions relating to existing surface.

- B. *Limited Reliance by Contractor on Technical Data Authorized:* Not Used

4.03 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to require a change in the Contract Documents; or

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2. differs materially from that shown or indicated in the Contract Documents; or
3. 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 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

- B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition 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 meet any one or more of the categories described in Paragraph 4.03.A; and
 - 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 Paragraphs 9.07 and 11.03.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final 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
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.

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4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous 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 shall not be responsible for 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 such information and data;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents;
 - c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
 - d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, 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 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *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

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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.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “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 any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) 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 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which

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such Work may be resumed safely. 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, either party may make a Claim therefor as provided in Paragraph 10.05.

- F. 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. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. Not Used

- H. 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 a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds, 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 Documents. 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 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.
- B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds 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 each bond.

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C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, 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 requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.

E. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which 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:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

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3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
5. 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; and
6. 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.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and 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;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);
5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
6. include completed operations coverage:
 - a. Such insurance shall remain in effect for two years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence

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satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, 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.

5.06 *Property Insurance*

Not Used

5.07 *Waiver of Rights*

- A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies 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 of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their 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 Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (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 as trustee 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 utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

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- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.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, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Not Used
- B. Not Used

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, 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. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

Not Used

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *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. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.
- 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.

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6.02 *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. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *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.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, 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.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 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 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "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 specification or description 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 or no substitution is permitted, other items of material or equipment or material

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or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *“Or-Equal” Items:* If in Engineer’s sole discretion 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, it may be considered by Engineer as an “or-equal” item, in which case review and approval of the proposed item may, in Engineer’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, 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; and
 - 3) it has a proven record of performance and availability of responsive service.
 - 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.
2. *Substitute Items:*
 - a. If in Engineer’s sole discretion an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
 - b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.
 - c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
 - d. 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:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,

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- b) be similar in substance to that specified, and
- c) be suited to the same use as that specified;

2) will state:

- a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
- b) 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
- c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

- a) all variations of the proposed substitute item from that specified, and
- b) available engineering, sales, maintenance, repair, and replacement services; and

4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. 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

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in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. 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 any right of Owner or Engineer to reject defective Work.
- C. 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. 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 moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

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- F. 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.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (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 such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *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. Not Used
- 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.

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, 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 opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

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6.09 *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 knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear 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. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

- 1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
- 2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
- 3. 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 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 by or based upon Contractor's performance of the Work.

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- B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other 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 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 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 property to stresses or pressures that will endanger it.

6.12 *Record Documents*

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

6.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. 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, 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 owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

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- 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 6.13.A.2 or 6.13.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 (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 for protection of the Work 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 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *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.

6.15 *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.

6.16 *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.

6.17 *Shop Drawings and Samples*

- A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

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1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- 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 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
- b. 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 6.17.D.

B. 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. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated each 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 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 and approval of that 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 both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

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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 (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval 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 6.17.C.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's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

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.

6.18 Continuing the Work

- A. 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, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 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 representation of 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

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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 or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.20 *Indemnification*

- A. 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 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 6.20.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 6.20.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

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2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *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 law.
- 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, Shop Drawings 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 6.21, 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 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials

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and equipment and the execution of such other work, and properly coordinate the Work with theirs. 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. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, 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.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

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8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

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

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *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.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Not Used

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8.11 *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.

8.12 *Compliance with Safety Program*

- 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 pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *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 Documents.

9.02 *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 9.09. 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.

9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. 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

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limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which 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. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with 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, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. 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).

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the

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performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

- B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.
- C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.
- D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents 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 14.07.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 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

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ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *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 by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *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 as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 2. 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; and
 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *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.

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10.05 *Claims*

- A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.
- B. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:
 - 1. deny the Claim in whole or in part;
 - 2. approve the Claim; or
 - 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

- A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment

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in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs 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 11.01.B, 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, 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 11.01.
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.

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- 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 5.06.D), 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 telegrams, long distance telephone calls, telephone 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 Contractor is required by the Contract Documents to purchase and maintain.

B. *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, expediters, 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 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which 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.

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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 Paragraphs 11.01.A.

C. *Contractor's Fee:* When all the Work 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 or when a Claim for an 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 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, 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.

11.02 *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:*
 1. Contractor agrees that:
 - a. 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
 - b. 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:*
 1. 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.

11.03 *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

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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. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- 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. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 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; and
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that Contractor 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 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. The value of any Work covered by a Change Order or of any Claim for 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, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or

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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 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.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 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - 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 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, 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 Price or the Contract Times, or both. 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.

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- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is 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 described in this Paragraph 12.03.C.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.
- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests 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.

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 3. as otherwise specifically provided in the Contract Documents.

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- 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 and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.
- E. 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.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, 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, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, 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 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 Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. 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, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *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

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conform to the Contract Documents, 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.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. 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 removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *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 land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 1. repair such defective land or areas; or
 2. correct such defective Work; or
 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 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. 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) will be paid by Contractor.

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- 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 13.07, 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 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. 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) 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 pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *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 in accordance with Paragraph 13.06.A, 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, 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 13.09, 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, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, 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 (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute

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resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. 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 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A 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.

14.02 *Progress Payments*

A. *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 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.

B. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the

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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 9.07, 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 Documents; 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 moneys 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.

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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 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

1. Twenty days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:
 - a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
 - b. 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;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action 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, when Contractor remedies the reasons for such action.
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 14.02.C.1 and subject to interest as provided in the Agreement.

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14.03 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *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 (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.
- 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 tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.
- E. 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 tentative list.

14.05 *Partial Utilization*

- 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

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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. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and 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 14.04.A through D for that part of the Work.
2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and 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 14.04 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. Not Used

14.06 *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 is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *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, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and

SECTION XIII

- d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) 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.

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 Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. 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 14.09. 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. Payment Becomes Due:

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 Final Completion Delayed

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *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 notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will 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 established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
3. Contractor's repeated disregard of the authority of Engineer; or
4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
2. 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

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3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.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 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) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed 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.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 7 days of receipt of said notice.
- E. 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. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *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;
 3. Not Used
 4. reasonable expenses directly attributable to termination.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

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15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) 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 15.03.
- 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 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 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 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.
- B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:
 1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or
 2. agrees with the other party to submit the Claim to another dispute resolution process; or
 3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

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ARTICLE 17 – MISCELLANEOUS

17.01 *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 to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents 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 State of Georgia.

17.03 *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 Documents. 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.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract. 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-2.02 *Copies of Documents*

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

- A. Owner shall furnish to Contractor a PDF version of the Drawings and Project Manual. Digital files will be released to the Contractor after the execution of an "Electronic Data File Transfer, User and Indemnification Agreement" with the Engineer.**

SC-4.02 *Subsurface and Physical Conditions*

SC-4.02 Delete Paragraphs 4.02.A and 4.02.B in their entirety:

SC-4.06 *Hazardous Environmental Conditions*

SC-4.06 Delete Paragraphs 4.06.A and 4.06.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-5.04 *Contractor's Liability Insurance*

SC-5.04 Add the following new paragraph immediately after Paragraph 5.04.B:

C. The limits of liability for the insurance required by Paragraph 5.04 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 5.04.A.1 and A.2 of the General Conditions:**

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a. State:	Statutory
b. Applicable Federal (e.g., Longshoreman's):	Statutory
c. Employer's Liability:	<u>\$1,000,000</u>
2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 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	<u>\$1,000,000</u>
b. Products - Completed Operations Aggregate	<u>\$1,000,000</u>
c. Personal and Advertising Injury	<u>\$1,000,000</u>
d. Each Occurrence (Bodily Injury and Property Damage)	<u>\$1,000,000</u>
e. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.	
f. Excess or Umbrella Liability	
<input type="checkbox"/> General Aggregate	<u>\$1,000,000</u>
<input type="checkbox"/> Each Occurrence	<u>\$1,000,000</u>
3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:	
a. Bodily Injury:	
Each person	<u>\$1,000,000</u>
Each Accident	<u>\$1,000,000</u>
b. Property Damage:	
Each Accident	<u>\$1,000,000</u>
4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:	
a. Bodily Injury:	
Each person	<u>\$1,000,000</u>
Each Accident	<u>\$1,000,000</u>

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b. Property Damage:	
Each Accident	<u>\$1,000,000</u>
Annual Aggregate	<u>\$1,000,000</u>

SC-6.11 *Use of Site and Other Areas*

SC-6.11 Add the following new paragraphs immediately after Paragraph 6.11.D:

E. Contractor shall work with Owner and Engineer as required by law to comply with current State of Georgia Department of Natural Resources permit requirements. Contractor shall be responsible for developing and implementing a land disturbing activity plan, erosion control plan and temporary erosion control measures which comply with the State of Georgia Sediment and Erosion Control BMP standards, as set forth in manuals, practices and procedures promulgated by the State and local governing authorities, including but not limited to the most recent edition of the Manual for Erosion and Sediment Control in Georgia.

F. From the issuance date of a notice to proceed, or the date the Contractor begins work, whichever event occurs first, the Contractor shall be responsible for the project site. The escape of sediment from the site shall be prevented by Contractor's installation and maintenance of temporary erosion control measures and practices at the Contractor's expense. All appropriate erosion control measures shall be installed prior to any land disturbing activity. Erosion control measures shall be monitored by Contractor on a daily basis and repaired or restored until permanent erosion control measures are established and the Work is complete.

SC-6.17 *Shop Drawings and Samples*

SC-6.17 Add the following new paragraphs immediately after Paragraph 6.17.E:

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples, or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.

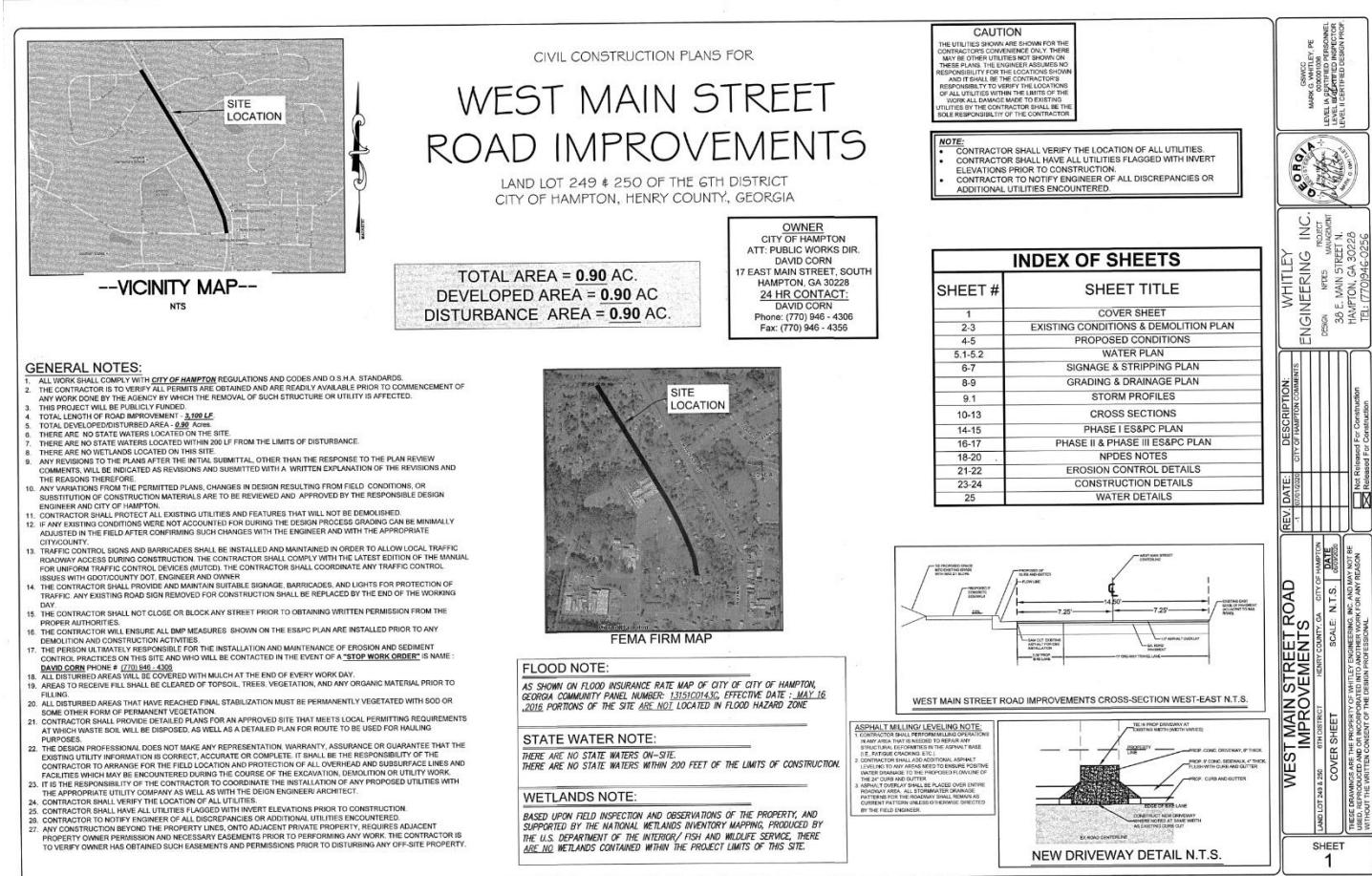
SECTION XIV

G. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for Engineer's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-7.0

Contract Drawings:

A. Contract Documents include the "West Main Street Road Improvements - Phase I" as designed by Whitley Engineering, Inc. and the "Cover Sheet" for this project design plans is shown below with a complete "Sheet Index" for drawings that are included in the overall project.



SC-8.0

Supplemental Technical Specifications as Stated:

SC-8.1

Technical Specifications, in addition to those included in the Contract Documents, that will be utilized for the "City of Hampton, Georgia - West Main Street Improvements - Phase I" shall be per the "Georgia Department of Transportation - Standard Specifications Construction of Transportation Systems – April 18, 2013 or

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latest revision" (Note: Local Standards take precedence over GDOT specifications related to conflicting guidelines, plans, and/or specifications.)

SC-8.2 **Technical Specifications**, in addition to those included in the Contract Documents, that will be utilized for the "City of Hampton, Georgia – West Main Street Improvements - Phase I" shall be per the "Standard and Specifications - Henry County Water Authority (HCWA) - Revised December 2018 or latest revision" (Note: Local Standards take precedence over HCWA specifications related to conflicting guidelines, plans, and/or specifications.)

SC-9.0 *Community Development Block Grant (CDBG) – Inclusion of Federal/Local Conditions*

SC-9.1 **CDBG Federal/Local Conditions** are attached as an addition to these Contract Documents and supersede all requirements in these documents.

SC-9.2 **These CDBG requirements include the following:**

a. *Federal CDBG Construction Exhibits*

- i. **Exhibit A: Equal Employment Opportunity**
- ii. **Standard Federal Equal Employment Opportunity Construction Contact Specification**
- iii. **Exhibit B: Federal Funding Termination**
- iv. **Exhibit C: Federal Labor Standards Provision for CDBG**
- v. **Exhibit D: Wage Rate Determination**
- vi. **Exhibit E: Affirmative Action for Handicapped Workers**
- vii. **Exhibit F: Architectural Barriers**
- viii. **Exhibit G: Section 3 Certification Forms**
- ix. **Exhibit H: CDBG Site Sign Requirement**

SECTION XV

CITY OF HAMPTON REQUIRED FORMS

APPENDIX B: REQUIRED FORM SUBMITTALS

1.1 Failure to submit any of the items below may cause rejection of the Bid.

- Vendor's Information Form
- Vendor's Execution of Bid Form
- W-9 Form
- Business Entity Certificate
- Non-Conflict of Interest
- Non-Collusion Affidavit
- Acknowledgement of Bid
- Reference and Release Form
- Acknowledgement of Insurance Requirements
- Certificate of Authority-Joint Venture
- Illegal Immigration Reform Act-Bidder Affidavit
- Illegal Immigration Reform Act-Sub-Bidder Affidavit
- Sub-Bidder Information Sheet
- Copy of Business License

1.2 Label the Sealed Bid Envelope as follows:

From: _____

ITB#2020-800 West Main Street Improvements - Phase I

City of Hampton, Georgia
ITB #2020-800 OPENING DATE: July 31, 2020 @ 11:00 AM

DELIVER ONLY TO :

City of Hampton
Attn: City Manager
17 East Main Street South
Hampton, GA 30228

GDOT Precertification

No: _____

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CITY OF HAMPTON
VENDOR'S INFORMATION FORM

Legal Business Name: _____

Street Address: _____

City, State & Zip: _____

Type of Business: State of Registration: _____

Name & Title of Authorized Signer: _____

Primary Contact: _____

Phone Fax: _____

Email: _____

Company Website: _____

Has your company ever been debarred from doing business with any federal, state or local agency: Yes No

If yes, please state the agency name, dates, and reason for debarment.

This page must be completed and submitted with Bid

CITY OF HAMPTON
VENDOR'S EXECUTION OF BID FORM

Date: _____

The potential Bidder certifies the following by placing an "X" in all blank spaces:

That this Invitation for Bid was signed by an authorized representative of the firm.

That the potential Bidder has determined the cost and availability of all materials and supplies associated with performing the services outlined herein.

That all labor costs associated with this project have been determined, including all direct and indirect costs.

That the potential Bidder agrees to the conditions as set forth in this Invitation for Bid with no exceptions.

Therefore, in compliance with the foregoing bid, and subject to all terms and conditions thereof, the undersigned offers and agrees, if this Bid is accepted within sixty (60) days from the date of opening, to furnish the services for the prices quoted within the timeframe required.

Business Name

Authorized Signature

Date

Typed Name & Title

This page must be completed and submitted with Bid

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type.
 See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.					
2 Business name/disregarded entity name, if different from above					
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.					
<input type="checkbox"/> Individual/sole proprietor or <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate single-member LLC					
<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►					
Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.					
<input type="checkbox"/> Other (see instructions) ►					
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)				
6 City, state, and ZIP code					
7 List account number(s) here (optional)					

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number					
<input type="text"/>	-	<input type="text"/>	-	<input type="text"/>	<input type="text"/>

or

Employer identification number									
<input type="text"/>	-	<input type="text"/>							

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not leave this line blank.** The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual	Individual/sole proprietor or single-member LLC
• Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for ...	THEN the payment is exempt for ...
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹
6. Sole proprietorship or disregarded entity owned by an individual	The actual owner ¹
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The owner ³
	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD at 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

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CITY OF HAMPTON
BUSINESS ENTITY CERTIFICATE

(a) CORPORATE CERTIFICATE

I, _____, certify that I am the _____
_____ (title) of the Corporation named as Bidder _____ herein, same being organized and
incorporated to do business under the laws of the State of _____; that
_____ who executed this Bid on behalf of the Bidder was, then and there,
_____ (title) and that said Bid was duly signed by said officer
for and on behalf of said corporation, pursuant to the authority of its governing body and within the scope of its
corporate powers.

This _____ day of _____, 20 ____.

(Printed Name)

(Signature)

(Corporate Seal must be affixed above)

(b) PARTNERSHIP, LLC AND OTHER ENTITIES

I, _____, certify that I am authorized to sign to
commit _____ named a Bidder in the foregoing Bid. That
said company is formed under the laws of the State of _____.

This _____ day of _____, 20 _____.

(Printed Name)

(Signature)

This page must be completed and submitted with Bid

CITY OF HAMPTON
NON-CONFLICT OF INTEREST

By submitting a Bid in response to this solicitation, Bidder represents that in the preparation and submission of this Bid, said Bidder did not either directly or indirectly, enter into any combination or arrangement with any person, Bidder, Corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section I or Section 59.1-9.1 through 59.1-9.17 or Sections 59.1 – 68.6 through 59.68.8). Collusion and fraud in bid or Bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

Bidder certifies that to the best of its knowledge, no circumstances exist which shall cause a conflict of interest in performing services for the City of Hampton, and that no company or person other than bona fide employees working solely for our firm has been employed or retained to solicit or secure an agreement resulting from this Request for Bids.

Signature: _____

Type Name: _____

Title: _____

Firm: _____

This page must be completed and submitted with Bid

CITY OF HAMPTON
NON-COLLUSION AFFIDAVIT

I, _____ of the City of _____, in the County of _____, and the State of _____, of full age, being duly sworn according to law on my oath depose and say that: I am _____ of the firm of _____.

The respondent making the Bid for the above named Contract, and that I executed the said Bid with full authority so to do; that said Bidder has not, directly or indirectly, entered into any agreement, participate in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named Contract; and that all statements contained in said Bid and in this affidavit are true and correct, and made with full knowledge that the City of Hampton relied upon the truth of the statements contained in said Bid and in the statements contained in this affidavit in awarding the Contract for the said Bid.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bonafide employees or bonafide established commercial or selling agencies maintained by:

(Name of Vendor)

Subscribed and sworn to before me

This _____ day of _____, 20 _____.

(Signature of Notary Public)

Notary Public of _____

My Commission expires _____, 20 _____

This page must be completed and submitted with Bid

CITY OF HAMPTON
ACKNOWLEDGEMENT OF BIDDER

STATE OF GEORGIA
COUNTY OF HENRY

Before me, the undersigned authority a Notary Public in and for the State of _____, on this day personally appeared _____ who, after having first been duly sworn, upon oath did depose and say; that the forgoing Bid submitted by _____ hereafter called "Bid" is duly authorized agent of said company and that the person signing said Bid has been duly authorized to execute the same. Bid affirms that it is duly authorized to execute this Bid, that this company, corporation, firm, partnership or individual has not prepared its Bid in collusion with any other Bid, and that the contents of this Bid as to prices, terms or conditions of said Bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Bid.

The undersigned certifies that the proposed costs contained in this bid have been carefully checked and are submitted as correct and final and if Bid is accepted, agrees to furnish the articles and/or services listed and offered in this document at the prices and terms stated, subject to the conditions and specifications of this Invitation for Bid.

Bid Information:

(Company)

(Signature)

(Address)

(Printed Name)

(City, State, Zip)

(Title)

Sworn to and subscribed before me this _____ day of _____ 20 ____.

Notary Public in and for the State of _____
(Seal)

This page must be completed and submitted with Bid

**CITY OF HAMPTON
REFERENCE AND RELEASE FORM**

List at least four (4) references for the Prime Bidders and each proposed Sub-Bidders using a separate Reference and Release Form for each. Provide the information requested in the form below for the contact person who will verify the Bid's experience and ability to perform the type of services listed in the ITB.

Reference #1:

Name of Company/Entity: _____

Mailing Address: _____

City/State/Zip Code: _____

Contact Person Name: _____

Contract Person Phone No.: _____

Date Work Performed: _____

Brief Description of Work Performed: _____

Reference #2:

Name of Company/Entity: _____

Mailing Address: _____

City/State/Zip Code: _____

Contact Person Name: _____

Contract Person Phone No.: _____

Date Work Performed: _____

Brief Description of Work Performed: _____

Reference #3:

Name of Company/Entity: _____

Mailing Address: _____

City/State/Zip Code: _____

Contact Person Name: _____

Contract Person Phone No.: _____

Date Work Performed: _____

Brief Description of Work Performed: _____

Reference #4:

Name of Company/Entity: _____

Mailing Address: _____

City/State/Zip Code: _____

Contact Person Name: _____

Contract Person Phone No.: _____

Date Work Performed: _____

Brief Description of Work Performed: _____

REFERENCE CHECK RELEASE STATEMENT

I hereby authorize you to contact the references provided above for purposes of the ITB.

Signed _____ Title _____
(Authorized Signature)

Company Name _____ Bidder Sub-Bidder

Date _____

This page must be completed and submitted with Bid

CITY OF HAMPTON
ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

I _____, as an authorized agent of _____ shall comply completely and promptly with all insurance requirements contained in ITB No. 2020-900 Annual Contract for Paving and Milling Construction Services for the City of Hampton, Georgia pertaining to insurance and/or bonding.

Bidder understands that it is required to share the City's insurance and/or bonding requirements with the appropriate surety company(s) and/or insurance brokers, agents, underwriters, etc. prior to any award of a contract and to take all necessary steps to ensure compliance with the applicable bonding, insurance and endorsement requirements without delay. **Bidder understands, acknowledges and agrees that its failure to fully comply with these requirements within five (5) days and no more than ten (10) days of the date Bidder receives a final contract from the City, may result in the forfeiture of the bidder guarantee submitted with its Bid and/or the disqualification of Bidder from further consideration for the contract.**

By executing this Acknowledgement of Insurance Requirements, I represent that I am authorized to make the representations contained herein on behalf of _____ . Further by signing below, I represent that _____ understands and agrees to unconditionally comply with all requirements related to bonding and/or insurance contained in the City's contract attached hereto as Appendix A.

Date: _____, 20_____.

Corporate Bid

Name: _____
Title: _____

Non-Corporate Bid

Name: _____
Title: _____

Notary Public (Seal)
My Commission Expires: _____

Notary Public (Seal)
My Commission Expires: _____

This page must be completed and submitted with Bid

CITY OF HAMPTON
CERTIFICATE OF AUTHORITY – JOINT VENTURE
(Separate Certificate to be submitted by each joint venture partner)

I, _____, certify that:
(Name of secretary if Venturer is a corporation, Manager, or CEO if Venturer is a LLP of Venturer)

- ❖ I am the _____ of _____, (hereinafter "Venturer");
(Title of person executing Certification) (Name of joint venture partner)
- ❖ Venturer is a partner and participation in the joint venture having submitted the Invitation to Bid No. 2020-700 for Annual Contract for Sidewalk Construction Services.
- ❖ Venturer is organized and incorporated to do business under the laws of the State of _____; and
- ❖ Said Invitation to Bid No. 2020-700 was duly signed by said officer for and on behalf of said Venturer and the Bidder pursuant to the authority of the governing body of each and within the scope of its corporate powers.

I further certify that the names and addresses of the owners of all the outstanding stock or ownership interest in Venturer as of this date are as follows:

This _____ day of _____, 20 _____.

By: _____
Signature of Person Executing Certification

This page must be completed and submitted with Bid

CITY OF HAMPTON
ILLEGAL IMMIGRATION REFORM AND ENFORCEMENT ACT
Affidavit under O.C.G.A. § 13-10-91(b) (1)

By executing this affidavit, the undersigned Bidder verifies its compliance with O.C.G.A.

§ 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance for services on behalf of The City of Hampton, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Bidder will continue to use the federal work authorization program throughout the contract period and the undersigned Bidder will contract for the physical performance of services in satisfaction of such contract only with Sub-Bidders who present an affidavit to the Bidder with the information required by O.C.G.A. § 13-10-91(b). Bidder hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number _____ Date of Authorization _____

Name of Bidder _____

ITB No. 2020-900 Annual Contract for Paving and Milling Construction
Services

Name of Project _____

The City of Hampton Name of
Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20____ in _____ (City), _____ (State).

Signature of Authorized Officer or Agent _____

Printed Name and Title of Authorized Officer or Agent _____

Subscribed and sworn before me on this the _____ day of _____, 20____.

Notary public _____ My Commission Expires _____

: _____

This page must be completed and submitted with Bid

CITY OF HAMPTON
ILLEGAL IMMIGRATION AND ENFORCEMENT ACT
SUB-BIDDER AFFIDAVIT under O.C.G.A. § 13-10-91(b) (3)

By executing this affidavit, the undersigned Sub-Bidder verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of Bidder) on behalf of the **City of Hampton** has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Sub-Bidder will continue to use the federal work authorization program throughout the contract period and the undersigned Sub-Bidder will contract for the physical performance of services in satisfaction of such contract only with Sub-Bidders who present an affidavit to the Sub-Bidder with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned Sub-Bidder will forward notice of the receipt of an affidavit from a Sub-Bidder to the Bidder within five business days of receipt. If the undersigned Sub-Bidder receives notice of receipt of an affidavit from any Sub-Bidder that has contracted with a Sub-Bidder to forward, within five business days of receipt, a copy of such notice to the Bidder. Sub-Bidder hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Sub-Bidder

ITB No. 2020-900 Annual Contract for Paving and Milling Construction Services

Name of Project

The City of Hampton Name of
Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20____ in _____ (County), _____ (State)

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

Subscribed and sworn before me on this _____, day of _____, 20____.

Notary Public (Seal)

My Commission Expires

This page must be completed and submitted with Bid

**CITY OF HAMPTON
SUB-BIDDER INFORMATION FORM**

I will not propose to subcontract some of the work on this project.

I will propose to subcontract some of the work on this project and certify that the following individuals, firms or businesses will be hired or awarded subcontracts for the indicated portions of the work in the event that the Bid is awarded a Contract.

Please list all proposed Sub-Bidders below:

	Sub-Bidder (print Company Name)	Brief Description of Work to be Performed by Sub-Bidder	Percent of Work
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

(Make additional copies as necessary)

This page must be completed and submitted with Bid

SECTION XVI

FEDERAL CDBG CONSTRUCTION EXHIBITS

Federal CDBG Construction Exhibits

Exhibit	Page No.
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Standard Federal Equal Employment Opportunity Construction Contract Specification	5
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EXHIBIT A
Equal Employment Opportunity

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or age. The Contractor will take affirmative action to ensure that application are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; an selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the Equal Opportunity clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, national origin, sex handicap or age.

The Contractor will send to each labor union of representative of workers with which he has a collective bargaining agreement or other contract of understanding, a notice to be provided advising the labor union or worker's representative of the Contractor commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employee and applicants for employment.

The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, documents, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 Executive Order 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any

subcontractor or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

Prior to award of the construction contract, the successful bidder must execute the Equal Employment Opportunity Certificate bound hereinafter as Exhibit C.

SECTION 3 CLAUSE OF THE URBAN DEVELOPMENT ACT OF 1968

The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development, as set forth in CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement, or other Contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development (24 CFR Part 135). The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations 24 CFR Part 135, and will not let any subcontract unless the subcontractor has first provided a preliminary statement ability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Contractor for such assistance, successors, and assigns. Failure to fulfill these

requirement shall subject the Contractor and subcontractor, their successors, and assigns to these sanctions specified by the grant or loan agreement or Contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

CERTIFICATION OF NONSEGREGATED FACILITIES

By the submission of this bid, bidder, offerer, applicant or subcontractor certifies that she/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments and that she/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. She/He certifies that she/he will not maintain or provide for employees any segregated facilities at any of his/her control where segregated facilities are maintained. The bidder, offerer, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit local custom, or otherwise. She/He further agrees that (except where she/he has obtained identical certifications from proposed subcontractors for specific time periods) she/he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that she/he will retain such certifications in his/her files; and that she/he will forward the following notice such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

***STANDARD FEDERAL EQUAL EMPLOYMENT
OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATION
(EXECUTIVE ORDER NO. 11246)***

1. As used in these specifications:

- “Covered Area” means the geographical area described in the solicitation from from this contract resulted.
- “Director” means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- “Employer Identification Number” means the Federal Social Security Number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- “Minority” includes:
 1. Black (all persons having origin in any of the Black African racial groups not of Hispanic origin).
 2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American and other Spanish cultures or origins, regardless of race).
 3. Asian and Pacific Islander (all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or Pacific Islands);
 4. American Indian or Alaskan Native (persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Sub-contractor at any tier, sub-contracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area, either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Sub-

contractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Sub-contractors toward a goal in an approved Plan does not excuse any covered Contractor's or Sub-contractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7.a through 7.p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization which the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward in goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order No. 11246; or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. The Contractor where possible will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - Establish and maintain a current list of minority and female recruitment sources, provide when notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

- Maintain a current file of the name, addresses, and telephone numbers of each minority and female off-the-street applicant, and minority or female referral from a union, a recruitment source or community organization, and what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, it referred, not employed by the Contractor, this shall be documented in the file with the reasons therefore, along with whatsoever additional actions the Contractor may have taken.
- Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement have not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment and trainee programs relevant to the Contractor's employment needs, and especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b. Above.
- Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all the employees at each location where construction work is performed.
- Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment lay-off, termination, or other employment decisions, including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- Disseminate the Contractor's EEO policy externally by including it in any advertising in the new media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO

policy with other Contractors and Sub-contractor with whom the Contractor does or anticipates doing business.

- Direct its recruitment efforts, both oral and written to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification by organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female both on the site and in other areas of a Contractor's workforce.
- Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities, and encourage these employees to seek or to prepare for, through appropriate training, etc. such opportunities.
- Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect, by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- Ensure that all facilities and company activities are non-segregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- Conduct a review, at least annually, of all supervisor's adherence to performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (6a through 6p). The efforts of a contractors association, joint contractor-union contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7.a. through 7.p. of these Specifications, provided that the

Contractor actively participates in the group, make every effort to assure that the group has a positive impact on the employment of minorities and women in the industry ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractors noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, and national origin.
11. The Contractor shall not enter into any Sub-contract with any person or firm debarred from Government contracts pursuant to Executive Order No. 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order No 11246, as amended and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order No 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7, of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designated a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay,

and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws, which establish different standards of compliance, or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

EXHIBIT B

Federal Funding Termination

In the event that federal funding is terminated or otherwise unavailable for the purpose of compensating the contractor, this Contract is null and void, releasing the Contractor and the Owner from further obligations contained herein.

EXHIBIT C

Federal Labor Standards Provision Georgia Community Development Block Grant

Applicability

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

Minimum Wages

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

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

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

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

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

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

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

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable

standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140).

Withholding

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing act of 1937 for under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Controller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

Payrolls and basis records

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

Numbers 1215-0140 and 1215-0017.)

The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5 (a) (3) (I). The information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Approved by the Office of Management and Budget under OMB Control Number 1215-0149

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

- (a) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a) (3) (i) and that such information is correct and complete; and
- (b) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

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

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

The contractor or subcontractor shall make the records required under paragraph A.3 (1) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12

Apprentices and Trainees

Apprentices

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification or work actually performed. In addition, any apprentice performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractors or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registers program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

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

Trainees

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

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

Compliance with Copeland Act requirements

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

Subcontracts

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

Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounded for termination of the contract, and for debarment as a contractor and subcontractor as provided in 20 CFR 5.12

Compliance with Davis-Bacon and Related Act Requirements

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

Disputes concerning labor standards

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

Certification of Eligibility

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3 (a) of the Davis-Bacon Act of 29 CFR 5.12 (a) (1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 23.

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

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transaction", provides in part. "Whoever, for the purpose of ... influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

Complaints, Proceedings, or Testimony by Employees

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employees has filed any compliant or instituted or cause to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

Contract Work Hours and Safety Standards Act

As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

1. Overtime requirements: No contractor or subcontractor contracting for any part of the contract work may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work or work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation: liability for unpaid wages, liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or. to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work, in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.
3. Withholding for unpaid wages and liquidated damages: HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any money payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.
4. Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clause set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractor to include these clauses in any lower tier subcontract. The prime contractor shall be responsible for compliance by a subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

Health and Safety

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

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

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

EXHIBIT D
Wage Rate Determination

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regards to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran status in all employment practices such as the following: Employment upgrading; demotion or transfer; recruitment; advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

The reports require by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a state, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documents shall be made available, upon request, for examination by an authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement, records respecting job openings, recruitment and placement.

Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the state system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

This clause does not apply to the listing of employment openings which occur and are filed outside of the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative and professional openings are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

"Appropriate office of the State employment service system" means the local office of the Federal- State national system of public employment offices with assigned responsibility for serving the area where the employment opening to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

"Openings which the contractors proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

"Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulation, or orders of the Secretary issued pursuant to the Act so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

"General Decision Number: GA20200254 01/03/2020

Superseded General Decision Number: GA20190254

State: Georgia

Construction Type: Highway

County: Henry County in Georgia.

HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 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 \$10.80 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 2020. 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.

Modification Number Publication Date
0 01/03/2020

SUGA2014-088 10/03/2016

	Rates	Fringes
CARPENTER, Excludes Form Work....	\$ 15.54	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 14.14	1.47
FENCE ERECTOR.....	\$ 16.54	0.00
FORM WORKER.....	\$ 15.26	2.08
HIGHWAY/PARKING LOT STRIPING:		
Operator (Striping Machine)....	\$ 12.37	1.95
INSTALLER - GUARDRAIL.....	\$ 14.82	0.00
INSTALLER - SIGN.....	\$ 13.03	0.00
IRONWORKER, REINFORCING.....	\$ 14.64	0.00
IRONWORKER, STRUCTURAL.....	\$ 15.12	0.00

LABORER: Concrete Paving	
Joint Sealer.....\$ 17.66	0.00
LABORER: Grade Checker.....\$ 11.45	0.00
LABORER: Mason Tender - Brick...\$ 11.61	0.00
LABORER: Mason Tender -	
Cement/Concrete.....\$ 11.44	0.00
LABORER: Pipelayer.....\$ 13.53	0.00
LABORER: Asphalt (Includes	
Distributor, Raker, Screed,	
Shoveler, and Spreader).....\$ 13.15	0.00
LABORER: Common or General,	
Includes Erosion Control.....\$ 11.00	0.00
OPERATOR:	
Backhoe/Excavator/Trackhoe.....\$ 17.78	1.95
OPERATOR: Bobcat/Skid	
Steer/Skid Loader.....\$ 13.38	0.00
OPERATOR: Broom/Sweeper.....\$ 14.83	1.38
OPERATOR: Bulldozer.....\$ 16.69	2.40
OPERATOR: Compactor.....\$ 14.64	0.00
OPERATOR: Concrete Saw.....\$ 18.94	0.00
OPERATOR: Crane.....\$ 21.06	4.24
OPERATOR: Distributor.....\$ 17.00	1.93
OPERATOR: Grader/Blade.....\$ 18.42	5.04
OPERATOR: Hydroseeder.....\$ 15.20	0.00
OPERATOR: Loader.....\$ 14.55	1.17
OPERATOR: Mechanic.....\$ 19.54	0.00
OPERATOR: Milling Machine	
Groundsman.....\$ 13.43	1.24
OPERATOR: Milling Machine.....\$ 16.00	1.31
OPERATOR: Paver (Asphalt,	
Aggregate, and Concrete).....\$ 16.50	2.93
OPERATOR: Piledriver.....\$ 16.70	0.00
OPERATOR: Roller.....\$ 12.99	1.16
OPERATOR: Scraper.....\$ 12.64	0.00
OPERATOR: Screed.....\$ 14.67	1.86
OPERATOR: Shuttle Buggy.....\$ 14.06	1.98
PAINTER: Spray.....\$ 23.30	0.00
TRAFFIC CONTROL: Flagger.....\$ 13.33	0.00

TRAFFIC CONTROL:
 Laborer-Cones/
 Barricades/Barrels -
 Setter/Mover/Sweeper.....\$ 13.82 0.00

TRAFFIC SIGNALIZATION:
 Laborer.....\$ 15.30 0.86

TRAFFIC SIGNALIZATION:
 Electrician.....\$ 23.41 4.26

TRUCK DRIVER: Dump Truck.....\$ 15.00 0.00

TRUCK DRIVER: Flatbed Truck.....\$ 14.91 1.07

TRUCK DRIVER: Hydroseeder
 Truck.....\$ 16.74 0.00

TRUCK DRIVER: Lowboy Truck.....\$ 18.98 0.00

TRUCK DRIVER: Off the Road
 Truck.....\$ 12.38 0.00

TRUCK DRIVER: Pickup Truck.....\$ 13.29 0.00

TRUCK DRIVER: Water Truck.....\$ 13.19 1.46

TRUCK DRIVER: Semi/Trailer
 Truck.....\$ 16.26 0.00

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.

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

"

EXHIBIT E

Affirmative Action for Handicapped Workers

The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion, or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

The contractor will include the provisions of this clause in every subcontractor purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

EXHIBIT F

Architectural Barriers

The Contractor agrees to comply with the Architectural Barriers Act of 1968, as amended which prescribes standards to be met for the design, construction and alteration of buildings that are built or supported by Federal funds in order to ensure that whenever possible, such buildings will be accessible to and usable by the handicapped. This Act applies to buildings and facilities designed, constructed, altered, or leased by the Federal government and to those buildings financed wholly or in part with Federal grants or loans are subject to design, construction, or alteration standards issued under the law that authorizes the grant or loan.

EXHIBIT G



HENRY COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

SECTION 3 BUSINESS CONCERN SELF CERTIFICATION FORM And SECTION 3 RESIDENT CERTIFICATION FORM



The Henry County Community Development Department is seeking to extend the benefits of and to promote compliance with Section 3 by identifying Section 3 Business Concerns and targeting Section 3 Business Concerns for Community Development Block Grant (CDBG) Program and the Neighborhood Stabilization Program (NSP) business opportunities.

In an effort to comply with Federal Section 3 Regulations which promote contract, employment and training opportunities for Henry County residents and businesses, the Henry County Development Department has instituted a Section 3 Self Certification process.

Applicants seeking certification must complete and submit the attached Section 3 Business Concern Self Certification Form or Section 3 Resident Certification Form and the appropriate documentation as requested.

Please answer all questions and sign the completed forms. Completed forms may be returned with bid documents to the Henry County Community Development Department sub-recipient (city, non-profit, or asset manager) prior to contract award or directly to the Henry County Community Development Department or at the address below.

Henry County
Community Development Department
Re: Section 3
140 Henry Parkway
McDonough, GA 30253

If you have any questions or require assistance, please contact the Henry County Community Development staff 770-288-7525.

For detailed HUD guidance regarding the Section 3 Program, please visit the following website:

<http://www.hud.gov/offices/fheo/section3/section3.cfm>

**HENRY COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT**

SECTION 3 BUSINESS CONCERN SELF CERTIFICATION FORM

Name of Business: _____

Address of Business:

Work number:

E-mail Address:

Contact Person/ Title: _____

**APPLICANTS SEEKING CERTIFICATION MUST PROVIDE EVIDENCE OF SECTION 3
ELGIBILITY PRIOR TO CONTRACT AWARD.**

The Bidder certifies that it is a Section 3 Business Concern based on:

_____ Business is owned, at least 51% by Section 3 Residents.
 Provide copy of resident lease(s), evidence of participation in a public assistance program, or completed Section 3 Resident Certification Form(s)
 Provide business license number _____

_____ At least 30% of the business' permanent, full-time employees are currently Section 3 Residents or were Section 3 Residents within the past 3 years.
 Provide list of permanent, full-time employees (include, name, address, job title/trade and salary/wages)
 Provide completed Section 3 Resident Certification Form(s)

_____ Commitment to subcontract 25% of the dollar award to qualified Section 3 Business Concerns. (Only applicable for Prime Contractors)

I hereby certify that the information provided by me is true and correct, and understand falsification of any information could result in disqualification from participation and punishment under the law.

Owner / President Signature

Date

Print Name

**SUBSCRIBED TO AND SWORN BEFORE ME ON THIS THE

DAY OF _____, 20 ____.**

My Commission Expires:

Notary Public

**HENRY COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT**

SECTION 3 RESIDENT CERTIFICATION FORM

A Section 3 Resident seeking the preference in employment provided by this part shall certify, or submit evidence to the contractor or subcontractor, if requested, that the person is a Section 3 Resident, as defined in Section 135-5.

I, _____, am a resident of Henry County, Georgia
Print Name

and qualify as a Section 3 Resident because I am a public housing resident OR because my household income does not exceed the income guidelines by household size as published below.

Home (primary) Address:

Telephone number:

Cell number:

Number of Individuals living in my household: _____

Total Household gross income for the prior year (2019): \$ _____ * The derived total gross income is from all sources received such as, salaries/wages, social security, all benefits, pensions, and all public assistance.

FY2020– Henry County HOUSEHOLD INCOME GUIDELINES

Household Size	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Low Income (50%)	\$28,950	\$33,100	\$37,250	\$41,350	\$44,700	\$48,000	\$51,300	\$54,600

Attach ONE of the following documentations as evidence of Section 3 eligibility:

- Proof of public assistance (i.e., TANF, Food Stamps, Medicaid)
- Proof of Public housing Assistance, (PHA) Lease
- Proof of participation in a HUD Youth Build Program
- Copy of current W-2 documents

Applicant Signature

Date

Print Name

SUBSCRIBED TO AND SWORN BEFORE ME ON THIS THE
____ DAY OF _____, 20 ____.

My Commission Expires:

Notary Public

EXHIBIT H

CDBG Site Sign

Size of Site Sign: 4' X 8'

Materials: Exterior grade/MDA Plywood (APA rating A-B)

Supports: 4" X 4" X 12' post with 2" X 4" Cross Branching

Erection: Post shall be set a minimum of three feet deep in concrete footings that are at least 12" in diameter

Paint: Outdoor enamel

Logo: Henry County, Georgia, U.S. Fair Housing and the Local Government to be supplied. The logos must be of equal size (the city's and/or the county's logo cannot be larger than the Fair Housing logo).



Recommended Sign Wording:

“This project is funded by Community Development Block Grant (CDBG) Program funding awarded to the City of _____ and Henry County by the U.S. Department of Housing and Urban Development (HUD)” or

“This project is funded or partially funded by Community Development Block Grant (CDBG) Program funding awarded to the City of _____ and Henry County by the U.S. Department of Housing and Urban Development (HUD)” or

“This project is funded with assistance from the Community Development Block Grant (CDBG) Program funding awarded to the City of _____ and Henry County by the U.S. Department of Housing and Urban Development (HUD)”

MEASUREMENT AND PAYMENT

PART 1 GENERAL

1.01 Scope

- A. The Bid lists each item of the Project for which payment will be made. No payment will be made for any items other than those listed in the Bid.
- B. Required items of work and incidentals necessary for the satisfactory completion of the work which are not specifically listed in the Bid, and which are not specified in this Section to be measured or to be included in one of the items listed in the Bid, shall be considered as incidental to the work. All costs thereof, including Contractor's overhead costs and profit, shall be considered as included in the lump sum or unit prices bid for the various Bid items. The Contractor shall prepare the Bid accordingly.
- C. Work includes furnishing all plant, labor, equipment, tools and materials and performing all operations required to complete the work satisfactorily, in place, as specified and as indicated on the Drawings.

1.02 Descriptions

- A. Measurement of an item of work will be by the unit indicated in the Bid.
- B. The record lengths, dimensions, quantities, etc. shall be determined by the Contractor and the Owner's Representative at the submittal of each Contractors Pay Application.
- C. Payment will include all necessary and incidental related work not specified to be included in any other item of work listed in the BID.
- D. Unless otherwise stated in individual sections of the Specifications or in the Bid, no separate payment will be made for any item of work, materials, parts, equipment, supplies or related items required to perform and complete the work. The costs for all such items required shall be included in the price bid for the item of which it is a part.
- E. Payment will be made by extending unit prices multiplied by quantities provided and then summing the extended prices to reflect actual work. Such price and payment shall constitute full compensation to the Contractor for furnishing all plant, labor, equipment, tools and materials and for performing all operations required to provide to the Owner the entire Project complete, in place, as specified and as indicated on the Drawings.

END OF SECTION

SECTION 01100

SUMMARY

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:**
 - 1. Contract description.
 - 2. Work sequence.
 - 3. Specification conventions.

1.2 CONTRACT DESCRIPTION

A. PROJECT SUMMARY

- 1. The work consists of furnishing and installing all materials, labor, tools, equipment, and related services required for a complete project in accordance with the Contract Documents. This project includes but is not limited the improvements of approximately 1,500 L.F. of existing roadway that requires reducing the existing lane width, milling, leveling and resurfacing of the new one-way vehicle lane with a bike lane, related traffic striping and signage, new water main, new stormwater collection infrastructure, curb and gutter, concrete sidewalk and related driveway turnouts, related grading, erosion and sediment control, traffic control, permanent grassing, and related appurtenances within the project limits that will comprise the City of Hampton's "West Main Street Improvements - Phase I" project.

B. WORK SEQUENCE

- 1. The contractor is responsible for sequencing of work to provide a project that has continuous operation of the existing collection system without having an impact on the customers served by this system.

1.3 SPECIFICATION CONVENTIONS

- A. These Specifications are written in imperative mood and streamlined form. This imperative language is directed to Contractor unless specifically noted otherwise. The words "shall be" are included by inference where a colon (:) is used within sentences or phrases.**
- B. Specifications are contained within the Contract Drawings and the Contract Documents and Technical Specifications.**
- C. Applicable building and safety codes have been referenced in these documents and are utilized as fully developed project requirements and specifications for this project.**

END OF SECTION

PRICE AND PAYMENT PROCEDURES

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Contingency allowances.
- B. Schedule of Values.
- C. Application for Payment.
- D. Change procedures.
- E. Defect assessment.
- F. Unit prices.
- G. Lump Sum prices.
- H. Alternates.

1.2 CONTINGENCY ALLOWANCES

- A. Include in Contract a stipulated sum/price of **\$40,000** for use only upon Owner's written instruction as a contingency allowance.
- B. Contractor's costs for products, delivery, installation, labor, insurance, payroll, taxes, bonding, equipment rental, overhead, and profit will be included in Change Orders authorizing expenditure of funds from this contingency allowance.
- C. Funds will be drawn from contingency allowance only by Change Order and as directed by the Owner.
- D. At closeout of Contract, funds remaining in contingency allowance will be credited to Owner by Change Order.

1.3 SCHEDULE OF VALUES

- A. Submit construction schedule on Contractor's standard form or electronic media printout will be considered for this use.
- B. Submit Schedule of Values as electronic file to Project website within 10 days after date of Owner-Contractor Agreement.

SECTION 01200

- C. Format: Use Table of Contents of this Project Manual. Identify each line item with number and title of major Specification Section. Also, identify Contingency Allowance.
- D. Include within each line item, direct proportional amount of Contractor's overhead and profit.
- E. Revise schedule to list approved Change Orders with each Application for Payment.

1.4 APPLICATION FOR PAYMENT

- A. Submit three copies of each Application for Payment on Contractor's electronic media driven form on the 25th of each month.
- B. Content and Format: Use Schedule of Values for listing items in Application for Payment.
- C. Submit updated construction schedule with each Application for Payment.
- D. Payment Period: Monthly.
- E. Substantiating Data: When Engineer requires substantiating information, submit data justifying dollar amounts in question. Include the following with Application for Payment:
 1. Current construction digital images specified in Section 01330 - Submittal Procedures.
 2. Partial release of liens from major Subcontractors and vendors.
 3. Record Documents as specified in Section 01700 - Execution Requirements, for review by Engineer, which will be returned to Contractor.
 4. Affidavits attesting to off-Site stored products.
 5. Construction Progress Schedule, revised and current as specified in Section 01330 - Submittal Procedures.

1.5 CHANGE PROCEDURES

- A. Submittals: Submit name of individual who is authorized to receive change documents and is responsible for informing others in Contractor's employ or Subcontractors of changes to the Work.
- B. Carefully study and compare Contract Documents before proceeding with fabrication and installation of Work. Promptly advise Engineer of any error, inconsistency, omission, or apparent discrepancy.
- C. Requests for Interpretation (RFI) and Clarifications: Allot time in construction scheduling for liaison with Engineer; establish procedures for handling queries and clarifications.

SECTION 01200

1. Use AIA G716 - Request for Information for requesting interpretations.
2. Engineer may respond with a direct answer on the Request for Information form, issue a Clarification Notice, issue a Field Order, or submit a Change Order Request (Proposal).

D. Engineer will advise of minor changes in the Work not involving adjustment to Contract Price or Contract Time by issuing supplemental instructions on a Field Order.

E. Engineer may issue Proposal Request including a detailed description of proposed change with supplementary or revised Drawings and Specifications, a change in Contract Time for executing the change. Contractor will prepare and submit estimate within five (5) days.

F. Stipulated Price Change Order: Based on Proposal Request and Contractor's fixed price quotation.

G. Work Directive Change: Engineer may issue directive, signed by Owner, instructing Contractor to proceed with change in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work and designate method of determining any change in Contract Price or Contract Time. Promptly execute change.

H. Document each quotation for change in Project Cost or Time with sufficient data to allow evaluation of quotation.

I. Change Order Forms: EJCDC C-941 - Change Order.

J. Execution of Change Orders: Engineer will issue Change Orders for signatures of parties as provided in Conditions of the Contract.

K. Correlation of Contractor Submittals:

1. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as separate line item and adjust Contract Price.
2. Promptly revise Progress Schedules to reflect change in Contract Time, revise subschedules to adjust times for other items of Work affected by the change, and resubmit.
3. Promptly enter changes in Record Documents.

1.6 DEFECT ASSESSMENT

A. Replace the Work, or portions of the Work, not conforming to specified requirements.

B. If, in the opinion of Engineer, it is not practical to remove and replace the Work, Engineer will direct appropriate remedy or adjust payment.

SECTION 01200

- C. The defective Work may remain, but price will be adjusted to new price at discretion of Engineer and Owner.
- D. Defective Work will be partially repaired according to instructions of Engineer, and price will be adjusted to new price at discretion of Engineer and Owner.
- E. Individual Specification Sections may modify these options or may identify specific formula or percentage price reduction.
- F. Authority of Engineer and Owner to assess defects and identify payment adjustments is final.
- G. Nonpayment for Rejected Products: Payment will not be made for rejected products for any of the following reasons:
 - 1. Products wasted or disposed of in a manner that is not acceptable.
 - 2. Products determined as unacceptable before or after placement.
 - 3. Products not completely unloaded from transporting vehicle.
 - 4. Products placed beyond lines and levels of the required Work.
 - 5. Products remaining on hand after completion of the Work.
 - 6. Loading, hauling, and disposing of rejected products.

1.7 UNIT PRICES

- A. Unit prices shown on the bid form are complete and inclusive of all labor and materials equipment and all other appurtenances necessary to provide the specified measured unit for each item in the bid form in accordance with the Contract Documents and Technical Specifications.

1.8 LUMP SUM PRICES

- A. Lump Sum prices shown on the Bid Form are complete and inclusive of all labor, materials, equipment, and all other appurtenances necessary to provide a complete work in accordance with the Contract Documents and Technical Specifications.

1.9 ALTERNATES

- A. Alternate methods, materials or other items addressed by the Contract Documents and Technical Specifications that were not submitted and approved prior to the submission of the bids will not be addressed after the execution of the Contract Documents.

END OF SECTION

ADMINISTRATIVE REQUIREMENTS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Coordination and Project conditions.
- B. Preconstruction meeting.
- C. Progress meetings.

1.2 COORDINATION AND PROJECT CONDITIONS

- A. Coordinate scheduling, submittals, and Work of various Sections of Contract Documents to ensure efficient and orderly sequence of installation of interdependent construction elements.
- B. Coordination Meetings: In addition to other meetings specified in this Section, hold coordination meetings with personnel and Subcontractors to ensure coordination of Work.
- C. Coordinate completion and clean-up of Work of separate Sections in preparation for Substantial Completion.

1.3 PRECONSTRUCTION MEETING

- A. Engineer will schedule and preside over meeting after Notice of Award.
- B. Attendance Required: Engineer, Architect, Owner, appropriate governmental agency representatives, major Subcontractors, and Contractor.
- C. Minimum Agenda:
 - 1. Distribution of Contract Documents.
 - 2. Designation of personnel representing parties in Contract, and Engineer.
 - 3. Communication procedures.
 - 4. Procedures and processing of requests for interpretations, field decisions, field orders, submittals, substitutions, Applications for Payments, proposal request, Change Orders, and Contract closeout procedures.
 - 5. Scheduling.
 - 6. Critical Work sequencing.
- D. Engineer: Record minutes and distribute copies to all participants for review, comments, and corrections, within 24 hours after meeting. Participants have 24 hours to address any issues with Engineer's minutes and Engineer will issue final meeting minutes to all participants within three (3) days.

SECTION 01300

- 1.4 SITE MOBILIZATION MEETING – Not Used
- 1.5 PROGRESS MEETINGS (As Required – Responsibility of Contractor)
 - A. Schedule and administer meetings throughout progress of the Work at maximum bi-weekly intervals.
 - B. Arrange for meetings, prepare agenda with copies for participants, and preside over meetings.
 - C. Attendance Required: Job superintendent, major Subcontractors, Contractor, and Engineer, Architect, Owner, as appropriate to agenda topics for each meeting.
 - D. Minimum Agenda:
 1. Review minutes of previous meetings.
 2. Review of Work progress.
 3. Field observations, problems, and decisions.
 4. Identification of problems impeding planned progress.
 5. Review of submittal schedule and status of submittals.
 6. Review of off-Site fabrication and delivery schedules.
 7. Maintenance of Progress Schedule.
 8. Corrective measures to regain projected schedules.
 9. Planned progress during succeeding work period.
 10. Coordination of projected progress.
 11. Maintenance of quality and work standards.
 12. Effect of proposed changes on Progress Schedule and coordination.
 13. Other business relating to Work.
 - E. Contractor: Record minutes and distribute copies to all participants for review, comments, and corrections, within 24 hours after meeting. Participants have 24 hours to address any issues with Contractor's minutes and Contractor will issue final meeting minutes to all participants within three (3) days.

1.6 CLOSEOUT MEETING

- A. A final closeout meeting will be held at the request of the Contractor to review the completed project, produce final project punch list, and the Contractor will deliver all required closeout documents, attic stock, material specifications, warranties, operation and maintenance manuals, and all other related documents.
- B. Attendance Required: Job superintendent, Contractor, and Engineer, Architect, Owner, as appropriate to agenda topics for meeting.

END OF SECTION

SECTION 01323

CONSTRUCTION PROGRESS SCHEDULES

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Submittals.
- B. Quality assurance.
- C. Bar chart schedules.
- D. Review and evaluation.
- E. Updating schedules.
- F. Distribution.

1.2 SUBMITTALS

- A. Within 10 days after date of Owner-Contractor Agreement, submit proposed preliminary construction schedule defining planned operations for first 60 days of Work, with general outline for remainder of Work.
- B. Submit updated schedules with each Application for Payment.
- C. Submit network schedules under transmittal letter form specified in Section 01330 - Submittal Procedures or submit electronic construction schedules via email as PDF electronic file
- D. Schedule Updates:
 1. Overall percent complete, projected and actual.
 2. Completion progress by listed activity and subactivity, to within five working days prior to submittal.
 3. Changes in Work scope and activities modified since submittal.
 4. Delays in submittals or resubmittals, deliveries, or Work.
 5. Adjusted or modified sequences of Work.
 6. Other identifiable changes.
 7. Revised projections of progress and completion.
- E. Narrative Progress Report:
 1. Submit with each monthly submission of Progress Schedule.
 2. Summary of Work completed during the past period between reports.
 3. Work planned during the next period.
 4. Explanation of differences between summary of Work completed and Work planned in previously submitted report.
 5. Current and anticipated delaying factors and estimated impact on other activities and completion milestones.
 6. Corrective action taken or proposed.

SECTION 01323

1.3 QUALITY ASSURANCE

- A. Scheduler: Contractor's personnel specializing in scheduling with experience in scheduling construction work of complexity comparable to the Project
- B. Contractor's Administrative Personnel: Having experience in using and monitoring schedules on comparable Projects.

1.4 Not Used

1.5 Not Used

1.6 BAR CHART SCHEDULES

- A. Format: Bar chart Schedule, to include at least:
 - 1. Identification and listing in chronological order of those activities reasonably required to complete the Work, including:
 - a. Subcontract Work.
 - b. Project closeout and cleanup.
 - c. Work sequences, constraints, and milestones.
 - 2. Listings identified by Specification Section number.
 - 3. Identification of the following:
 - a. Horizontal time frame by year, month, and week.
 - b. Duration, early start, and completion for each activity and subactivity.
 - c. Critical activities and Project float.
 - d. Subschedules to further define critical portions of Work.

1.7 REVIEW AND EVALUATION

- A. Participate in joint review and evaluation of schedules with Engineer at each submittal.
- B. Evaluate Project status to determine Work behind schedule and Work ahead of schedule.

1.8 UPDATING SCHEDULES

- A. Maintain schedules to record actual start and finish dates of completed activities.
- B. Indicate progress of each activity to date of revision, with projected completion date of each activity. Update schedules to depict current status of Work.
- C. Identify activities modified since previous submittal, major changes in Work, and other identifiable changes.
- D. Upon approval of a Change Order, include the change in the next schedule submittal.

SECTION 01323

- E. Indicate changes required to maintain Date of Substantial and Total Completion.
- F. Submit sorts as required to support recommended changes.

1.9 DISTRIBUTION

- A. Following joint review, distribute copies of updated schedules to Contractor's Project site file, to Subcontractors, suppliers, Engineer, Owner, and other concerned parties.
- B. Instruct recipients to promptly report, in writing, problems anticipated by projections shown in schedules.

END OF SECTION

SUBMITTAL PROCEDURES

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Definitions.
- B. Submittal procedures.
- C. Construction progress schedules.
- D. Proposed product list.
- E. Product data.
- F. Shop Drawings.
- G. Samples.
- H. Other submittals.
- I. Design data.
- J. Test reports.
- K. Certificates.
- L. Manufacturer's instructions.
- M. Construction digital images.
- N. Contractor review.
- O. Engineer review.

1.2 DEFINITIONS

- A. Action Submittals: Written and graphic information and physical samples that require Engineer's responsive action.
- B. Informational Submittals: Written and graphic information and physical Samples that do not require Engineer's responsive action. Submittals may be rejected for not complying with requirements.

1.3 SUBMITTAL PROCEDURES

- A. Transmit each submittal with Engineer-accepted form.

SECTION 01330

- B. Sequentially number transmittal forms. Mark revised submittals with original number and sequential alphabetic suffix.
- C. Identify: Project, Contractor, Subcontractor and supplier, pertinent Drawing and detail number, and Specification Section number appropriate to submittal.
- D. Apply Contractor's stamp, signed or initialed, certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is according to requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite Project, and deliver to Engineer at business address or submit electronic submittals via email as PDF electronic files. Coordinate submission of related items.
- F. For each submittal for review, allow 10 days excluding delivery time to and from Contractor.
- G. Identify variations in Contract Documents and product or system limitations that may be detrimental to successful performance of completed Work.
- H. Allow space on submittals for Contractor and Engineer review stamps.
- I. When revised for resubmission, identify changes made since previous submission.
- J. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.
- K. Submittals not requested will not be recognized nor processed.
- L. Incomplete Submittals: Engineer will not review. Complete submittals for each item are required. Delays resulting from incomplete submittals are not the responsibility of Engineer.

1.4 CONSTRUCTION PROGRESS SCHEDULES

- A. Comply with Section 01323 - Construction Progress Schedules.

1.5 PROPOSED PRODUCT LIST

- A. Within 10 days after date of Owner-Contractor Agreement, submit list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, indicate manufacturer, trade name, model or catalog designation, and reference standards.

SECTION 01330

1.6 PRODUCT DATA

- A. Product Data: Action Submittal: Submit to Engineer for review for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Submit number of copies Contractor requires, plus three (3) copies Engineer will retain or;
- C. Submit electronic submittals via email as PDF electronic files.
- D. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- E. Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- F. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.7 ELECTRONIC GIS FILES OF PROJECT DRAWINGS

- A. Electronic GIS Files of Project Drawings: May only be used to expedite production of Shop Drawings for the Project. Use for other Projects or purposes is not allowed.
- B. Electronic GIS Files of Project Drawings: Distributed only under the following conditions:
 1. Use of files is solely at receiver's risk. Engineer does not warrant accuracy of files. Receiving files in electronic form does not relieve receiver of responsibilities for measurements, dimensions, and quantities set forth in Contract Documents. In the event of ambiguity, discrepancy, or conflict between information on electronic media and that in Contract Documents, notify Engineer of discrepancy and use information in hard-copy Drawings and Specifications.
 2. GIS files do not necessarily represent the latest Contract Documents, existing conditions, and as-built conditions. Receiver is responsible for determining and complying with these conditions and for incorporating addenda and modifications.
 3. User is responsible for removing information not normally provided on Shop Drawings and removing references to Contract Documents. Shop Drawings submitted with information associated with other trades or with references to Contract Documents will not be reviewed and will be immediately returned.
 4. Receiver shall not hold Engineer responsible for data or file clean-up required to make files usable, nor for error or malfunction in translation, interpretation, or use of this electronic information.

SECTION 01330

5. Receiver shall understand that even though Engineer has computer virus scanning software to detect presence of computer viruses, there is no guarantee that computer viruses are not present in files or in electronic media.
6. Receiver shall not hold Engineer responsible for such viruses or their consequences, and shall hold Engineer harmless against costs, losses, or damage caused by presence of computer virus in files or media.

1.8 SHOP DRAWINGS

- A. Shop Drawings: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Indicate special utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. When required by individual Specification Sections, provide Shop Drawings signed and sealed by a professional Engineer responsible for designing components shown on Shop Drawings.
 1. Include signed and sealed calculations to support design.
 2. Submit Shop Drawings and calculations in form suitable for submission to and approval by authorities having jurisdiction.
 3. Make revisions and provide additional information when required by authorities having jurisdiction.
- D. Submit number of opaque reproductions Contractor requires, plus two copies Engineer will retain.
- E. Submit electronic submittals via email as PDF electronic files.
- F. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.9 SAMPLES

- A. Samples: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Samples for Selection as Specified in Product Sections:
 1. Submit to Engineer for aesthetic, color, and finish selection.
 2. Submit Samples of finishes, textures, and patterns for Engineer selection.
- C. Submit Samples to illustrate functional and aesthetic characteristics of products, with integral parts and attachment devices. Coordinate Sample submittals for interfacing work.
- D. Include identification on each Sample, with full Project information.

SECTION 01330

- E. Submit number of Samples specified in individual Specification Sections; Engineer will retain one Sample.
- F. Reviewed Samples that may be used in the Work are indicated in individual Specification Sections.
- G. Samples will not be used for testing purposes unless specifically stated in Specification Section.
- H. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.10 OTHER SUBMITTALS

- A. Closeout Submittals: Comply with Section 01700 - Execution Requirements.
- B. Permits: Within 15 days after date of Owner-Contractor Agreement, submit a list of permits and licenses to be obtained, identifying the granting agency and the required date of permit submittal.

1.11 DESIGN DATA

- A. Informational Submittal: Submit data for Engineer's knowledge as Contract administrator or for Owner.
- B. Submit information for assessing conformance with information given and design concept expressed in Contract Documents.

1.12 TEST REPORTS

- A. Informational Submittal: Submit reports for Engineer's knowledge as Contract Administrator and for Owner.
- B. Submit test reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.13 CERTIFICATES

- A. Informational Submittal: Submit certification by manufacturer, installation/application Subcontractor, or Contractor to Engineer, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or product but must be acceptable to Engineer.

SECTION 01330

1.14 MANUFACTURER'S INSTRUCTIONS

- A. Informational Submittal: Submit manufacturer's installation instructions for Engineer's knowledge as Contract administrator or for Owner.
- B. Submit printed instructions for delivery, storage, assembly, installation, adjusting, and finishing, to Engineer in quantities specified for Product Data.
- C. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

1.15 MANUFACTURER'S FIELD REPORTS – Not Used

1.16 ERECTION DRAWINGS – Not Used

1.17 CONSTRUCTION DIGITAL IMAGES

- A. Provide digital images of Site and construction throughout progress of Work.
- B. Each month submit digital images with Application for Payment.
- C. Digital Images: Deliver complete set of digital image electronic files on CD-ROM to Owner with Project record documents. Identify electronic media with date digital images were taken. Submit images that have same aspect ratio as sensor, uncropped.
 1. Digital Images: Uncompressed JPEG format, produced by digital camera with minimum sensor size of 12.0 megapixels, and image resolution of not less than 2240 by 1680 pixels.
 2. Date and Time: Include date and time imprinted on each image.
 3. Include a photo log identifying each digital image by filename and containing a description of the activity, issue or object shown by the digital image.

1.18 CONTRACTOR REVIEW

- A. Review for compliance with Contract Documents and approve submittals before transmitting to Engineer.
- B. Contractor: Responsible for:
 1. Determination and verification of materials including manufacturer's catalog numbers.
 2. Determination and verification of field measurements and field construction criteria.
 3. Checking and coordinating information in submittal with requirements of Work and of Contract Documents.
 4. Determination of accuracy and completeness of dimensions and quantities.
 5. Confirmation and coordination of dimensions and field conditions at Site.
 6. Construction means, techniques, sequences, and procedures.
 7. Safety precautions.
 8. Coordination and performance of Work of all trades.

SECTION 01330

- C. Stamp, sign or initial, and date each submittal to certify compliance with requirements of Contract Documents.
- D. Do not fabricate products or begin Work for which submittals are required until approved submittals have been received from Engineer.

1.19 ENGINEER REVIEW

- A. Do not make "mass submittals" to Engineer. "Mass submittals" are defined as six or more submittals or items in one day or 15 or more submittals or items in one week. If "mass submittals" are received, Engineer's review time stated above will be extended as necessary to perform proper review. Engineer will review "mass submittals" based on priority determined by Engineer after consultation with Owner and Contractor.
- B. Informational submittals and other similar data are for Engineer's information, do not require Engineer's responsive action, and will not be reviewed or returned with comment.
- C. Submittals made by Contractor that are not required by Contract Documents may be returned without action.
- D. Submittal approval does not authorize changes to Contract requirements unless accompanied by Change Order, Field Order, or Work Change Directive.
- E. Owner may withhold monies due to Contractor to cover additional costs beyond the second submittal review.

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01400

QUALITY REQUIREMENTS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Quality control.
- B. Tolerances.
- C. References.
- D. Labeling.
- E. Testing and inspection services.

1.2 QUALITY CONTROL

- A. Monitor quality control over suppliers, products, services, Site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with specified standards as the minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- C. Perform Work using persons qualified to produce required and specified quality.
- D. Products, materials, and equipment may be subject to inspection by Engineer and Owner at place of manufacture or fabrication. Such inspections shall not relieve Contractor of complying with requirements of Contract Documents.
- E. Supervise performance of Work in such manner and by such means to ensure that Work, whether completed or in progress, will not be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during construction period.

1.3 TOLERANCES

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

SECTION 01400

1.4 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current as of date of Contract Documents except where specific date is established by code.
- C. Obtain copies of standards and maintain on Site when required by product Specification Sections.
- D. When requirements of indicated reference standards conflict with Contract Documents, request clarification from Engineer before proceeding.
- E. Neither contractual relationships, duties, or responsibilities of parties in Contract nor those of Engineer shall be altered from Contract Documents by mention or inference in reference documents.

1.5 LABELING

- A. Attach label from agency approved by authorities having jurisdiction for products, assemblies, and systems required to be labeled by applicable code.
- B. Label Information: Include manufacturer's or fabricator's identification, approved agency identification, and the following information, as applicable, on each label:
 1. Model number.
 2. Serial number.
 3. Performance characteristics.
- C. Manufacturer's Nameplates, Trademarks, Logos, and Other Identifying Marks on Products: Not allowed on surfaces exposed to view in public areas, interior or exterior.

1.6 MOCK-UP REQUIREMENTS – See specifications and Contract Drawings for specific product requirements.

1.7 TESTING AND INSPECTION SERVICES

- A. Contractor will employ and pay for specified services of an independent testing firm to perform testing and inspection related work if required by the Contract Documents.
- B. Independent firm will perform tests, inspections, and other services specified in individual Specification Sections and as required by Engineer.
- C. Contractor will be responsible for coordination and scheduling of all required testing in accordance with the contract documents and as directed by the Engineer and Owner.

SECTION 01400

D. Testing, inspections, and source quality control may occur on or off Project Site.
Perform off-Site testing as required by Engineer.

1.8 MANUFACTURER'S FIELD SERVICES – Not Used

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Temporary facilities under Construction Management Agreement.
- B. Temporary Utilities:
 - 1. Temporary electricity.
 - 2. Temporary lighting for construction purposes.
 - 3. Temporary water service.
 - 4. Temporary sanitary facilities.
- C. Construction Facilities:
 - 1. Vehicular access.
 - 2. Parking.
 - 3. Progress cleaning and waste removal.
 - 4. Traffic regulation.
 - 5. Fire-prevention facilities.
- D. Temporary Controls:
 - 1. Barriers.
 - 2. Enclosures and fencing.
 - 3. Security.
 - 4. Water control.
 - 5. Dust control.
 - 6. Erosion and sediment control.
 - 7. Noise control.
 - 8. Pollution control.
- E. Removal of utilities, facilities, and controls.

1.2 REFERENCES – Not Used

1.3 TEMPORARY FACILITIES UNDER AGREEMENT

- A. Temporary Provisions Provided by Contractor:
 - 1. Temporary barriers, barricades, covered walkways, fencing, exterior closures, and interior closures is required.
 - 2. Temporary field office as required.
 - 3. Cleaning during construction.
 - 4. Access to existing facilities.
 - 5. Temporary sanitary facilities.
 - 6. Temporary electrical service and distribution system for power and lighting.
 - 7. Temporary telephone and internet service.

SECTION 01500

B. Contractor: Coordinate provisions with Construction Manager and provide the following items as necessary for execution of the Work including associated costs:

1. Construction aids.
2. Temporary fire protection, dust control, erosion and sediment control, water control, noise control, and other necessary temporary controls.
3. Temporary barriers, barricades, and similar devices as necessary for safety and protection of construction personnel and public.
4. On Construction Manager's approval, may provide temporary field office including electrical service and temporary telephone.
5. Temporary HVAC before building enclosure.
6. Electrical service required in addition to temporary service and distribution provided by Construction Manager.
7. Temporary provisions for protection of installed Work.

1.4 TEMPORARY ELECTRICITY

A. Provide and pay for power service required from utility source as needed for construction operation.

1.5 TEMPORARY LIGHTING FOR CONSTRUCTION PURPOSES

A. Provide and pay for lighting systems as needed to maintain specified conditions for construction operations.

1.6 TEMPORARY HEATING

A. Provide and pay for heating devices and heat as needed to maintain specified conditions for construction operations.

1.7 TEMPORARY COOLING

A. Provide and pay for cooling devices and cooling as needed to maintain specified conditions for construction operations.

1.8 TEMPORARY VENTILATION

A. Provide and pay for ventilation devices as needed to maintain specified conditions for construction operations.

1.9 COMMUNICATION SERVICES

A. Provide and pay for communication devices as needed to maintain specified services during construction operations.

SECTION 01500

1.10 TEMPORARY WATER SERVICE

1.11 Provide and pay for suitable water services as needed to maintain specified conditions for construction operations.

1.12 TEMPORARY SANITARY FACILITIES

A. Provide and pay for suitable sanitary services as needed to maintain specified conditions for construction operations.

1.13 FIELD OFFICES AND SHEDS – Not Used

1.14 VEHICULAR ACCESS

A. Contractor to develop vehicle access plan as needed.

B. Contractor to locate on drawings for Engineers approval.

C. Provide unimpeded access for property owners. Maintain 10 foot-wide driveways with turning space between and around all improvements.

D. Provide and maintain access to fire hydrants free of obstructions.

E. Provide means of removing mud from vehicle wheels before entering streets.

1.15 PARKING

A. Provide temporary surface parking areas to accommodate construction personnel.

B. Contractor to locate on drawings for Engineers approval.

C. If Site space is not adequate, provide additional off-Site parking.

D. Use of existing on-Site streets and driveways used for construction traffic is not permitted. Tracked vehicles are not allowed on paved areas.

E. Do not allow heavy vehicles or construction equipment in parking areas.

F. Do not allow vehicle parking on existing pavement.

G. Maintenance:

1. Maintain traffic and parking areas in sound condition.
2. Maintain existing and permanent paved areas used for construction; promptly repair breaks, potholes, low areas, standing water, and other deficiencies, to maintain paving and drainage in original condition.

H. Removal, Repair:

1. Remove temporary materials and construction at Substantial Completion.
2. Repair existing facilities damaged by use, to original condition.

SECTION 01500

- I. Mud from Site vehicles: Provide means of removing mud from vehicle wheels before entering streets.

1.16 PROGRESS CLEANING AND WASTE REMOVAL

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain Site in clean and orderly condition.

1.17 PROJECT IDENTIFICATION – Not Used

1.18 TRAFFIC REGULATION

A. Signs, Signals, and Devices:

1. Post-Mounted and Wall-Mounted Traffic Control and Informational Signs: As approved by authorities having jurisdiction.
2. Traffic Control Signals: As approved by local jurisdictions.
3. Traffic Cones, Drums, Flares, and Lights: As approved by authorities having jurisdiction.
4. Flag Person Equipment: As required by authorities having jurisdiction.

B. Flag Persons: Provide trained and equipped flag persons to regulate traffic when construction operations or traffic encroach on public traffic lanes.

C. Flares and Lights: Use flares and lights during hours of low visibility to delineate traffic lanes and to guide traffic.

D. Haul Routes:

1. Consult with authorities having jurisdiction and establish public thoroughfares to be used for haul routes and Site access.
2. Confine construction traffic to designated haul routes.
3. Provide traffic control at critical areas of haul routes to regulate traffic and to minimize interference with public traffic.

E. Removal:

1. Remove equipment and devices when no longer required.
2. Repair damage caused by installation.

1.19 FIRE-PREVENTION FACILITIES

A. Establish fire watch for cutting, welding, and other hazardous operations capable of starting fires. Maintain fire watch before, during, and after hazardous operations until threat of fire does not exist.

B. Portable Fire Extinguishers: NFPA 10; 10-pound capacity, 4A-60B: C UL rating.

1. Provide minimum of one fire extinguisher in every piece of equipment utilized.

SECTION 01500

1.20 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas and to protect existing facilities and adjacent properties from damage from construction operations.
 - 1. Provide barricades required by authorities having jurisdiction for public rights-of-way
- B. Protect non-owned vehicular traffic, stored materials, Site, and structures from damage.

1.21 ENCLOSURES AND FENCING

- A. Construction: Contractor's option for temporary enclosures and fencing to be approved by Engineer.

1.22 SECURITY

- A. Security Program:
 - 1. Protect Work on existing premises from theft, vandalism, and unauthorized entry.
 - 2. Maintain program throughout construction period until directed by Engineer.
- B. Entry Control:
 - 1. Restrict entrance of persons and vehicles to Project Site.
 - 2. Allow entrance only to authorized persons with proper identification.
 - 3. Maintain log of workers and visitors and make available to Owner on request.

1.23 DUST CONTROL

- A. Execute Work by methods that minimize raising dust from construction operations.
- B. Provide positive means to prevent airborne dust from dispersing into atmosphere.

1.24 EROSION AND SEDIMENT CONTROL

- A. Contractor to provide all erosion and sediment control BMPs in accordance with the Georgia Department of Natural Resources – Environmental Protection Division “Manual for Erosion and Sediment Control in Georgia” 2016 Edition, or latest.

1.25 NOISE CONTROL

- A. Provide methods, means, and facilities to minimize noise from personnel and noise produced by construction operations.

SECTION 01500

1.26 PEST AND RODENT CONTROL – Not Used

1.27 POLLUTION CONTROL

- A. Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances and pollutants produced by construction operations.

1.28 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, and materials before Final Application for Payment inspection.
- B. Remove underground installations to minimum depth of 2 feet.
- C. Clean and repair damage caused by installation or use of temporary Work.
- D. Restore existing and permanent facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01600

PRODUCT REQUIREMENTS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Products.
- B. Product delivery requirements.
- C. Product storage and handling requirements.
- D. Product options.
- E. Equipment electrical characteristics and components.

1.2 PRODUCTS

- A. At minimum, comply with specified requirements and reference standards.
- B. Specified products define standard of quality, type, function, dimension, appearance, and performance required.
- C. Furnish products of qualified manufacturers that are suitable for intended use. Furnish products of each type by single manufacturer unless specified otherwise. Confirm that manufacturer's production capacity can provide sufficient product, on time, to meet Project requirements.
- D. Domestic Products: Except where specified otherwise, domestic products are required and interpreted to mean products mined, manufactured, fabricated, or produced in United States or its territories.

1.3 PRODUCT DELIVERY REQUIREMENTS

- A. Transport and handle products according to manufacturer's instructions.
- B. Promptly inspect shipments to ensure products comply with requirements, quantities are correct, and products are undamaged.
- C. Provide equipment and personnel to handle products; use methods to prevent soiling, disfigurement, or damage.

1.4 PRODUCT STORAGE AND HANDLING REQUIREMENTS

- A. Store and protect products according to manufacturer's instructions.
- B. Store products with seals and labels intact and legible.
- C. Store sensitive products in weathertight, climate-controlled enclosures in an environment suitable to product.

SECTION 01600

- D. For exterior storage of fabricated products, place products on sloped supports aboveground.
- 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 well-drained area. Prevent mixing with foreign matter.
- H. Provide equipment and personnel to store products; use 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.

1.5 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Products complying with specified reference standards or description.
- B. Products Specified by Naming One or More Manufacturers: Products of one of manufacturers named and complying with Specifications; no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with Provision for Substitutions: Submit Request for Substitution for any manufacturer not named, according to Section 01630 - Product Substitution Procedures.

PART 2 - PRODUCTS – Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

PRODUCT SUBSTITUTION PROCEDURES

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Quality assurance.
- B. Product options.
- C. Product substitution procedures.

1.2 QUALITY ASSURANCE

- A. Contract is based on products and standards established in Contract Documents without consideration of proposed substitutions.
- B. Products specified define standard of quality, type, function, dimension, appearance, and performance required.
- C. Substitution Proposals: Proposals for substitution of products, methods, etc. must be submitted to the Engineer in writing a minimum of 10 working days prior to the submission of bids. Requests for substitutions may only be submitted by licensed contractors that are listed on the Plan Holder list. Do not bid substitute products unless substitution has been accepted and approved in writing by Owner.

1.3 PRODUCT OPTIONS

- A. See Section 01600 - Product Requirements.

1.4 PRODUCT SUBSTITUTION PROCEDURES

- A. Document - Instructions to Bidders specifies time restrictions for submitting requests for substitutions during Bidding period only.
- B. Substitutions may be considered after the bid process when a product becomes unavailable through no fault of Contractor.
- C. Document each request with complete data, substantiating compliance of proposed substitution with Contract Documents, including:
 1. Manufacturer's name and address, product, trade name, model, or catalog number, performance and test data, and reference standards.
 2. Itemized point-by-point comparison of proposed substitution with specified product, listing variations in quality, performance, and other pertinent characteristics.
 3. Reference to Article and Paragraph numbers in Specification Section.
 4. Cost data comparing proposed substitution with specified product and amount of net change to Contract Sum.
 5. Changes required in other Work.

SECTION 01630

6. Availability of maintenance service and source of replacement parts as applicable.
7. Certified test data to show compliance with performance characteristics specified.
8. Samples when applicable or requested.
9. Other information as necessary to assist Engineer's evaluation.

D. A request constitutes a representation that Bidder:

1. Has investigated proposed product and determined that it meets or exceeds quality level of specified product.
2. Will provide same warranty for substitution as for specified product.
3. Will coordinate installation and make changes to other Work that may be required for the Work to be complete with no additional cost to Owner.
4. Waives claims for additional costs or time extension that may subsequently become apparent.
5. Will coordinate installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
6. Will reimburse Owner for review or redesign services by Engineer associated with reapproval by authorities having jurisdiction.

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 Contract Documents.

F. Substitution Submittal Procedure:

1. Submit requests for substitutions on Bidders standard form of document.
2. Submit three copies of Request for Substitution for consideration. Limit each request to one proposed substitution.
3. Submit Shop Drawings, Product Data, and certified test results attesting to proposed product equivalence. Burden of proof is on proposer.
4. Engineer will notify Contractor in writing of decision to accept or reject request.

1.5 INSTALLER SUBSTITUTION PROCEDURES

A. Document - Instructions to Bidders specifies time restrictions for submitting requests for substitutions during Bidding period.

B. Document each request with:

1. Installer's qualifications.
2. Installer's experience in work similar to that specified.
3. Other information as necessary to assist Engineer's evaluation.

C. Substitution Submittal Procedure:

1. Submit three copies of Request for Substitution for consideration. Limit each request to one proposed substitution.
2. Engineer will notify Contractor in writing of decision to accept or reject request.

SECTION 01630

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION - Not Used

END OF SECTION

SECTION 01700

EXECUTION REQUIREMENTS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Closeout procedures.
- B. Project record documents.
- C. Maintenance service.

1.2 CLOSEOUT PROCEDURES

- A. Prerequisites to Substantial Completion: Complete following items before requesting Certification of Substantial Completion, either for entire Work or for portions of Work:
 1. Submit maintenance manuals, Project record documents, digital images of construction photographs, and other similar final record data in compliance with this Section.
 2. Conduct inspection to establish basis for request that Work is substantially complete. Create comprehensive list (initial punch list) indicating items to be completed or corrected, value of incomplete or nonconforming Work, reason for being incomplete, and date of anticipated completion for each item. Include copy of list with request for Certificate of Substantial Completion.
 3. Obtain and submit releases enabling Owner's full, unrestricted use of Project. Discontinue or change over and remove temporary facilities and services from Project Site, along with construction tools, mockups, and similar elements.
 4. Perform final cleaning according to this Section.
- B. Substantial Completion Inspection:
 1. When Contractor considers Work to be substantially complete, submit to Engineer:
 - a. Written certificate that Work, or designated portion, is substantially complete.
 - b. List of items to be completed or corrected (initial punch list).
 2. Within seven days after receipt of request for Substantial Completion, Engineer will make inspection to determine whether Work or designated portion is substantially complete.
 3. Should Engineer determine that Work is not substantially complete:
 - a. Engineer will promptly notify Contractor in writing, stating reasons for its opinion.
 - b. Contractor shall remedy deficiencies in Work and send second written request for Substantial Completion to Engineer.
 - c. Engineer will reinspect Work.
 - d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.
 4. When Engineer finds that Work is substantially complete, Engineer will:

SECTION 01700

- a. Prepare Certificate of Substantial Completion, accompanied by Contractor's list of items to be completed or corrected as verified and amended by Engineer and Owner (final punch list).
 - b. Submit Certificate to Owner and Contractor for their written acceptance of responsibilities assigned to them in Certificate.
5. After Work is substantially complete, Contractor shall:
 - a. Allow Owner occupancy of Project under provisions stated in Certificate of Substantial Completion.
 - b. Complete Work listed for completion or correction within time period stipulated.

C. Prerequisites for Final Completion: Complete following items before requesting final acceptance and final payment.

1. When Contractor considers Work to be complete, submit written certification that:
 - a. Contract Documents have been reviewed.
 - b. Work has been examined for compliance with Contract Documents.
 - c. Work has been completed according to Contract Documents.
 - d. Work is completed and ready for final inspection.
2. Submittals: Submit following:
 - a. Final punch list indicating all items have been completed or corrected.
 - b. Final payment request with final releases and supporting documentation not previously submitted and accepted. Include certificates of insurance for products and completed operations where required.
 - c. Specified warranties, workmanship/maintenance bonds, maintenance agreements, and other similar documents.
 - d. Accounting statement for final changes to Contract Sum.
 - e. Contractor's affidavit of payment of debts and claims on AIA G706 - Contractor's Affidavit of Payment of Debts and Claims.
 - f. Contractor affidavit of release of liens on AIA G706A - Contractor's Affidavit of Release of Liens.
 - g. Consent of surety to final payment on AIA G707 - Consent of Surety to Final Payment Form.
3. Perform final cleaning for Contractor-soiled areas according to this Section.

D. Final Completion Inspection:

1. Within seven days after receipt of request for final inspection, Engineer will make inspection to determine whether Work or designated portion is complete.
2. Should Engineer consider Work to be incomplete or defective:
 - a. Engineer will promptly notify Contractor in writing, listing incomplete or defective Work.
 - b. Contractor shall remedy stated deficiencies and send second written request to Engineer that Work is complete.
 - c. Engineer will reinspect Work.
 - d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.

SECTION 01700

1.3 PROJECT RECORD DOCUMENTS

- A. Maintain on Site one set of the following record documents; record actual revisions to the Work:
 1. Drawings.
 2. Specifications.
 3. Addenda.
 4. Change Orders and other modifications to the Contract.
 5. Reviewed Shop Drawings, product data, and Samples.
 6. Digital Photos and Videos required by the Contract Documents.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store record documents separate from documents used for construction.
- D. Record information concurrent with construction progress, not less than weekly.
- E. Specifications: Legibly mark and record, at each product Section, description of actual products installed, including the following:
 1. Manufacturer's name and product model and number.
 2. Product substitutions or alternates used.
 3. Changes made by Addenda and modifications.
- F. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction as follows:
 1. **Provide GIS survey date based upon State Plane Coordinate System of all improvements including all subsurface structures.**
 2. Include Contract modifications such as Addenda, supplementary instructions, change directives, field orders, minor changes in the Work, and change orders.
 3. Include locations of concealed elements of the Work.
 4. Identify and locate existing buried or concealed items encountered during Project.
 5. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
 6. Field changes of dimension and detail.
 7. Details not on original Drawings.
- G. Submit marked-up paper copy documents to Engineer with claim for final Application for Payment.
- H. Submit PDF electronic files of marked-up documents to Engineer with claim for final Application for Payment.

1.4 MAINTENANCE SERVICE

- A. Furnish service and maintenance of components indicated in Specification Sections for one year during warranty period.
- B. Do not assign or transfer maintenance service to agent or Subcontractor without prior written consent of Owner.

SECTION 01700

PART 2 - PRODUCTS - Not Used

PART 3 - EXECUTION – Not Used

END OF SECTION

SECTION 01720

RECORD DOCUMENTS

PART 1 GENERAL

1.01 SCOPE

- A. The work under this Section includes, but is not necessarily limited to, the compiling, maintaining, recording and submitting of project record documents as herein specified.
- B. Record documents include, but are not limited to:
 - 1. Drawings;
 - 2. Specifications;
 - 3. Change orders and other modifications to the Contract;
 - 4. Engineer field orders or written instructions, including Requests for Information (RFI) and Clarification Memorandums;
 - 5. Reviewed shop drawings, product data and samples;
 - 6. Videos, photos, and written records related to the project;
 - 7. Test records.
- C. The Contractor shall maintain on the Project site throughout the Contract Time an up to date set of Record Drawings.

1.02 MAINTENANCE OF DOCUMENTS AND SAMPLES

- A. Storage
 - 1. Store documents and samples in the Contractor's field office or as agreed with the Engineer, apart from documents used for construction.
 - 2. Provide files and racks for storage of documents as required.
 - 3. Provide locked cabinet or secure storage space for storage of samples as required.
- B. File documents and samples in accordance with format of these Specifications.
- C. Maintenance
 - 1. Maintain documents in a clean, dry, legible condition and in good order.
 - 2. Do not use record documents for construction purposes.
 - 3. Maintain at the site for the Owner/Engineer one copy of all record documents.

SECTION 01720

- D. Make documents and samples available at all times for inspection by Engineer.
- E. Failure to maintain the Record Documents in a satisfactory manner may be cause for withholding of a certificate for payment.

1.03 QUALITY ASSURANCE

- A. Unless noted otherwise, Record Drawings shall provide dimensions, distances and coordinates to the nearest 0.1 foot.
- B. Unless noted otherwise, Record Drawings shall provide elevations to the nearest 0.01 foot for all pertinent items constructed by the Contractor.

1.04 RECORDING

- A. Label each document "PROJECT RECORD" in neat, large printed letters.
- B. Recording
 - 1. Record information concurrently with construction progress.
 - 2. Do not conceal any work until required information is recorded.

1.05 RECORD DRAWINGS

- A. Record Drawings shall be reproducible, shall have a title block indicating that the drawings are Record Drawings, the name of the company preparing the Record Drawings, and the date the Record Drawings were prepared. If drawings are provided in electronic format, they shall be submitted in either AutoCAD 2018, or latest edition, or PDF format. The Contractor will be provided electronic copies of the Drawings, or it may elect to provide reproducible drawings via another method. Reproducible shall be defined as being reproducible so as to allow a paper print to be produced.
- B. Legibly mark drawings to record actual construction, including:
 - 1. All Construction
 - a. Changes of dimension and detail.
 - b. Changes made by Requests for Information (RFI), field order, clarification memorandums or by change order.
 - c. Details not on original Drawings.
 - 2. Site Improvements, Including Underground Utilities
 - a. Horizontal and vertical locations of all exposed and

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underground utilities and appurtenances, both new facilities constructed and those utilities encountered, referenced to permanent surface improvements.

- b. Location of and dimensions of roadways and parking areas, providing dimensions to back of curb when present.
- c. The locations shall be referenced to at least two easily identifiable, permanent landmarks (e.g., power poles, valve markers, etc.) or benchmarks.
- d. **Location of all manholes, valves, and storm structures that are adjusted during the project shall be located by GPS equipment to an accuracy of ± 1 foot. The description and location information (state plane coordinates) shall be delivered to the Owner in an electronic (e.g. ArcGIS, or equal) to be included in the Owner's GIS database.**

3. Structures

- a. Depths of various elements of manholes in relation to top of manhole to invert.
- b. Location of all influent and effluent lines denoted by size and direction.

1.06 SPECIFICATIONS

- A. Legibly mark each section to record:
 - 1. Manufacturer, trade name, catalog number, and supplier of each product and item of equipment installed.
 - 2. Changes made by Requests for Information (RFI), field order, clarification memorandums, or by change order.

1.07 SUBMITTAL

- A. At contract closeout, deliver Record Documents to the Owner.
- B. Accompany submittal with transmittal letter, in duplicate, containing:
 - 1. Date
 - 2. Project title and number
 - 3. Contractor's name and address
 - 4. Title and number of each record document
 - 5. Signature of Contractor or Contractor's authorized representative

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END OF SECTION