

SHERIFF'S OFFICE SUBSTATION
HIDALGO COUNTY
WESLACO, TEXAS

HIDALGO COUNTY BID NO. 2011-032-11-01-MSS-HIDALGO COUNTY
CONSTRUCTION OF SHERIFF'S OFFICE SUBSTATION IN THE PRECINCT
NO. 1 AREA

ARCHITECT'S PROJECT NO. 07.10

PROJECT MANUAL

GIGNAC & ASSOCIATES LLP

222 EAST VAN BUREN, SUITE 102
HARLINGEN, TEXAS 78550
(956) 365-4820

416 STARR STREET
CORPUS CHRISTI, TEXAS 78401
(361) 884-2661

SET NO. _____

TITLE PAGE

TITLE AND LOCATION OF THE WORK

SHERIFF'S OFFICE SUBSTATION
HIDALGO COUNTY
WESLACO, TEXAS

NAME & ADDRESS OF THE OWNER

HIDALGO COUNTY
711 EL CIBOLO ROAD
PO BOX 1228
EDINBURG, TEXAS 78450

NAME & ADDRESS OF THE ARCHITECT

GIGNAC I ARCHITECTS LLP
222 E. VAN BUREN, STE. 102
HARLINGEN, TEXAS 78550

416 STARR STREET
CORPUS CHRISTI, TEXAS 78401

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PROJECT NUMBER: ARCHITECT'S 07.10
OWNER'S 2011-032-11-01

DATE: September 23, 2011



Signed
09/23/2011

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HIDALGO COUNTY SHERIFF STATION

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HIDALGO COUNTY SHERIFF'S SUBSTATION
Project No. 08804.000

DBR Engineering Consultants, Inc.
September 22, 2011

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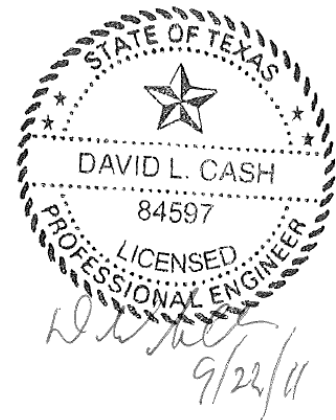
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09-22-11

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17100 Intercom

REQUEST FOR COMPETITIVE SEALED PROPOSALS

PROJECT and PROJECT NO: HIDALGO COUNTY SHERIFFS SUBSTATION
711 EL CIBOLO ROAD
PO BOX 1228
EDINBURG, TEXAS 78450

DUE DATE AND TIME: Tuesday, November 1, 2011
4:00 p.m. C.S.T.
2802 S. Business Hwy 281,
Hidalgo County New Administration Building
Edinburg, TX 78539

PRE-PROPOSAL CONFERENCE: Tuesday, October 18, 2011
2:00 p.m. C.S.T.
Hidalgo County Purchasing Department Conf. Rm.
2812 S. Business Hwy 281
Edinburg, TX 78539

ARCHITECT: GIGNAC & ASSOCIATES LLP
222 E. VAN BUREN, STE. 102
HARLINGEN, TEXAS 78550
(956) 365-4820

416 STARR STREET
CORPUS CHRISTI, TEXAS 78401
(361) 884-2661

Specification packages will be available at South Texas Reprographics, Inc. (956/475-3665), 1200 W. Polk St. Suite "H", Pharr, TX, 78577, in accordance with the Instructions to Proposers upon the deposit of \$150.00 for each set of documents. Deposit of bonafide proposers will be returned in full if complete Contract Documents are returned in good condition within ten (10) days after proposals opening. "The shipping and/or postage expense of the delivery of Contract Documents shall be at the proposer's expense."

Proposals must be on a lump sum basis including General Contract, Electrical, Plumbing and Mechanical work.

Bid security in the amount of 5% of the largest possible total of proposals submitted must accompany each proposal in accordance with the Instruction to Bidders. Performance and payment bonds for 100% of the contract value will be required upon issuance of contract.

Contract documents may be examined at the following plan rooms:

<u>A.G.C. Office</u>	<u>McGraw Hill Construction</u>	<u>Reed Construction</u>	<u>Builders Exchange</u>
Harlingen	San Antonio	Norcross, GA	San Antonio
Corpus Christi			
San Antonio			

SECTION 00100

INSTRUCTION TO OFFERERS

PROJECT: SHERIFF'S OFFICE SUBSTATION
Hidalgo County
Edinburg, Texas

ARCHITECT: GIGNAC & ASSOCIATES LLP

222 E. VAN BUREN, STE. 102
HARLINGEN, TEXAS 78550
(956) 365-4820

416 STARR ST.
CORPUS CHRISTI, TEXAS 78401
(361) 884-2661

1. Receipt and Opening of Proposals:

The Owner invites proposals on the form indicated in Section 00300 for the above referenced project.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all proposals. Any bid may be withdrawn prior to the scheduled time for the opening of the proposals or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within thirty (30) days after the actual date of the opening thereof.

2. Preparation of Proposal: Each proposal must be submitted on the prescribed form. All blank spaces for proposal prices must be filled in, in ink or typewritten, in both words and figures. Use proposal form provided as bound within the specifications.

Each proposal must be submitted in a sealed envelope addressed to the Owner and designated "Proposal", bearing on the outside the name of the bidder, his address, the name of the project for which the bid is submitted and the date and hour of the opening. If forwarded by mail, the sealed envelope containing the proposal must be enclosed in another envelope addressed to the Owner at the designated location for opening of the proposals.

3. Telegraphic Modification: Any bidder may modify his proposal by telegraphic communication at any time prior to the scheduled closing time for receipt of proposals, provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the proposer was mailed prior to closing time. The telegraphic communication should not reveal the proposal price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed proposal is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic modification.

4. **Method of Bidding:** The Owner invites the following proposal(s):

BASE PROPOSAL: All work for the building and all related work as indicated by the Contract Documents except the work indicated by the alternates.

ALTERNATES:

Alternate No. 1: Community Room.

Alternate No. 2: Intox Lab.

Alternate No. 3: Four Additional Holding Cells.

Alternate No. 4: Landscape plant material and irrigation

Alternate No. 5: NOT USED

Alternate No. 6: 8' tall security fence along site perimeter and enclosing retention pond

5. **Qualifications of Offerer:** The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, the bidder shall furnish the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any proposal if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.
6. **Liquidated Damages for Failure to Enter Into Contract:** The successful bidder, upon his failure or refusal to execute and deliver the contract, insurance and bonds required within 10 days after he has received notice of the acceptance of his proposal, shall forfeit to the Owner, as liquidate damages for such failure or refusal, the security deposited with his proposal.
7. **Time of Completion:** Time of completion of this Contract is of importance to the Owner and may be considered in the award of the Contract. Payments on the Contract will be made as provided by the Contract. Payments on the Contract will not be made on the Contract after 30 days prior to the completion date set by the Contractor, until final completion and acceptance by the Architect and Owner. The Contractor shall include in his proposal a time to complete the base proposal (stated in calendar days) that includes his best anticipation of the number of working days that construction may be unable to take place, due to inclement weather and muddy ground. This anticipated number of lost working days shall be included on the proposal form in the space designated for the total number of calendar required to complete the base proposal. Extensions to the Completion Date will be granted only if, in the opinion of the Architect, climatological conditions that impede the progress of construction significantly exceed conditions for the local area. A guide for average climatological conditions will be the bulletin "Local Climatological Data", published by the Department of Commerce.

8. **Liquidated Damages:** Liquidated damages shall be assessed the Contractor at the rate of One Thousand Dollars (\$1,000.00) per day for each calendar that actual substantial completion exceeds the contract completion date. Refer to 00800 Supplementary Conditions for specific changing rates, paragraph 9.11.1 and 9.11.2.
9. **Conditions of Work:** Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract.
10. **Addenda and Interpretation:** No interpretation of the meaning of the plans, specifications or other pre-proposal documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to the Architect, and to be given consideration must be received at least five days prior to the date fixed for the opening of proposals. Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the specifications which, if issued, will be mailed to all prospective bidders not later than three days prior to the date fixed for the opening of proposals. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his proposal as submitted. All addenda so issued shall become part of the contract documents.
11. **Laws and Regulations:** The bidder's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities have jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full.
12. **Method of Evaluation:** The monetary basis used for evaluating the proposals will be the lowest total, including the based proposal plus any combination of alternates that the owner might elect to choose. The alternates are not numbered in the order of selection. Time of completion of this project will be considered in the award of this contract.
13. **Obligation of Offerer:** At the time of the opening of proposals each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve the bidder from any obligation in respect of this proposal.
14. **Failure of Timely Order:** The contractor is responsible for assuring the timely order of all materials specified. If a specified material, or color of material cannot be delivered by the contract completion date, due to failure to order the material in a timely manner, the contractor will be responsible for supplying an equal or better material. The architect will be the sole determinant of the approved substitute material. The contractor will also be charged an amount equal to 5% of the value of the specified material. This amount will be credited to the owner through a change order to the contract. The word "Material", as used in this section, includes all items specified in the specifications or shown on the drawings.
15. **Sub-Proposal Time Limit:** So that Contractors may have adequate opportunity to

evaluate sub-proposals, it is recommended that the "Time Limit Plan" be honored; sub and material proposals must have been submitted to Contractors (4) hours prior to the time set for proposal opening.

16. **Contractor's Limitation of Liability:** The Bidder attests and affirms that he and his sub-contractors are skilled and experienced in the use and interpretation of plans, specifications, addenda and related proposal documents for this project and has found them to be free of conflicts and/or ambiguities and sufficient for proposal and construction purposes. Further, he has carefully examined the soils reports and the site of the work, and - through his own personal observations - has satisfied himself as to the nature, location and requirements of the work; the character, quality and quantity of materials required; the difficulties likely to be encountered; the other items and/or conditions which may affect the satisfactory performance of the work. He has based his proposal solely on these documents - and personal observations - and has not relied in any way on any explanation or interpretation - oral or written - from any source other than those written and issued by the Architect/Engineer.
17. **Partial Payment for Materials:** Ninety-five percent (95%) of the cost of materials delivered to the site will be paid if the materials are in good condition and properly stored and protected. Payment will be made only if a notarized copy of the actual materials invoice is submitted with the Contractor's payment request.
18. **Hazardous Materials:** Do not proposal or provide or install hazardous materials or products containing hazardous materials in this project such as asbestos, polychlorinated biphenyl (PCB), lead in water piping, lead containing paint, etc.
19. **Pre-Construction Conference:** A pre-construction conference will be held prior to beginning any work on this project. After full execution of the contract, performance and payment bonds, and insurance certificate, the Contractor shall contact the Architect and set up a date, time and place to meet on site with the Contractor, his major subcontractors, Owner and the Architect. The purpose of this meeting will be to discuss schedules, procedures, special considerations, and any other pertinent items related to this project.
20. **Pre-Proposal Conference:** A pre-proposal conference will be held on Tuesday, October 18, 2011 @ 2:00 p.m. at Hidalgo County Purchasing Department Conference Room 2812 S. Business Hwy 281, Edinburg, Texas. Attendance by representatives of the building contractors is highly desirable and encouraged. Sub-Contractors and material suppliers who expect to be associated with the project are invited and urged to attend. Representatives of the Architects, Engineers and Architects Consultants will review the plans, specifications, details, materials, demolition, alterations and requirements of the work. An addendum indicating any change in the Contract Documents will be issued, if necessary, if subsequent to this meeting.
21. **Phasing of Construction:** The Contractor is to submit a Phasing of Construction Plan for review and approval by the Owner and Architect within ten (10) days of notice of award. Also included herein are the anticipated areas of construction to be included in each phase.
22. **Asbestos Abatement:** Offerer shall be required to comply with 40 CFR part 763 subpart E (AHERE). An asbestos master plan is available from the Owner for the

Offerers review and use. It is specifically required that successful contractors will assemble a compellation of each and every Material Safety Data Sheets, for all materials used on the project. Said compellations will be submitted to Architect for approval with the above statutory regulations and shall be kept by Owner as proof of compliance.

23. The County shall select the proposal, which ranked the highest using the ranking criteria for selection of building construction as being the proposal, which offers the best value to the County. Following such selection, the County and it's Architect or Engineer may discuss with the selected offerer options for cost reduction. If the County is unable to reach a contract agreement with the selected offerer, the County shall terminate further discussions and proceed to the next offerer in the order of the selection ranking until a contract agreement is reached or all proposals are rejected.
24. Additional Instruction: The County shall select the proposal which ranks the highest using the ranking criteria for selection of building construction. The highest-ranking proposal shall be considered the proposal which offers the best value to the County. Following such selection, the County and it's Architect or Engineer may discuss with the selected offerer options for cost reduction. If the County is unable to reach a contract agreement with the selected offerer, the County shall terminate further discussions and proceed to the next offerer in the order of the selection ranking until a contract agreement is reached or all proposals are rejected.
25. Documents Required For Ranking Determination: Offerers shall submit 3 copies of a properly executed AIA Document A305, Contractor's Qualification Statement with the proposal. Include 3 copies of all additional documentation to supplement the A305 for substantiation of selection criteria. This additional documentation shall clearly reference all information that will enable the reviewer to ascertain the pertinent information. Offerer shall submit 3 copies of a list of 5 client references with the current contact telephone number. Offerors shall also submit with their proposal properly executed: Acknowledgement Form, Felony Conviction Notice, Non Collusive Affidavit and Conflict of Interest Questionnaire.

Failure to submit the A305 form and required additional forms or documentation shall subject the proposal to be rejected as non-conforming.

26. Estimated Project Cost: The estimated budget for Sheriff's Substation is \$2,900,000.00.
27. List of Subcontractors: the successful offeror shall submit a List of Subcontractors within (10) ten days of the award of contract.
28. Site Maintenance/Special Temporary Facilities: The successful offeror shall be required to fulfill the following requirements:
 - a. Provide temporary 6' chain link fence around entire site perimeter.
 - b. Provide adequate signage for:
 - Construction area warning
 - entrance/exits for trucks and workers

3. Adequate traffic direction for construction vehicles and the public during peak traffic hours.
4. Daily site cleanup.
5. Designated "lunch & break" area and adequate daily cleanup of these areas.
6. Job Trailer for use of County personnel and their agents.

END OF SECTION 00100

REQUEST FOR BIDS

HIDALGO COUNTY

“Construction of Sheriff’s Office Substation in the Precinct No. 1 Area”

BID OPENING DATE:

November 1, 2011

Contact Person:

Martha L. Salazar, CPPB, Purchasing Agent

Hidalgo County Purchasing Department

Physical location: 2802 S. Business Highway 281 - Administration Building

Postal/Mailing: 2812 S. Business Highway 281

Edinburg, Texas 78539

956 318-2626



Form HCPD-03

1. Sealed bids will be received for **“HIDALGO COUNTY – CONSTRUCTION OF SHERIFF’S OFFICE SUBSTATION IN THE PRECINCT NO. 1 AREA”** in accordance with the specifications attached as Exhibit "A" hereto. Bids should address all specifications set forth. Bidders may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"). Strong rationale must be presented for any deviation from the specifications. Hidalgo County reserves the right to reject the deviation and its effect on the overall bid.
2. One (1) original and Three (3) copies of all bids are required with the bidders name and return address clearly typed/printed on upper left hand corner and the proper notation clearly typed/printed on the lower left hand corner of the envelope and/or package: **"BID-2011-032-11-01-MSS- HIDALGO COUNTY – CONSTRUCTION OF SHERIFF’S OFFICE SUBSTATION IN THE PRECINCT NO. 1 AREA”** and in County's Purchasing Department, physical address: 2802 S. Business Hwy 281, mailing address 2812 S. Business 281 New Administration Building,, Edinburg, Texas, **on or before 4:00 p.m., TUESDAY, NOVEMBER 1, 2011. NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY RFB RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED. OVERNIGHT MAIL MUST ALSO BE PROPERLY LABELED ON THE OUTSIDE OF EXPRESS ENVELOPE OR PACKAGE WITH REFERENCE TO "REQUEST FOR BIDS - 2011-032-11-01-MSS- HIDALGO COUNTY – CONSTRUCTION OF SHERIFF’S OFFICE SUBSTATION IN THE PRECINCT NO. 1 AREA”**. Hidalgo County reserves the right to refuse and reject any/all RFB and to waive any/all formalities or technicalities, or to accept the RFB considered the best and most advantageous to Hidalgo County
3. Hidalgo County reserves the right to: A. separate and accept, or eliminate any item(s) listed under this bid that it deems necessary to accommodate budgetary and/or operational requirements; B. reject any or all bids submitted and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best bid for approval; and C. award the bid to one bidder or to multiple bidders if the County determines it is in its best interest to do so.”
4. The Bidder shall not substitute items named in the bid without the express written consent of Hidalgo County. Failure of the delivered item(s) to perform as specified, or failure to meet the stated delivery schedule shall release Hidalgo County from all obligations to the contracting party with regard to the item(s) in question. In such event, County may elect to award the contract to the next-lowest responsible bidder, or to reject all bids and re-advertise.
5. For work to be performed at a County owned or operated location, each bidder shall, in its sole discretion, visit the job site before preparing the bid and thoroughly familiarize himself/herself with existing conditions. Bidder should take field dimensions and note all circumstances which affect the dollar amount of the bid.
6. Descriptive specifications are referenced in this document to indicate the general kind and quality of equipment desired by Hidalgo County. Due to various styles and models of equipment, bidders are required to include illustrations, specifications, explanation of

warranties, and service data with their bid including catalogue numbers and any necessary references.

7. No bid may be withdrawn within thirty (30) days from the scheduled time to open bids.
8. Proposed prices are to remain firm for a minimum of ninety (90) days after bid opening.
9. Any interpretations, amendments, corrections or changes to this bid document must be in a written addendum and signed by the County Judge or his designee. Addenda will be mailed to all who are known to have received a copy of the Request for Bids. Bidders shall acknowledge receipt of all addenda as a part of their bid.
10. County reserves the right to accept or reject any or all bids.
11. Costs are to be net F.O.B., County Prepaid.
12. County is exempt from Federal Excise Tax, State Tax and Local Tax. Do Not include tax in cost figure. If it is determined that tax was included in the cost figures it will not be included in the tabulation of any awards. Tax exemption certificates will be furnished upon request.
13. Funds for this procurement have been provided through the County budget for this fiscal year only. County, on an annual basis, has the right to reconsider a contract during the budget process for ensuing years if financial resources of County are insufficient to meet the liabilities of said contract. The award of a bid or contract hereunder will not be construed to create a debt of the County which is payable out of funds beyond the current fiscal year.
14. Upon award and prior to execution of a contract, Sole Proprietorships are required to submit a copy of their social security cards to the Hidalgo County Auditor's Office in order to establish an account with the County. All awarded vendors must submit a completed W-9 and a copy of their Federal ID Number Certificate.
15. DELIVERY INSTRUCTIONS:

- . No deliveries accepted after 3:00 P.M., Monday-Friday.
- . At least seventy two (72) hours prior notice of delivery must be given to Martha L. Salazar, Purchasing Agent before delivery will be accepted.
- . If you need additional information call the office listed below:

Hidalgo County Purchasing Department
Martha L. Salazar, Purchasing Agent
(956) 318-2626

16. BILLING AND PAYMENT INSTRUCTIONS:
 - . Invoices must include:
 - a) Name and address of successful bidder
 - b) Name and address of receiving department or official

- c) Purchase Order Number (if any)
- d) Notation - **BID-2011-032-11-01-MSS- HIDALGO COUNTY - CONSTRUCTION OF SHERIFF'S OFFICE SUBSTATION IN THE PRECINCT NO. 1 AREA**" Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.

- . Discount payments will be considered when offered.
- . Contact person for Billing and Payment questions:

Hidalgo County Sheriff's Office
 711 El Cibolo Road
 P.O. Box 1228
 Edinburg, TX 78540
 ATTN.: Chief Anacleto Martinez
 (956) 383-8114

17. Schedule of Events

Pre-Bid Conference, 2:00 PM	<u>October 18</u>, 2011
Bid Opening, 4:00 PM	<u>November 1</u>, 2011
Award of Contract	_____, 2011
Commence Work or Deliver Products	_____, 2011

18. Bid or Performance Bond and Debarment Certification; Payment Under Contract:

- . If the contract proposed is for the construction of public works or is for a contract for goods & services exceeding \$100,000, all bidders shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in Texas. All bidders are also required to furnish a certification or acknowledgment stating that the contractor or vendor is free from suspension or debarment pursuant to federal regulation 45CFR Part 76.

- . Together with the signing of a contract or issuance of a purchase order following the acceptance of a bid, and prior to commencement of the actual work, the bidder shall furnish a performance bond to the County for the full amount of the contract, if that contract exceeds \$50,000.

- . If the contract is for \$50,000 or less, no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County, and, if applicable, the receipt by County of satisfactory evidence that all subcontractors and material men have been paid.

- . If a contract is for the construction, alteration or repair of public buildings or public works, the contractor *shall* provide a payment bond for a contract in excess of Twenty Five Thousand Dollars (\$25,000.00), as required by Tex. Govt. Code Ch. 2253.

- . For requirements contracts, bond requirements are determined by applying the proposed unit price to the estimated quantities included in the specifications.

19. Ethical Standards:

. It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of the County.

. It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County, or any person associated therewith, as an inducement for the award of a subcontract or order.

. No public official shall have an interest in a contract awarded hereunder except in accordance with Tex. Loc. Govt. Code Chapter 171.

20. Disclosure of Conflict of Interest

. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County (“the County”) to disclose in the Conflict of Interest Questionnaire (the “CIQ”) attached as Exhibit D, the vendor, person, consultant or contractor’s affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk’s Office no later than the seventh business day after the date the person becomes aware of facts that require that statement to be filed. The disclosure requirement applies to a person or business who contracts or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the successful bidder fails to comply with Texas Local Government Code Chapter 176. Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encouraged to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please Submit completed CIQ forms to the Hidalgo County Clerk’s Office located at 100 N. Closner, Edinburg, Texas 78539-Hidalgo County Courthouse
COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE BIDDER.

21. If, during the life of any contract or bid awarded, the successful bidder's net prices generally available to other customers for items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to County.
22. Bids, and all goods and services provided thereunder, shall comply with all federal, state and local laws concerning this type(s) of goods and/or services
23. Minimum Standards For Responsible Prospective Bidders: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder, by submitting a bid, represents to County that it meets the following requirements:
 - **Possess and submit a Certificate of Account Status indicating bidder is in “Good Standing” with the Texas Comptroller of Public Accounts if such bidder is incorporated in the State of Texas. If the bidder is not incorporated with the Texas, the bidder must submit the appropriate evidence of filing with the Texas Secretary of State stating that the business is authorized to transact business in Texas.**
 - Possess or is able to obtain adequate financial resources as required to perform under the bid;
 - Be able to comply with the required or proposed delivery schedule;
 - Have a satisfactory record of performance;
 - Have a satisfactory record of integrity and ethics;
 - Be otherwise qualified and eligible to receive an award.
24. Successful bidder will pay or cause to be paid, without cost or expenses to County, all FICA, FUTA/SUTA and Federal Income Withholding Taxes of all employees, and all wages and benefits as required by Federal or State law. Successful bidder's officers, agents and/or employees will not be entitled to any benefits of an employee or elected official of County, including, but not limited to, benefits associated with County's civil service system.
25. Any contract award to a successful bidder will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, or (c) terminated by County with thirty day's written notice prior to cancellation.
26. County reserves the right to enforce performance of any contract awarded hereunder in any manner prescribed by law or deemed to be in the best interest of the County in the event of breach or default by successful bidder; County reserves the right to terminate any contract immediately in the event a successful bidder fails to:
 - A. Meet schedules;
 - B. Pay any required fees or taxes; or
 - C. Otherwise perform in accordance with the specifications.
27. Successful bidder shall defend, indemnify and save harmless County and all its elected officials, officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act

or fault of the successful bidder, or of any agent, employee, subcontractor or supplier of successful bidder in the execution of, or performance under, any contract which may result from bid award or which arises from any event or casualty happening on or within County premises themselves or happening upon or in any halls, elevators, entrances, stairways or approaches of or to such County facilities. Successful bidder shall pay any judgment with costs which may be obtained against County growing out of such injury or damages, and shall, upon request, provide a defense to County by counsel reasonably acceptable to County. Successful bidder's indemnity hereunder shall include, but is not limited to, claims relating to patent, copyright or trademark infringement, and the like, arising out of the goods and services provided by successful bidder.

28. Successful bidder shall warrant that all items/services shall conform with the specifications and/or all warranties provided under the Uniform Commercial Code and be free from all defects in material, workmanship and the like. Items supplied under a contract pursuant to this Request for Bids shall be subject to County's approval. Items found to be defective or not meeting specifications shall be replaced by successful bidder within two business days at no expense to County. Items not picked up within one (1) week after notification shall be deemed a donation to County and may be used or disposed of at County's discretion and without waiver of any other rights of County as to the item's nonconformity.
29. ***Vendors hereby assigns to purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA, Section 1 et. seq., and which arise under the antitrust laws of the State of Texas, Bus. & Com. Code, Section 15.01, et. seq.***
30. This document and any disputes arising hereunder shall be governed and construed according to the laws of the State of Texas, and will be performable exclusively in Hidalgo County, Texas.
31. The successful bidder shall not assign, sell, transfer or convey its rights under any awarded contract, in whole or in part, without the prior written consent of County.

Bid
for

HIDALGO COUNTY
“CONSTRUCTION OF SHERIFF’S OFFICE SUBSTATION IN THE PRECINCT NO. 1
AREA”
BID No. -2011-032-11-01-MSS

To: Martha L. Salazar, CPPB, Purchasing Agent
Hidalgo County Purchasing Department
2802 S. Bus. Hwy. 281
Edinburg, Texas 78539

In accordance with the Specifications, and subject to all laws and regulations of the United States and state and local laws, the undersigned bidder proposes and commits to furnish all labor, equipment, material, software and services as set forth in the documents hereinbefore mentioned. The undersigned bidder further agrees, upon acceptance of its bid, to execute a contract and/or Purchase Order issued by Hidalgo County for performing and completing the work described in the Specifications within the time stated and for the prices proposed in the documents attached hereto and made a part hereof.

Bidder acknowledges receipt of all of the pages of the documents referenced in the Invitation to Bid Checklist presented in connection with this procurement. Bidder understands that Hidalgo County reserves the right to reject any or all bids and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best bid.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving bids, as contained in the Specifications.

Respectfully submitted,

Bidder: _____
Address: _____
By: _____
Printed Name: _____
Title: _____

EXHIBIT “C”
Insurance Requirements
Applicable to the Acquisition of Goods and /or Services (other than
Professional Services)

The Bidder awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the bidder in at least the following limits, to be in place prior to providing any services under this Contract and to continue at all times in force in effect during the term of this Contract:

1. A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County.
2. Automobile liability insurance policy with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to Five Hundred Thousand (\$500,000.00) arising out of the services provided to County hereunder.
3. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
4. Workers compensation insurance in amounts established by Texas law, unless the Bidder is specifically exempted from the Texas Workers Compensation Act, Texas Labor Code Chapter 401, et. seq.

Hidalgo County will only accept certificates of insurance on an Acord form (as attached hereto). Certificates of insurance naming County as an additional insured shall be submitted to County for approval prior to any services being performed by Contractor. Each policy of insurance required hereunder shall extend for a period equivalent to, or longer than the term of the Contract, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County prior to the cancellation of any such coverage on the termination date, or otherwise. This Contract shall be automatically suspended upon the cancellation, or other termination, of any required policy of insurance hereunder, and such suspension shall continue until evidence adequate replacement coverage is provided to County. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.

ACORD

CERTIFICATE OF INSURANCE

DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

INSURER A:
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THEIR TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$
	<input type="checkbox"/> CLAIMS MADE OCCUR				MEDICAL (Any one person) \$
	<input type="checkbox"/> OWNER'S & CONT. PROT				PERSONAL & ADV INJURY \$
	<input type="checkbox"/> OWNER'S PROTECTIVE LIABILITY				ANNUAL AGGREGATE \$
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
B	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS				
<input type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY-EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY EA ACC AGG \$
					\$
C	EXCESS LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
					\$
D	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY				WC STATUS- <input type="checkbox"/> OTHER TORY LIMITS
					E.L. EACH ACCIDENT \$
					E.L. DISEASE-EA EMPLOYEE \$
					E.L. DISEASE-POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
County of Hidalgo shall be named as additional insured on all Commercial General Liability policies.

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER: _____	CANCELLATION
Hidalgo County Attn: Purchasing Department 2812 S Highway Bus. 281 Edinburg, Texas 78539	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BY CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE	

Insurance Requirement Acknowledgment

I, _____, authorized representative for _____,
Company/Vendor

hereby acknowledge receipt of the County's required insurance limits. Said requirements:

- will be acquired within 10 working days after notification from Purchasing Department of bid awarded by the Hidalgo County Commissioners' Court;
- will acquire additional amounts required to meet the County's requirements within 10 working days after notification from Purchasing Department of bid award by the Hidalgo County Commissioners' Court; currently carry the following:

Automobile Liability: \$_____ General Liability: \$_____
- have already been met, see attached copy of insurance certificate.

Authorized Representative

Date

Notice to Bidder:

A certificate of insurance for the required insurance limits shall be provided to the Purchasing Department's Contract Managers in order to qualify for award of bid and to execute a contract between your Company and the County

Failure to provide Certificates of Insurance to the Purchasing Department's Contract Managers will cause the bid award to be rescinded and re-awarded to next lowest bidder. Certificates of Insurance will be monitored and verified on a **quarterly basis** to ensure coverage policy is in place. It is the Company's obligation to maintain the appropriate insurance coverage throughout the term of the contract.

THIS FORM MUST ACCOMPANY BID PACKET

**PROJECT REQUIREMENTS
ACKNOWLEDGMENT**

This is to certify that I, _____, possess all of the APPLICABLE:

- 1. Licenses: _____.
- 2. Bonds: _____.
- 3. Certificates: _____.
- 4. Permits: _____.
- 5. Other: _____.

necessary to carry out the required project. Furthermore, I am providing copies of the required documentation so that, if my company is awarded this bid, I may be eligible to enter into a contract with Hidalgo County and proceed to complete the project in a timely manner.

* Any licenses, bonds, certificates, permits, etc. which are required must be presented as part of the bid packet in order to expedite the bid evaluation process. Failure to provide said documentation will result in the disqualification of your bid.

Authorized Signature

Date

Company

Address

City, State, Zip

EXHIBIT "D"

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

3 Name of local government officer with whom filer has employment or business relationship.

Name of Officer

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

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

Yes No

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

Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

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

4

Signature of person doing business with the governmental entity

Date

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION

The primary objective of the Hidalgo County HUB Program is to ensure Historically Underutilized Businesses receive a fair and equal opportunity for participation in the County's procurement process. This fact holds true for Services (Professional & Non-Professional), Commodities, and Construction contracts and any subcontracts thereto. The program strongly encourages Prime Contractors to provide subcontracting opportunities to Certified Hub Contractors/Vendors. Our goal for HUB contractor/vendor participation, as well as HUB subcontractor participation is 30%. To be considered as a "Certified HUB Contractor/Vendor" the contractor/vendor must have been certified by, and hold a current and valid certification with any of the three agencies listed below.

Have you been Certified as a HUB or an MBE/WBE source?: Yes No

If yes, by whom?: Texas Building & Procurement Commission Other _____

Indicate Certification No(s): _____ or Are Certificate(s) Attached?: Yes No

LIST OF CERTIFIED HUB SUBCONTRACTORS
(Attach additional pages if necessary)

What percentage of the Bid, RFP, or RFQ is to be subcontracted with Certified HUB sources?: _____%
(List HUB Subcontractor information below).

HUB Subcontractor Name: _____ HUB Status:
Certifying Agency (Check all applicable): Texas Building & Procurement Commission Other
Address: _____ City: _____ State: _____ Zip:
Contact Person: _____ Title: _____ Phone No.: ()
Subcontract Amount: \$_____ Description of Work to be Performed:

HUB Subcontractor Name: _____ HUB Status:
Certifying Agency (Check all applicable): Texas Building & Procurement Commission Other
Address: _____ City: _____ State: _____ Zip:
Contact Person: _____ Title: _____ Phone No.: ()
Subcontract Amount: \$_____ Description of Work to be Performed:

HUB Subcontractor Name: _____ HUB Status:
Certifying Agency (Check all applicable): Texas Building & Procurement Commission Other
Address: _____ City: _____ State: _____ Zip:
Contact Person: _____ Title: _____ Phone No.: ()
Subcontract Amount: \$_____ Description of Work to be Performed:

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	<input type="checkbox"/> Exempt from backup withholding
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
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 your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number								

or

Employer identification number								

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. 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
2. 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
3. I am a U.S. person (including a U.S. resident alien).

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 on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

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.

In 3 above, 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.

Note. If 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.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the 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 withholding on your share of partnership income.

The person who gives 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 is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 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 recipient 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 not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, 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 Part II instructions on page 4 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 the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

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

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. 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 the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

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 possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7 ²

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

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

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. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 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 Social Security Administration office or get this form online at www.socialsecurity.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 ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, 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. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic 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 items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 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 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), 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)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. 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

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 second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal 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 regarding partnerships* on page 1.

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.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax 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. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**Certification
Regarding Debarment, Suspension and Ineligibility**

As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
- b. Have not within a three-year period preceding this bid proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
- d. Have not within a three-year period preceding this bid proposal and/or application had one or more public transactions terminated for cause or default.

Signature: _____
Print Name: _____
Title: _____
Telephone Number: _____
Date: _____

If the bidder is unable to certify to all of the statements in this Certification, such bidder should attach an explanation to this proposal.

SECTION 00200

INFORMATION AVAILABLE TO BIDDERS

00200 - SOIL INVESTIGATION DATA

PART 1. GENERAL

1.1 Investigation

- A. Soil and Subsurface Investigation were conducted at the site, the results of which are to be found in the reports issued by: L&G Engineering Laboratory.
- B. A portion of the information obtained is included herein for the convenience of the Contractor.
- C. A copy of the complete reports are available for review at the office of the Architect or the Owner.
- D. Proposers are urged to examine soils investigation data and to make their own investigation of the site before submitting proposal.

1.2 Interpretation

- A. Soil investigation data is provided only for information and the convenience of the proposer. The Owner and Architect/Engineer disclaim any responsibility for the accuracy, true location and extent of the Soils Investigation that has been prepared by others. They further disclaim responsibility for interpretation of that data by bidders, as in projecting soil-bearing values, rock profiles, soil stability and the presence, level and extent of underground water.
- B. Soil investigation data is not a part of the Contract Documents.

END OF SECTION 00200



L&G Engineering Laboratory

Construction Material Testing
Geotechnical Engineering

**GEOTECHNICAL INVESTIGATION
FOR
HIDALGO COUNTY SHERIFF'S OFFICE SUBSTATION (Pct. #1)
WESLACO, TEXAS**

**Prepared For:
HIDALGO COUNTY SHERIFF'S OFFICE**

**Prepared By:
L & G Engineering Laboratory, L.L.C.
Mercedes, Texas 78570**

**L&G Project No. GL08007
October 13, 2008**



Armando J. Sandoval, P.E.
Project Engineer

Armando J. Sandoval, P.E. 10/13/08

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INTRODUCTION

L&G Engineering Laboratory, L.L.C. (L&G) was contracted by the **Hidalgo County Sheriff's Office** to perform a subsurface geotechnical investigation for the proposed Precinct #1 Substation in Weslaco, Texas. This report addresses several foundation recommendations, parameters for design criteria based on the Post Tension Institute (3rd Edition) and Wire Reinforcement Institute specifications, as well as recommendations for maximum allowable bearing capacity. Also included in this report are general construction considerations, pavement design recommendations, boring logs, and several figures addressing potential vertical rise and the existing general contour and geology of the proposed construction site.

GENERAL PROJECT OVERVIEW

Project Description

It is our understanding that this project involves the construction of an office and inmate holding facility for law enforcement approximately ¼ mile west of FM1015 (Mile 3 Road) on Mile 11 North Road (See Appendix II – Figure 1 for general location map). The facility will incorporate staff and visitors parking areas (made of asphalt pavement) into the general site plan. The facility is single story with no mezzanine or balconies.

Scope and Limitations of Investigation

This report has been prepared in general accordance with accepted geotechnical engineering practices for the subject project site and the anticipated construction. No specific warranty program or other standards, except acceptable industry standards for the South Texas area, were followed during the course of this investigation. This report is intended for use by the **Hidalgo County Sheriff's Office** and their direct representatives. This report may not contain sufficient information for purposes of other parties or other uses in determining construction means and methods.

The stratigraphies shown on the boring logs (included in Appendix I) represent the conditions at the general boring locations at the time of our investigation. These stratifications represent approximate boundaries between subsurface materials; their actual transition may be gradual. Variations may occur between boring locations due to unexpected deposits of soft clays, silts, calcium carbonate formations or other undesirable soil material. It should be noted that the exploratory borings were performed within the limits of the proposed structures as approved and agreed upon by the **Hidalgo County Sheriff's Office and L&G**.

The purpose of this geotechnical study is to:

- 1. explore the general existing subsurface conditions at the site*
- 2. evaluate the relevant engineering properties of the subsurface materials*
- 3. provide the maximum allowable bearing capacity of in-situ soils*
- 4. provide the potential vertical rise of the proposed site and recommendations to minimize swell and shrink potential to approximately one inch*

5. *provide recommendations and design parameters for suitable foundation and pavement systems applicable to the proposed site and anticipated construction*
6. *provide recommendations for excavation and earthwork specific to the local soils in the project vicinity*

The scope of this geotechnical engineering study does not include an environmental assessment of the air, soil, rock or water conditions on or adjacent to the site. No environmental opinions are presented in this report. If environmental clearances are needed prior to construction, please contact our offices to assist in this matter.

EXISTING SURFACE AND SUB-SURFACE CONDITIONS

Site Location / Description

The site of the proposed development is located in the northern city limits of Weslaco, Texas on Mile 11. The site is nearly flat with the surrounding tracts of land used as cultivated farmland and developing residential dwellings. From the texture, grain size, and color of the top two feet of soil (brown lean clay to clayey sand with organics), it was determined that this land had also been used as cultivated farmland. Upon completion of the utility clearances, project site was mowed (mostly tall grass and small brush) to allow our drilling rig and support trucks access. The boring locations were drilled as close as possible to the locations shown in Appendix II (Figure 3). The locations were referenced from an iron rod property corner using a measuring wheel to the approximate locations. All clearing and site access was performed with permission from the Hidalgo County Sheriff's Office and Precinct #1.

Geology

The Geologic Atlas of Texas, McAllen-Brownsville Sheet, dated 1976, indicates that the subject site is located within the *windblown deposits* consisting of clay dune, clay-sand dune, and sand sheet deposits of the Quaternary epoch (Recent-Holocene period). These stabilized sand dune deposits are comprised of strong relict eolian grain, sparse grasses and scrub. This geological classification has medium shrink swell potential, low plasticity, and low compressibility. The site does not lie within a seismic design class of significant activity, therefore does not need to be designed to resist earthquake motion. (International Building Code - 2006 Edition).

Soil Survey Description

According to the Soil Survey of Hidalgo County, Texas, published by the United States Department of Agriculture, the proposed construction area (south half of the property) is located primarily within the Hidalgo Fine Sandy Loam series soil description (25) and the Hidalgo Sandy Clay Loam series soil description (28) (See Appendix II Figure 2 for Soil Classification Map). Both descriptions are generally flat with 0 to 1% slopes. Typically, these soils have a profile of 0 to 17 inches of fine sandy clay loam, 17 to 28 inches of sandy clay loam, and 28 to 80 inches of sandy silty clay loam. These soil classifications also are considered well drained with a low flooding and ponding frequency, and they contain a high quantity of calcium carbonate (caliche deposits). The Soil Survey further notes that the soils potential for urban uses is medium and that the soils' main limitations are their shrinking and swelling characteristics.

Flood Zone Area

The proposed site lies within floodway area "AE" with a base flood elevation of 64 feet (according to FEMA flood insurance rate map, community Panel No. 480334 0450C, revised May 30, 2002). The property and proposed construction area are currently at an elevation between 62' and 63'. All construction areas are required to have a finished floor elevation of 64' to qualify, however, L&G recommends that the natural ground be raised to at least 1 foot above the base flood elevation prior to placement of the foundation. This would make the natural ground elevation 65'. The extra foot will allow for some tolerance in elevation and will assist in the drainage of the facility.

Rainfall

The annual average precipitation for Hidalgo County is approximately 23.0 inches, as reported by the National Weather Service. Of this rainfall, 14 inches, or approximately 60 percent of annual rainfall occurs during the months of April thru September. For the purpose of this report, our geotechnical investigation, performed on September 25th, 2008, was conducted during a relatively wet climactic season, with moisture and precipitation levels uncommonly high. Large amounts of rainfall were recorded a few days and several weeks prior to our sub-surface exploration. Also, the surface soils were saturated from rains caused by Hurricane Dolly. These rainfall amounts delayed the exploration and did affect the standard penetration counts for the top 4 feet of soil.

Site Grading and Drainage

Based on visual observations and geotechnical exploration, no significant amounts of engineered cut or fill were encountered at this site during our investigation. The area showed signs of previous plowing for agricultural purposes. Drainage in the area seemed to flow towards the northern boundary of the property to a drainage canal (Hidalgo County Drainage District #1), as shown by the gradually decreasing contour lines on Figure 4 (DEM Contours Map) and on the previous property survey in Appendix II.

SITE INVESTIGATION

Soil Borings and Laboratory Tests

Subsurface conditions at the site were evaluated by three (3) 20 foot structural borings and three (3) 6 foot pavement borings. The borings were drilled at the approximate locations shown on Figure 3 in Appendix II. The locations of the borings presented are approximate; no field ties were performed by a surveyor. The soil borings were drilled and sampled in general accordance with American Society of Testing Materials Procedures D1452, D1586, and D1587 using a truck mounted drilling rig (Simco 2800 HD).

As part of the sampling procedures, split barrel (spoon) and thin walled tube samples were collected and Standard Penetration Tests (SPT) were performed and recorded. Standard Penetration Test results are noted on the boring logs as blows per foot or 12 inch increment. The sampler was advanced through three (3) six inch increments; however, the first six inch

increment is considered the seating drive, which eliminates the effect of cuttings on the test result. The sum of the blows for the last two six (6) inch increments is considered the “standard penetration resistance value” or “field N-value”. Where hard or very dense materials were encountered, the SPT was terminated and noted on the boring log when one of the following occurred:

- 1. a total of 50 blows were applied on one six inch increment*
- 2. a total of 100 blows were applied during the test*
- 3. no observation of advancement of the sampler detected during the application of 10 consecutive blows from the hammer*

Representative portions of the samples were identified, packaged, sealed in containers to reduce moisture loss, and transported to our laboratory for subsequent testing. In the laboratory, each sample was evaluated and visually classified by a member of our geotechnical engineering staff. The properties of the strata were evaluated by a series of laboratory index tests. A summary of the laboratory data and their corresponding depths are presented on the boring logs and in tabular form on the test summary tables. Samples will be retained in our laboratory for 30 days after submittal of this report. Other arrangements may be provided at the request of the Client to hold the samples through the construction process.

Subsurface Stratigraphy

On the basis of our soil borings, there are several generalized strata that possess similar physical and engineering characteristics at the boring locations. The lines designating the interfaces between strata on the boring logs represent approximate boundaries. Transitions between strata may be gradual.

For the structural borings (B-1 to B-3) the top stratum was approximately 2 to 4 feet deep of light brown clayey sand (SC) (mostly organics). The second stratum was comprised of moderate to highly plastic, brown fat clay (CH to CL) with calcareous nodules, extending to a depth of 10 feet below natural ground. Below this stratum was a layer of reddish brown to brown lean clay (CL) w/ sand. This stratum reached to the bottom of the borings; approximately 20 feet below natural ground. Not all the borings consisted of this exact profile representation; however, the majority of the borings exhibited a similar profile with comparable engineering properties.

The “Pavement Borings” (P-1 thru P-3) all consisted of a profile similar to the structural borings. These borings consisted primarily of clayey sand materials classified as SC in the top 4 feet followed by a stratum of light brown to brown sandy lean clay (CL) w/ calcareous nodules to 6 feet. All classifications are referenced according to the Unified Soils Classification System. Detailed descriptions of strata and penetration test results are listed on the boring logs in Appendix I.

Water Strikes

The dry auger drilling technique was used to complete soil borings in accordance to ASTM procedure D 1452. Water strikes were encountered during the drilling operations at all locations. The water strike depths on the structural borings were deeper than ten feet; however, the water

strikes on the pavement borings were unusually close to the surface. It is the opinion of L&G that these high water strikes and high 24 hour readings are due to the large precipitation quantities exhibited during the two months prior to our field investigation. These may also be caused by the release of pore water pressure from adjacent soil and not the actual water table. It should be noted that fluctuations in groundwater levels are influenced by variations in rainfall and surface water run-off from season to season. The construction process itself may also cause variations in the groundwater level. L&G recommends that the contractor should check the subsurface water conditions just prior to construction excavation activities or contract L&G to install and monitor long term piezometer wells. Subsurface water and cave-in depths are based on measurements referenced from the natural ground elevation at the time of exploration.

GEOTECHNICAL BORING ANALYSIS

Moisture Content

The moisture content of a soil is defined as the ratio of the weight of the water in the sample to the dry weight of the soil sample. The moisture contents for the samples obtained as part of our geotechnical exploration were performed in compliance with ASTM procedure D2216. The results varied from 16.7 percent to 25.1 percent. The variance in these percentages can be attributed to range in depth and distance between samples, the deeper the sample is located, generally the higher the moisture content. All the borings exhibited wet (high natural moisture) soil conditions below 2 feet. This condition could be caused by the water table with respect to natural ground. Also, the moisture contents could be attributed to the soil classification, as some clays with mostly fines soils may inherently absorb more water than others (sandy soils). A list of all the moisture contents can be found in the test summary tables and on the boring logs.

Plasticity Index

The Plasticity Index (PI) is known as the difference between the liquid limit and the plastic limit of a soil. These limits are commonly referred to as the Atterberg limits, which describe the consistency of soils with respect to its moisture contents. The liquid limit is defined as the moisture content at which soil begins to transition from a plastic to a liquid state and begins to behave as a liquid material by beginning to flow. The plastic limit refers to the water content of a soil at the point of transition from a semisolid to a plastic state where soil starts to exhibit plastic behavior. A soils behavior can be divided into four basic states: liquid, plastic, semisolid and solid. The plasticity index indicates the range of a soil's moisture content in which the soil acts in a plastic state. Experience has shown that the more plastic a soil is the more expansive and compressive it will act. PI values for the borings performed for this report range from 8 (low plasticity clayey sands) to 40 (high plasticity fat clays).

Particle Size Analysis

The standard grain size analysis is used to determine the relative proportions of different grain sizes as they are distributed along a range of different sized sieves. The minus 200 sieve analysis is used commonly as a tool for soil classification and identification using the Unified Soils Classification System. Results for this test are reported as a percentage of soil passing the No. 200 sieve. This test is also used to determine the suitability of soil for construction purposes and

to estimate probable seepage through soils. Generally a % -200 greater than 50% indicates a non-granular cohesive soil with large amounts of fines in the soil composition. The % -200 values for the samples collected range from 33.0% (sandy materials) to 85.4% (clay material with significant amounts of fines). Materials with extremely high or low percentages may present constructability problems due to runoff and difficulty maintaining proper moisture content. Hydrometer analyses were also performed and plotted graphically to determine the distribution of particles finer than the #200 sieve. The particle size analysis and percent finer than the number 200 sieve were performed in compliance with ASTM procedures D 422 and D 1140.

Unconfined Compression Test

The unconfined compression test is a special type of unconsolidated undrained triaxial test that is commonly used for clay samples. In this test procedure, the test sample is sheared to failure by the application of deviator (axial) stress. The axial load is applied rapidly to the sample so that drainage of pore water from the soil sample is not permitted. The maximum applied stress is referred to as the unconfined compressive strength of the sample. This result is then divided by two to derive the undrained shear strength. Theoretically, the unconfined compression test and the unconsolidated undrained triaxial test should result in similar undrained shear strength values of samples obtained near the surface; however, as the depth of the sample location increases, the unconfined compression test provides a more conservative result than the triaxial test.

Unconfined compression tests were performed when samples of adequate size were retrieved. The Shelby tube samples were extracted and cut to a length / diameter ratio of approximately two. Refer to Appendix IV to see the sample depth and location, along with the corresponding unconfined compressive strength and graph recorded from each test. The undrained shear strength values were assumed to be equal to the soil cohesion and were used in the soil stratification and the calculation of the ultimate bearing capacity.

Consolidation Test

The one dimensional consolidation tests were performed to determine the magnitude of volume decrease that a laterally confined soil would undergo when subjected to different vertical pressures. The main purpose of this test is to obtain data that could be used to predict the approximate total settlement. The test specimens were placed inside a metal ring with porous stones on both top and bottom. The loadings were then applied and settlement was recorded. From the measured data, the consolidation curve (pressure-void ratio relationship) was plotted in log format. The soil properties determined from the consolidation tests can be used to estimate the magnitude of the anticipated settlement but that is beyond the scope of this study. If loading criteria is provided, L&G can perform a settlement analysis and amend this report. Calculations of this type are vital in the design of engineered structures and the evaluation of their performance. Consolidation input values and strain readings can be found in tabular and graphical form in Appendix V (Consolidation Tests) of this report.

Summary of Laboratory Testing

A summary of the laboratory testing performed on the collected samples is located in Appendix I of this report and can also be located on the boring logs in relation to their corresponding depths. A table representing the total number of tests performed is shown below.

Test Name & ASTM Designation	Number of Tests Performed
Moisture Content (ASTM D 2216)	30
Plasticity Index (ASTM D 4318)	23
% Finer than No 200 (ASTM D 1140)	20
Hydrometer Analysis (ASTM D 422)	6
Unconfined Compression (ASTM D 2166)	1
1-D Consolidation (ASTM D 2435)	2

FOUNDATION RECOMMENDATIONS

Foundation Systems

The selection of an appropriate type of foundation design is based on many factors, some of which are: soil conditions, site drainage, economics, climate, the presence of vegetation, insurance and or mortgage company requirements, city/government codes, the level of risk acceptable to the owner/developer and other customer requirements.

There are various types of foundation shapes and designs commonly used for the type of construction that is planned. The three main types currently in use are:

- I. Slab-on-grade foundation systems which are supported in the shallow surface soils (footings optional)
- II. Slab-on-grade foundations supported by drilled shafts founded below the seasonal moisture variation zone
- III. Pier and grade beam foundations in which the supporting drilled shafts that suspend the foundation are founded below the seasonal moisture variation zone

For building foundations in this area, the most commonly constructed type is a slab-on-grade foundation supported in the shallow surface soils (Type I). For each system listed above the compatibility between foundation rigidity and the type of super-structure to be supported by the foundation must be considered in order to avoid damage to the super-structure.

The soils encountered at this site are subject to moderate to low shrink and swell associated with changes in the percent moisture. The wet condition of these soils leaves the potential for some differential movement with a decrease in moisture.

In any foundation design there are always levels of risk associated with failure; no economically viable foundation design will negate all associated risk. It is important to stress the fact that maintenance of the foundation will help to reduce the potential for structural damage. Maintenance includes, but is not limited to positive drainage around the perimeter of the foundation and the planting of vegetation no closer to the foundation than its mature height.

Type I, Slab-on-grade Foundation System (w/ Optional Footings)

It is the understanding of **L&G** that a slab-on-grade foundation founded on compacted select fill and in-situ subgrade with footings is currently being considered for this site. This type of foundation will potentially move differentially and behave differently than a suspended floor slab or a drilled shaft supported slab. Type I foundations are inherently subjected to more differential foundation movement; however, proper site preparation and appropriate structural design of slab-on-grade foundation systems allows their successful utilization.

The owner should be aware that a greater risk of movement is associated with a slab-on-grade foundation system and that some differential movements are expected to occur through time. Since the foundation will not allow the normal evapotranspiration of moisture from the ground, the moisture level will change beneath the foundation due to equilibration; causing some differential movement during the life of the foundation. The control of foundation movement is a function of the maintenance of uniform moisture beneath and around the slab and proper placement of fill materials. The design parameters for slab-on-grade foundations provided in this report are based on climactic affects and do not reflect adverse conditions from improper site drainage, previous or future vegetation, fill settlement, utility line leaks or unexpected fluctuations in the subterranean level of groundwater due to capillary action.

Potential Vertical Rise

The soils found at this site consisted primarily of surface clayey sands and sandy lean clays with underlying fat clays which have a medium potential for differential movements due to high plasticity indices and low moisture contents below six to eight feet.

The Potential Vertical Rise (PVR) calculations for the soil profiles found at each boring were performed using the Texas Department of Transportation's (TxDOT) TEX 124-E method. Based on this method we have found that the total range of **PVR** for this site is ***between 0.9 and 1.8 inches, with a site average PVR of 1.40 inches.***

This value represents total vertical in-situ movements and does not consider differential swell between any two points on the ground nor does it take into account movements caused by uncontrolled water sources such as poor drainage, migration of subsurface water from off-site locations, and utility line leaks. The PVR value is based on the soil stratigraphies found in the boring logs. In this area, **PVR** values of ***1 inch or less*** are generally considered acceptable for most common slab-on-grade foundation designs.

For this site, PVR has been calculated for each individual boring location (as shown in the table below) and the "Average In-Situ PVR" was utilized to calculate cut and fill recommendations.

Boring Location	Calculated PVR
B-1	1.5
B-2	0.9
B-3	1.8
<i>Site Average PVR</i>	<i>1.40</i>

L&G recommends that the following earthwork procedures be followed to reduce the PVR to approximately 1.0 inch:

- The existing in-situ subgrade should be stripped and grubbed of vegetation to a depth of **six (6) inches below the existing natural ground**.
- The exposed subgrade should then be proofrolled to identify any soft yielding areas. These areas should be over-excavated and replaced with select fill.
- After proofrolling the exposed subgrade should be scarified to a depth of 6" and moisture conditioned between optimum and plus three (+3) percentage points of the optimum moisture content. The subgrade should then be compacted to 95% of optimum density as determined by ASTM D698.
- The excavated area should then be built up using select fill material to a minimum elevation of 1 foot above to the base flood elevation in this area (the base flood elevation is 64'). Select fill placement must be performed in accordance with the *Site Preparation* and *Select Fill Recommendation* portions of this report.

These recommendations will lower the site average PVR to approximately 1.06 inch. Should select fill selection and placement differ from the recommendations presented herein, L&G should be informed of the deviations in order to re-evaluate our recommendations and design criteria.

Post-Tensioning Slab Design Parameters

The recommendations for foundation design criteria in this section have been calculated using the method described by the Post-Tensioning Institute manual, "Design of Post-Tensioned Slabs-on-Ground" Third Edition; also known as the PTI method. This method gives soil parameters for ribbed or uniform thickness (monolithic) foundations that can be used in the design of post-tensioned or traditionally reinforced foundations. The PTI method does not allow for the development of design parameters for collapsing soils or other highly unusual conditions. It must be emphasized that the determination of these parameters is based upon normal climate-moisture variance from season to season in the local area and are invalid when influenced to any significant degree by other conditions, including but not limited to those mentioned in the previous sections.

The edge moisture variation distances (e_m) for the center and edge lift conditions were derived based on a Thornthwaite index of -30 for the project site. The Thornthwaite index is based on the average rainfall over a significant period of time (e.g. 20 or 30 years) in excess or deficit of the average evapotranspiration rates of the area. Other parameters and influencing variables were derived using information collected from the laboratory tests performed on the recovered soil samples as stated in the PTI guidelines for geotechnical exploration and laboratory testing

schedule. A table which lists the PTI design parameters for a slab-on-grade foundation supported in the shallow surface soils is located below.

Recommended PTI Slab Design Parameters

Equilibrium Soil Suction (pF)	Center Lift Conditions		Edge Lift Conditions	
	Edge Moisture Variation Distance e_m (ft)	Estimated Differential Movement y_m (in)	Edge Moisture Variation Distance e_m (ft)	Estimated Differential Movement y_m (in)
4.0	9.0'	0.07"	4.8'	0.28"

Wire Reinforcement Institute Slab Design Parameters

The Wire Reinforcement Institute (WRI) method is an empirically derived foundation design method that was developed by observing slab performance and creating and modifying equations to give results which approximate the observations. While the WRI method deals only with foundations reinforced with reinforcing bars or welded wire reinforcement, the procedure has been developed to be independent of the type of reinforcement used.

The climatic rating reflects the stability of the moisture content which may be expected in the soil due to the climatic conditions which may vary from year to year. The effective design PI was obtained by weighting the PIs in each boring as described in the WRI procedures. The slope correction factor is based on the average slope of the lot. Since the slope of the lot is very low the adjustment factor was negligible. Below is a table which lists these WRI design parameters for a slab-on-grade foundation supported in the shallow surface soils.

Recommended WRI Slab Design Parameters

Effective PI	Climactic Rating	Slope Correction Coefficient	Soil Support Index
24	15	1.0	0.11

** The Effective PI was calculated using the assumed earthwork recommendations in the Potential Vertical Rise section of this report.

Bearing Capacity of Soils

The bearing capacity of the existing natural ground is the ability of a soil to support imposed loadings. The ultimate bearing capacity, q_u , is the theoretical maximum pressure that can be resisted before general shear failure occurs in the soil and was estimated using the following general bearing capacity equation, as recommended by the United States Army Corps of Engineers manual EM 1110-1-1905 titled "Bearing Capacity of Soils":

$$q_u = c N_c + \frac{1}{2} B \gamma_h N_\gamma + \sigma N_q$$

where:

- q_u = ultimate bearing capacity
- c = soil cohesion
- B = effective width of foundation
- γ_h = effective unit weight of soil within failure zone
- σ = effective soil surcharge pressure at depth

N_c , N_γ , and N_q are dimensionless bearing capacity factors developed by Karl Terzaghi. Due to the amounts of clay (fines) material in the existing soil profile, the angle of internal friction was assumed to be zero for our analysis, which produced the following dimensionless factors: $N_c = 5.7$, $N_\gamma = 0.0$ and $N_q = 1.0$. No shape factors were used during our calculations for ultimate bearing capacity. Cohesion values were assumed to equal the undrained shear strength values that were measured in the unconfined compression tests performed on the recovered samples and field standard penetration tests.

Generally, a factor of safety of 3 or greater is recommended as standard engineering practice when calculating the allowable bearing capacity, as noted in chapter 1 of EM 1110-1-1905. The bearing capacity analysis performed for this foundation utilized a factor of safety equal to 3. **The maximum allowable bearing capacity for this site using a monolithic slab on grade is 1900 pounds per square foot.**

Bearing Capacity of Continuous Footing

Conventional continuous footings may be used to support the estimated concrete masonry wall loads created by the structure. Continuous footings are located along the perimeter of the slab and can also be used as interior beams to support wall loads. The result is a “matt foundation”. **The maximum allowable bearing capacity using a continuous footing with a minimum width of 18 inches is 2800 pounds per square foot.** This value was calculated using a factor of safety equal to 3. These capacities were calculated in assuming the soil improvements from the “Potential Vertical Rise” section of this report have been followed. Continuous footings should bear in compacted fill or subgrade material at a minimum depth of three (3) feet below the proposed bottom of slab.

Bearing Capacity of Square Shallow Footing

Square footings may be used to support any concentrated column loads for the structure. Using a square footing with a minimum side length of 3 feet (36 inches), a **maximum allowable bearing capacity of 3200 pounds per square foot** can be achieved. This value was calculated using a factor of safety equal to 3. These capacities were calculated in assuming that the soil improvements from the “Potential Vertical Rise” section of this report have been followed. Square footings should bear in compacted fill or subgrade material at a minimum depth of three (3) feet below the proposed bottom of slab.

GENERAL CONSIDERATIONS DURING CONSTRUCTION

Site Grading

Site grading plans can result in changes in almost all aspects of foundation recommendations. We have prepared the foundation recommendations based on the existing ground surface and the stratigraphic conditions encountered at the time of our study. We are aware that the existing site will be raised using select fill material to assist in site drainage and to conform to FEMA guidelines; however no specific finished floor elevation was given prior to our investigation. If the grading plans differ from the approximate earthwork recommendations given in this report, L&G should be retained to review the site grading plans prior to bidding the project for

construction. This will enable us to provide input for any changes in our original recommendations that may be required.

Site Drainage Recommendations

Drainage is one of the most important aspects to be addressed to ensure the successful performance of any foundation. Positive surface drainage should be implemented prior to, during and maintained after construction to prevent water ponding at or adjacent to the building facilities. It is recommended that the building and site design include rain gutters, downspouts and concrete gutters to channel runoff to adjacent pavement or storm drains.

Site Preparation Recommendations

Building areas and all areas used to support foundation construction should be stripped of all vegetation and organic topsoil (approximately 6 inches in depth) up to a minimum of three (3) feet beyond the building perimeter. After stripping the floor slab areas, the exposed subgrade should be proofrolled in order to locate any weak, compressible soft spots. Weak or soft areas identified during proof rolling should be over-excavated and replaced with select and compacted to 95% of the optimum density. Proof rolling should be performed in accordance with Item 216 of TxDOT's 2004 Standard Specifications and operations should be observed by the Geotechnical Engineer or his representative to document subgrade condition and preparation. Subgrade should then be scarified to a minimum depth of 6 inches and moisture conditioned between optimum and plus three (+3) percentage points of the optimum moisture content. Re-compact the subgrade to at least 95% of the maximum dry density as determined by ASTM D698. The excavated areas should then be raised using select fill materials to the required elevations (to provide positive drainage away from the foundation structures). All placement of select fill shall be accordance with the *Select Fill Recommendations* section of this report. Any excavation/backfill activities should be observed by L&G Engineering Laboratory representatives to document subgrade preparation.

Select Fill Recommendations

Materials used for select fill shall meet the following requirements:

1. Soils classified according to the Unified Soils Classification System as SM, SC, GM, GC, CL, ML and combinations of these soils. The soils shall be relatively free of organic matter. In addition to the USCS classification, select materials shall have a *liquid limit of less than 50 and a plasticity index between 8 and 20*.
2. Soils classified as CH, MH, OH, OL and PT, under the USCS are not considered suitable for use as select fill materials at this site.
3. *Based on the findings of this geotechnical exploration, some portions of the surface soils at this site may be utilized as Select Fill if they are free of organic material such as roots and grasses. We recommend additional quality control of "Select Fill" materials as they are being excavated, placed and compacted to ensure that they meet the requirements of the this section.*

Select fill shall be placed in lifts not to exceed 8 inches loose (6 inches compacted) and compacted to a minimum 95 percent of the maximum dry density as determined in accordance with ASTM D 698. The water content of the select fill shall be maintained within the range of two (2) percentage points below optimum to three (3) percentage points above the optimum moisture content until the fill is permanently covered. The select fill should be properly compacted in accordance with these recommendations and tested for compaction as specified.

Excavation, Sloping, Benching and Utility Considerations

The collection of specific geotechnical data and development of a plan for trench safety, sloping, benching or various types of temporary shoring, is beyond the scope of this study. However, if trenches are to extend to or below a depth of five (5) ft, the contractor or persons doing the trenching should adhere to the current Occupational Health and Safety Administration (OSHA) guidelines on trench excavation safety and protection measures. Other industry standards may be applicable. Utilities that protrude through the slab-on-grade should be designed with some degree of flexibility or with sleeves. Such features will help reduce the risk of damage to utility facilities from soil movements related to shrinkage and expansion. Furthermore, when trenching for utility installation, we recommend that the backfill used to protect these utilities conform to the "Select Fill Recommendations" of this report.

Shallow Foundation Excavation Considerations

The Geotechnical Engineer or his representative should observe shallow foundation excavations prior to the placement of reinforcing steel and concrete. This is necessary to verify that the bearing soils at the bottom of the excavations are similar to those encountered during the subsurface soil exploration phase and that excessive loose materials and water are not present in the excavations. If soft pockets of soil are encountered in the foundation excavations, they should be removed and replaced with a compacted non-expansive fill material or lean concrete up to the design foundation bearing elevation.

PAVEMENT SECTION

General and Background Information

We recommend that the existing surface soils be tested after the pavement areas have been excavated or filled to the top of the subgrade elevation to verify whether recommended flexible pavement options need to be modified. The field exploration indicated the presence of moderately plastic soils along the proposed pavement locations. Based on these conditions, we recommend that the proposed pavement locations are compacted to optimum moisture and density in compliance with the "Site Preparation" portion of this report. The proposed pavement section for entrances, drives, and parking areas may be chosen from one of the following options:

Recommended Pavement Options

The pavement thicknesses presented herein are considered typical and minimum for the assumed parameters and loadings in the general site area. We understand that budgetary considerations occasionally warrant thinner pavement sections than those presented. The client, owner, and project designers should be aware that thinner pavement sections may result pavement failure or reduction of projected pavement life. These pavement recommendations were created using design guidelines set forth by the American Association of State Highway and Transportation Officials (AASHTO) and the general soil properties for the surrounding areas.

Flexible Pavement Options

Materials (see note)	Automobile Parking		Truck / Bus Driveways	
Hot Mix Asphalt (in.)	2	2	2.5	2.5
Caliche Base (in.)	-	8	12	-
Treated Caliche Base (in.)	6	-	-	10
Compacted Subgrade (in.)	6	6	12	12

Note: All thicknesses are considered minimum. Untreated subgrade must be moisture conditioned and compacted to optimum moisture and density in accordance with the Site Preparation and Select Fill recommendations of this report. Please refer to "Pavement Section-Material Specification Recommendations" for details on material specifications.

PAVEMENT SECTIONS- MATERIAL SPECIFICATION RECOMMENDATIONS

Hot Mix Asphaltic Concrete Surface

The Asphaltic surface shall meet the requirements of the current TxDOT 2004 Specification Item 340 for Hot Mix Asphaltic Concrete. The hot mix Asphaltic surface will be compacted to between 91 and 96 percent of the maximum theoretical density in conformance with the specification. It is recommended that the testing required by this specification be performed during production and placement by a representative of L&G Engineering Laboratory.

Base Material (Caliche)

The base material shall meet the requirements of TxDOT 2004 Specification Item 247 Type E, Grade 4 as approved by the engineer. Flexible Base (TY E GR 4) shall conform to the following requirements **before** lime or admixtures are added:

Retained on Square Sieve	Percent Retained
1/2 "	20-60
No. 4	40-75
No. 40	70-90
Max. Plasticity Index	15
Max. Wet Ball PI:	15
Wet Ball Mill Max Amount:	50

The Wet Ball Test (Tex-116-E) shall be run and the Plasticity Index of the material passing the No. 40 sieve shall be determined (Wet Ball PI).

In addition, the base material may be treated with a minimum one (1) percent lime or Portland cement by weight to provide added stability and lower the plasticity. Lime shall meet the requirements of TxDOT 2004 Specification Item 260. Portland cement shall be Type II meeting ASTM C150 or Type IP meeting ASTM C595. Lime treatment will be in accordance with TxDOT 2004 Specification Item 260 for base courses and Subgrade. Cement treatment shall be in accordance with TxDOT 2004 Specification Item 275. The base material may also be stabilized with ROADBOND EN 1.

The base shall be compacted to a minimum 98 percent of the maximum dry density as determined by the standard moisture density relation (ASTM D 698) at moisture contents ranging between minus two (-2) and plus three (+3) percentage points of the optimum moisture content. The base shall be placed in loose lifts not to exceed 8 inches (6 inches compacted). **L&G Engineering Laboratory** strongly recommends that the base material be lime treated.

Treated Subgrade

Stabilization treatment of the subgrade soils is recommended to improve the strength of the soil and provide a platform base for resistance to moisture intrusion. Prevention of moisture intrusion is extremely important because increases in moisture content of the subgrade and base material will significantly reduce the material's structural ability to carry applied loads. The optimum lime content should reduce the Plasticity Index of the soil to less than 18 and should result in a soil lime mixture with a pH of at least 12.4 when tested in accordance with ASTM C 977, Appendix XI. The lime should be blended with a mixing device such as a pulverizer or mixer to produce a homogeneous soil and shall be allowed to cure for at least 48 hours. After curing the lime soil mixture, it shall pass the grading requirements of TXDOT 2004 Specification Item 260 and compacted to a minimum 95 percent of the maximum dry density determined in accordance with ASTM D 698 at moisture contents ranging from minus two (-2) to plus three (+3) percentage points of the optimum moisture content. If the in place gradation requirements can be achieved during the initial mixing, the remixing after the curing period can be eliminated. Please note that there is a relationship between the time of mixing and the maximum dry density. Any mixture older than three (3) days will require determination of the new moisture density relationships.

Other Considerations

Adequate perimeter drainage is essential for long-term performance of any pavement structure. Infiltration of surface water from unpaved areas surrounding the pavement should be minimized. We do not recommend the placement of landscape beds on the paved areas. Above grade planter boxes with drainage discharge onto the top of pavement or directed into storm sewers should be considered if landscape features are to be used.

Base materials under curb and gutters and valley gutters should be compacted to the same requirements as other areas. It is recommended that these curb and gutters be extended through the base and a minimum of three (3) inches into the subgrade. This will reduce the potential of

intrusion of moisture from adjacent areas. An adequate seal should be provided at all concrete-asphalt interfaces. It is recommended that a crack sealant compatible to both asphalt and concrete be used.

A maintenance plan is recommended for the long-term performance of paved areas. Asphaltic pavements have a tendency to strip and become oxidized with exposure to the elements. Thus cracks may become present in the pavement. It is recommended that a maintenance schedule of crack sealing, fog seals and overlays be used over the life of the pavement.

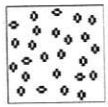
REFERENCES

1. Post-Tensioning Institute, 2004, "Design of Post-Tensioned Slabs on Ground", Phoenix, AZ.
2. Wire Reinforcement Institute, 1981, "Design of Slab-on-Ground Foundations", Hartford, CT.
3. Jacobs, Jerry L., 1981, "Soil Survey of Hidalgo County, Texas", Washington, D.C.
4. TxDOT, 2004, "Standard Specification for the Construction of Highways, Streets, and Bridges", Austin, TX.
5. TxDOT, 2005, "100-E, Soils & Aggregates Test Procedures", Austin, TX.
6. Bureau of Economic Geology, 1976, "Geologic Atlas of Texas, Mc Allen-Brownsville Datasheet", Austin, TX.
7. Das, Braja M., "Principles of Foundation Engineering", PWS-KENT Publishing, Boston, MA, 1990.
8. United States Army Corps of Engineers, "Bearing Capacity of Soils", EM 1110-1-1905
9. American Society of Testing Materials, Volume 04.08, Soil and Rock (I): D420- D5779 March 2003.
10. <http://www.roadbond-en1.com> , C.S.S. TECHNOLOGY, INC.

APPENDIX I – BORING LOGS & TEST SUMMARIES

Symbol Legend

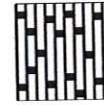
USCS Symbols (ASTM D2487)



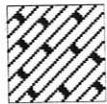
Well Graded Gravels, Gravel-Sand Mixtures, Little or No Fines, **GW**



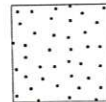
Poorly Graded Gravels, Gravel-Sand Mixtures, Little or No Fines, **GP**



Silty Gravels, Gravel-Sand-Silt Mixtures, **GM**



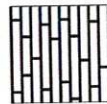
Clayey Gravels, Gravel-Sand-Clay Mixtures, **GC**



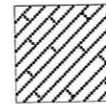
Well Graded Sands, Gravelly Sands, Little or No Fines, **SW**



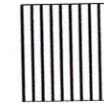
Poorly Graded Sands, Gravelly Sands, Little or No Fines, **SP**



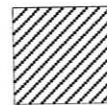
Silty Sands, Sand-Silt Mixtures, **SM**



Clayey Sands, Sand-Clay Mixtures, **SC**



Inorganic Silts, Silt with Sand or Gravel, Silty or Clayey Fine Sands, or Clayey Silts with Slight Plasticity, **ML**



Inorganic Clays of Low to Medium Plasticity, Gravelly Clays, Sandy Clays, Silty Clays, Lean Clays, **CL**



Organic Silts and Organic Silty Clays of Low Plasticity, **OL**



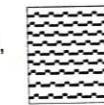
Inorganic Silts, Micaceous or Diatomaceous Fine Sandy or Silty Soils, Elastic Silts, **MH**



Inorganic Clays of High Plasticity, Fat Clays, **CH**



Organic Clays of Medium to High Plasticity, Organic Silts, **OH**



Peat, Humus, Swamp and Other Highly Organic Soils, **PT**



Silty Clay, Silty Clay with Sand or Gravel, **CL-ML**

Sample Type Symbols



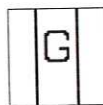
Undisturbed Sample



Auger



Core



Grab



Shelby Tube (thin wall)



Excavation



No Recovery



Split Spoon (barrel)

L&G Engineering Laboratory, LLC

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 900 S. Stewart Rd., Suite 10, Mission, Texas 78572

LOG OF BORING NO. B-1

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 1

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index
0 - 2		Brown sandy lean clay (CL)		2					22.1	24	16	8
2 - 5		Reddish brown fat clay w/ sand (CH)		5					23.6	58	20	38
5 - 6.5		Brown lean clay w/ sand (CL)		5			78.2		24.1			
6.5 - 7.5					2.0				16.7	49	20	28
7.5 - 8.5					0.75		83.7		23.3			
8.5 - 13.5												
13.5 - 14.5					1.0				22.2	45	15	29
14.5 - 18												
18 - 20				18			73.7		22.9	33	14	20

Completion Depth: 20'
 Date Started: 09/25/08
 Date Completed: 09/25/08
 Drilled By: L&G Engineering Laboratory
 Logged By: E.L.

Water Strike: 13' 5"
 Water Level After 24 Hrs.: 2' 6"
 Cave In After 24 Hrs.: 3' 10"
 Remarks: N/A

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LOG OF BORING NO. B-2

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 2

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index
0 - 5		Light brown clayey sand (SC)		2					22.5	28	14	14
5 - 10		Brown sandy lean clay w/ calcareous nodules (CL)		6			46.3	21.3				
10 - 15		Reddish brown lean clay w/ sand (CL)		24	2.25	131.14	0.5		21.0			
15 - 20		Brown sandy lean clay (CL)		16			69.5	16.9	47	16	31	
				17				17.6	39	18	21	
				17			71.5	19.5	35	17	18	
				22			53.9	22.4				

Completion Depth: 20'
Date Started: 09/25/08
Date Completed: 09/25/08
Drilled By: L&G Engineering Laboratory
Logged By: E.L.

Water Strike: 13' 1"
Water Level After 24 Hrs.: 2' 6"
Cave In After 24 Hrs.: 3' 0"
Remarks: N/A

L&G Engineering Laboratory, LLC

2100 W. Expressway 83, Mercedes, Texas 78570
900 S. Stewart Rd., Suite 10, Mission, Texas 78572

LOG OF BORING NO. B-3

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 3

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index
0 - 5		Light brown clayey sand w/ calcareous nodules (SC)		2				41.1	22.6			
5 - 10		Brown fat clay w/ sand & calcareous nodules (CH)		4	0.75			77.0	20.3	58	18	40
10 - 15		Brown lean clay w/ sand (CL)		16					20.3	56	18	38
15 - 20		Brown lean clay w/ sand (CL)		14				85.4	17.1			
20 - 21		Brown lean clay w/ sand (CL)		11					22.6	42	18	24
21 - 22		Brown lean clay w/ sand (CL)		15				72.5	21.8	27	16	11

Completion Depth: 20'
Date Started: 09/25/08
Date Completed: 09/25/08
Drilled By: L&G Engineering Laboratory
Logged By: E.L.

Water Strike: 13' 6"
Water Level After 24 Hrs.: 2' 8"
Cave In After 24 Hrs.: 4' 2"
Remarks: N/A

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 900 S. Stewart Rd., Suite 10, Mission, Texas 78572



LOG OF BORING NO. PB-1

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 4

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index
				1 11 31 50								
		Brown clayey sand w/ calcareous nodules (SC)										
				4				33.1	22.0	25	16	9
				6				37.5	21.1	25	16	9
5				2				39.8	21.9	27	14	13

Completion Depth: 6'
 Date Started: 09/25/08
 Date Completed: 09/25/08
 Drilled By: L&G Engineering Laboratory
 Logged By: E.L.

Water Strike: 4' 6"
 Water Level After 24 Hrs.: 2' 10"
 Cave In After 24 Hrs.: 3' 1"
 Remarks: N/A

L&G Engineering Laboratory, LLC

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900 S. Stewart Rd., Suite 10, Mission, Texas 78572

LOG OF BORING NO. PB-2

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 5

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index
		Dark brown clayey sand (SC)										
				2				39.3	24.2	29	13	16
		Light brown sandy lean clay w/ calcareous nodules (CL)										
				3				52.0	23.5	29	14	15
5				4				49.6	21.8	40	13	27

Completion Depth: 6'
Date Started: 09/25/08
Date Completed: 09/25/08
Drilled By: L&G Engineering Laboratory
Logged By: E.L.

Water Strike: 4' 0"
Water Level After 24 Hrs.: 2' 4"
Cave In After 24 Hrs.: 2' 6"
Remarks: N/A

L&G Engineering Laboratory, LLC

2100 W. Expressway 83, Mercedes, Texas 78570
 900 S. Stewart Rd., Suite 10, Mission, Texas 78572

LOG OF BORING NO. PB-3

Project Name: Hidalgo County Sheriff's Office Substation

Location: Weslaco, TX

Number: 6

Sheet 1 of 1

Depth, feet	Graphic Log	Material Description	Sample Type	SPT / N Value	Pocket Pen. (tsf)	Dry Unit Wt. (pcf)	Unconf. Shear Strength (tsf) (1/2 Qu)	% Finer No. 200 Sieve	% Moisture	Liquid Limit	Plastic Limit	Plasticity Index	
				1 11 31 50									
		Brown clayey sand (SC)											
		Reddish brown fat clay w/ sand & calcareous nodules (CH)											
5													

Completion Depth: 6'
 Date Started: 09/25/08
 Date Completed: 09/25/08
 Drilled By: L&G Engineering Laboratory
 Logged By: E.L.

Water Strike: 4' 6"
 Water Level After 24 Hrs.: 2' 4"
 Cave In After 24 Hrs.: 2' 6"
 Remarks: N/A

SUMMARY OF SOIL SAMPLE ANALYSES

Project Name: Hidalgo County Sheriff's Office Substation
 L&G Project Number: GL08007

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
B-1	0.5-2.0	2	22.1%	24	16	8				CL
	2.5-4.0	5	23.6%	58	20	38				CH
	4.5-6.0	5	24.1%				78.2%			CH
	6.0-8.0		16.7%	49	20	28				CL
	8.0-10.0		23.3%				83.7%			CL
	13.0-15.0		22.2%	45	15	29				CL
	18.5-20.0	18	22.9%	33	14	20	73.7%			CL

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
B-2	0.5-2.0	2	22.5%	28	14	14				SC
	2.5-4.0	6	21.3%				46.3%			SC
	4.0-6.0		21.0%					985	131.14	CL
	6.5-8.0	24	16.9%	47	16	31	69.5%			CL
	8.5-10	16	17.6%	39	18	21				CL
	13.5-15	17	19.5%	35	17	18	71.5%			CL
	18.5-20	22	22.4%				53.9%			CL

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
B-3	0.5-2.0	2	22.6%				41.1%			SC
	2.5-4.0	4	21.9%	31	12	19				SC
	4.0-6.0		20.3%	58	18	40	77.0%			CH
	6.5-8.0	16	20.3%	56	18	38				CH
	8.5-10	14	17.1%				85.4%			CH
	13.5-15	11	22.6%	42	18	24				CL
	18.5-20	15	21.8%	27	16	11	72.5%			CL

SUMMARY OF SOIL SAMPLE ANALYSES

Project Name: Hidalgo County Sheriff's Office Substation
 L&G Project Number: GL08007

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
PB-1	0.5-2.0	4	22.0%	25	16	9	33.1%			SC
	2.5-4.0	6	21.1%	25	16	9	37.5%			SC
	4.5-6.0	2	21.9%	27	14	13	39.8%			SC

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
PB-2	0.5-2.0	2	24.2%	29	13	16	39.3%			SC
	2.5-4.0	3	23.5%	29	14	15	52.0%			CL
	4.5-6.0	4	21.8%	40	13	27	49.6%			CL

Boring No.	Sample Depth (feet)	ASTM D-1586 (SPT) bl/ft	Moisture Content	Liquid Limit	Plastic Limit	Plasticity Index	% Finer -200 sieve	Unconfined Shear Strength (psf)	Dry Unit Weight (pcf)	USCS
PB-3	0.5-2.0	4	25.1%	27	11	16	39.6%			SC
	2.5-4.0	4	22.3%	27	13	14	33.0%			SC
	4.5-6.0	12	19.4%	60	20	40	77.0%			CH

APPENDIX II – FIGURES & SURVEY

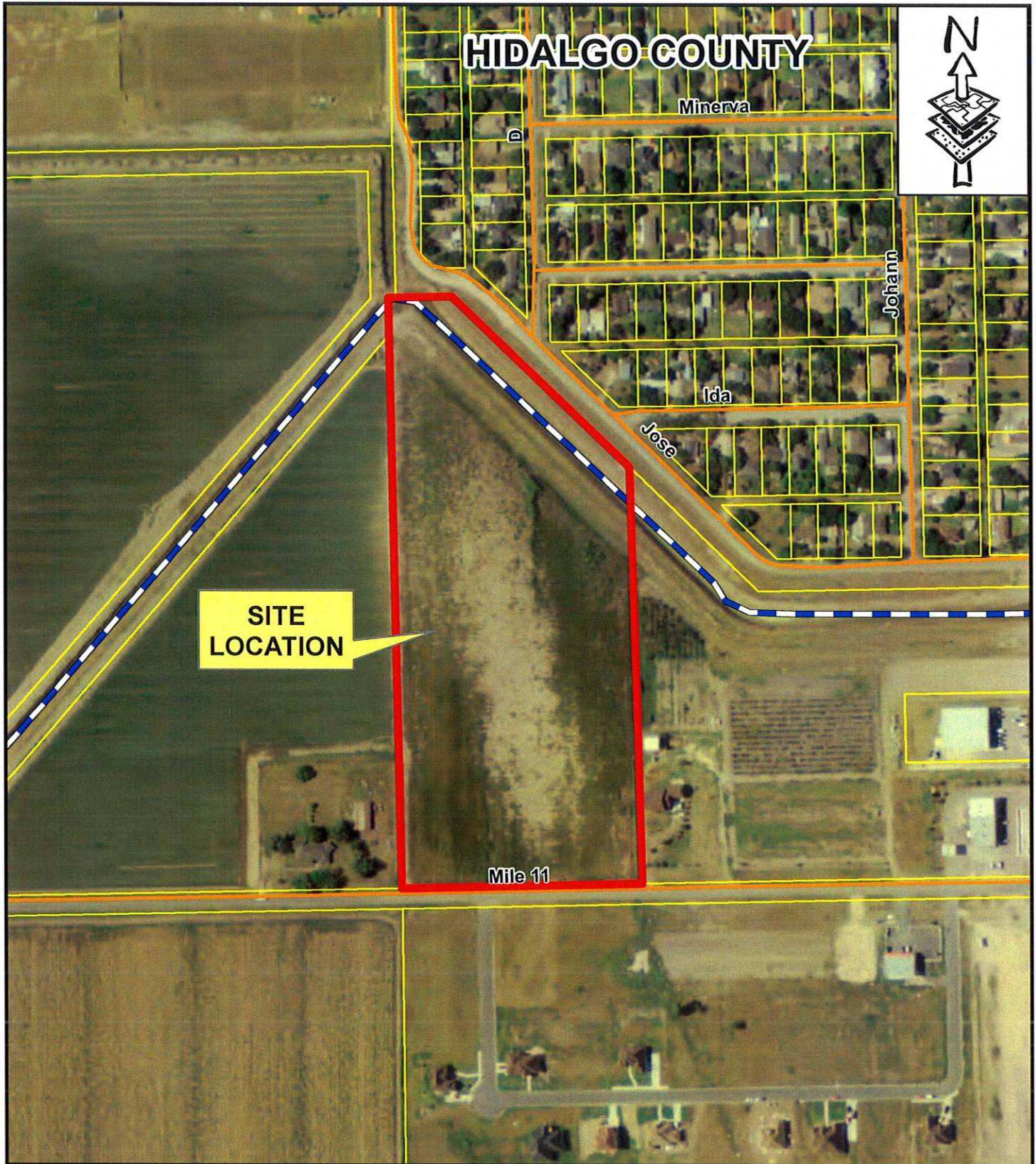


Figure. 1
Sheriff Substation
Location Map

Legend

- Property Line
- County Roads
- Parcels
- Hidalgo County Drainage District # 1

300
 Feet
 1 inch = 300 feet

L & G Engineering

 <p>Highway / Civil Structural / Bridge Environmental Construction Material Testing</p>	<p>2106 W. Expressway 83 Mercedes, TX. 78570 Phone : (956) 565-9613 Fax : (956) 565-9018</p>
---	---

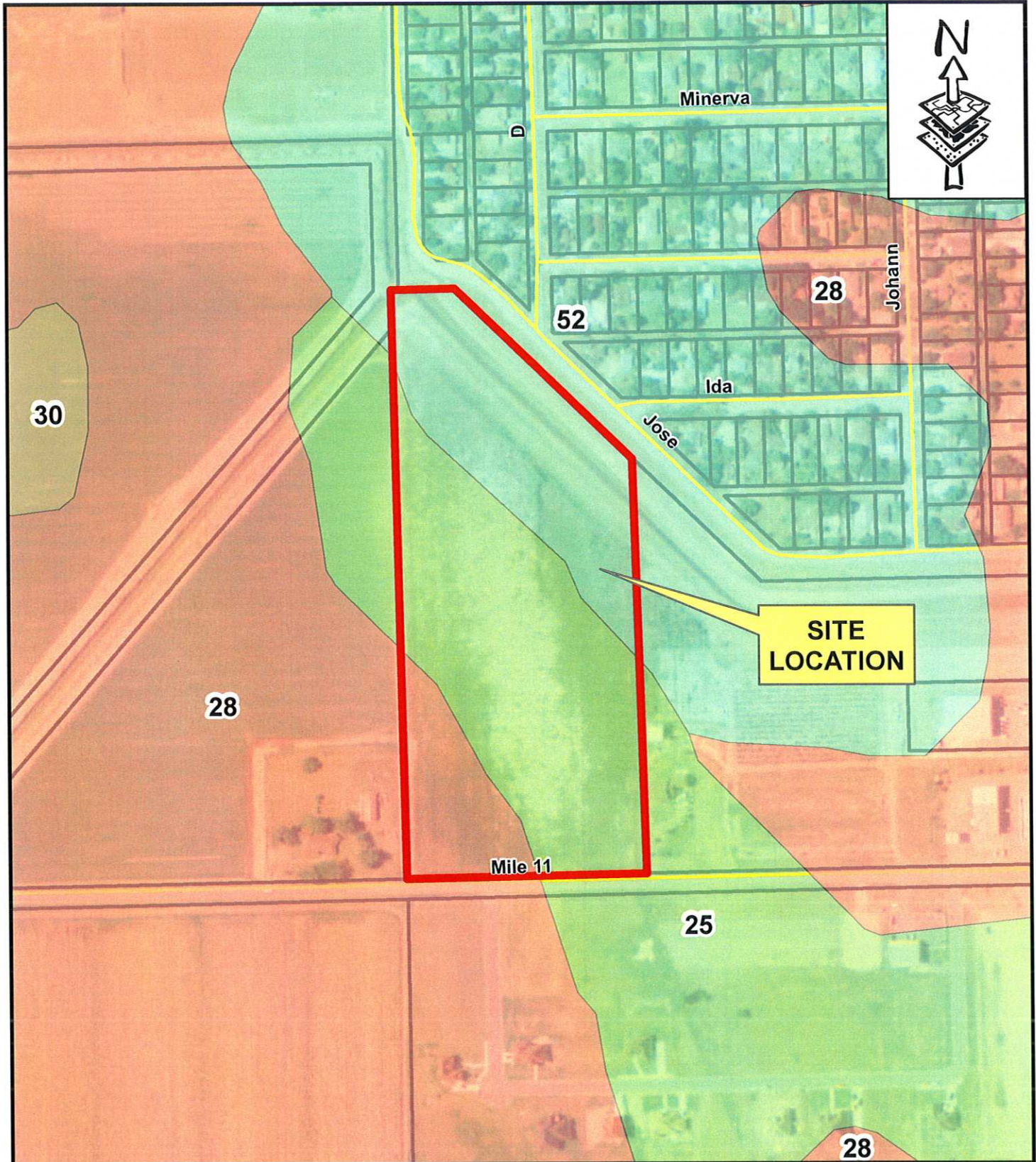



Figure. 2
Sheriff Substaion
Soil Classification Map
USGS Soil Conservation
Service

Legend

-  **Property Line**
-  **County Roads**
-  **25 Hidalgo Fine Sandy Loam**
-  **28 Hidalgo Sandy Clay Loam**
-  **52 Raymondville Clay Loam**

300
 Feet
 1 inch = 300 feet

L&G Engineering

Highway / Civil 2100 W. Expressway 83
 Structural / Bridge Mercedes, TX. 78570
 Environmental Phone : (955) 565-9813
 Construction Material Testing Fax : (955) 565-9018

Hidalgo County

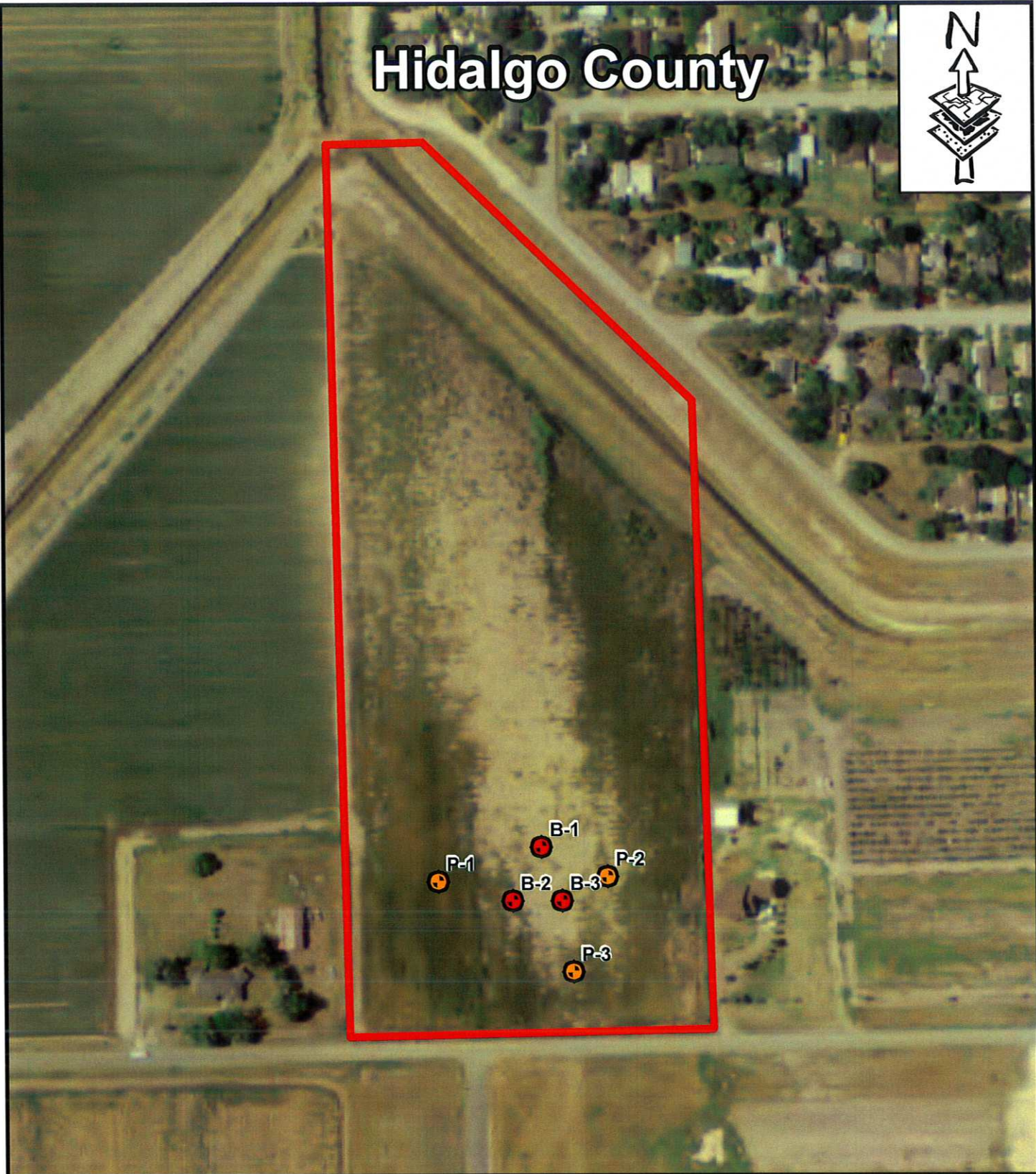
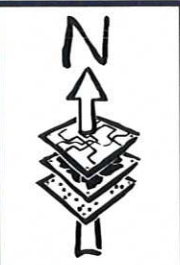


Figure. 3
Sheriff Substation
Boring Locations


Legend

 Property Line

Bore Hole Location

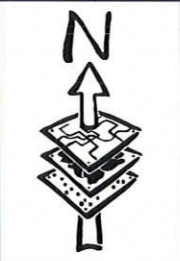
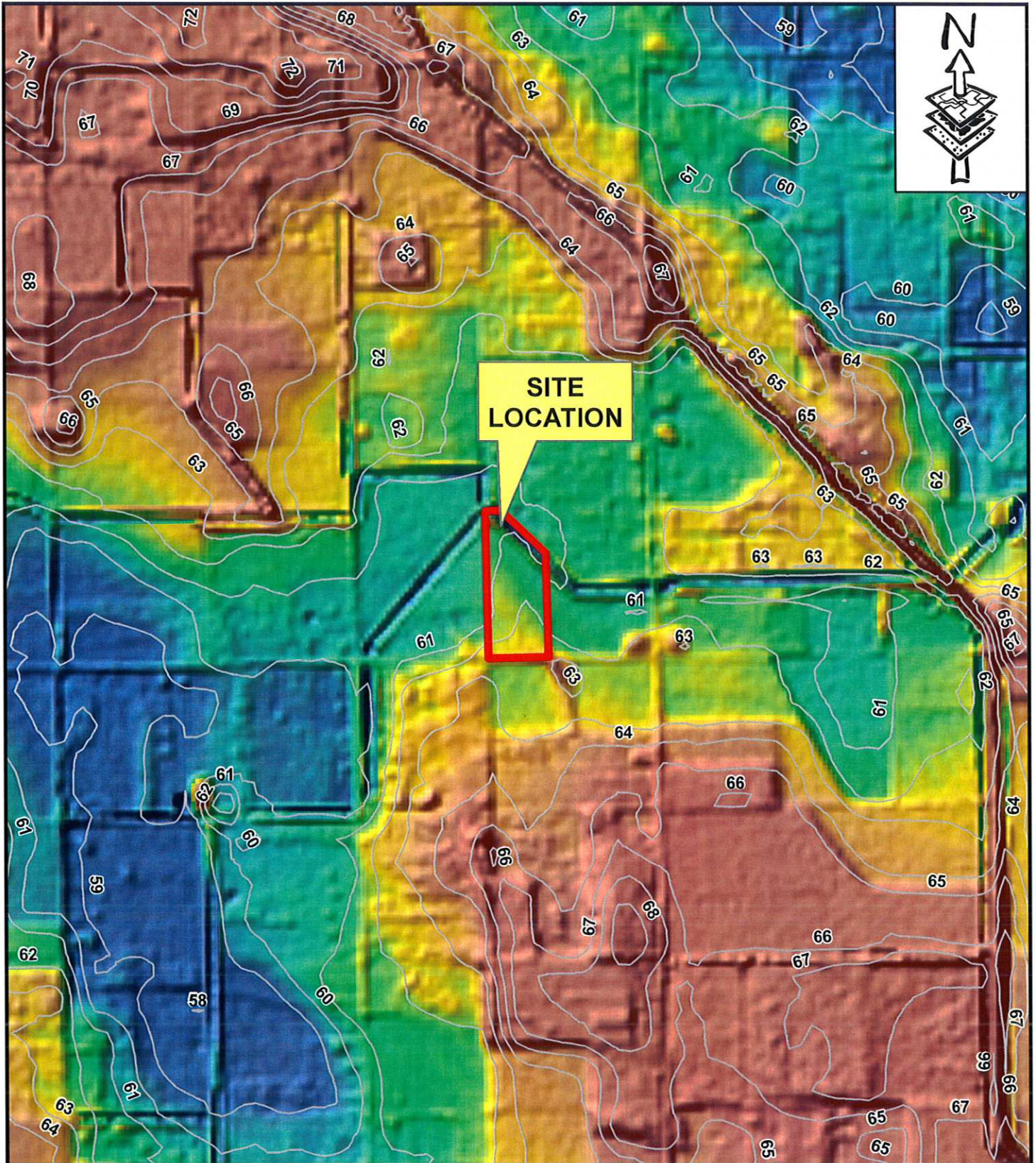
 Depth - 5'

 Depth - 20'

200
 Feet
1 inch = 200 feet

L&G Engineering

	Highway / Civil Structural / Bridge Environmental Construction Material Testing	2100 W. Expressway 63 Mercedes, TX 78670 Phone : (958) 565-9813 Fax : (958) 565-9018
---	--	---



**SITE
LOCATION**

**Figure. 4
Sheriff Substation
DEM- Contours Locations**

Legend


 **Property Line**

 **1ft Contours**

DEM

 **High :**

 **Low :**

1,200
 Feet
 1 inch = 1,200 feet

L & G Engineering

 Highway / Civil
 Structural / Bridge
 Environmental
 Construction Material Testing
 2100 W. Expressway 83
 Mercedes, TX. 78570
 Phone : (956) 565-9813
 Fax : (956) 565-9018

Meters & Bounds Description
12.038 Acres

DESCRIPTION of a 12.038 acre (524,376 square feet) tract of land located in the East being out of and a part of Section 131, Farm Tract 1073 of the West & Adams Tract recorded in Volume 2, Page 34-37 of the Map Records of Hidalgo County (M.R.H.C.), 12.48 acre tract of land conveyed to County of Hidalgo in that deed dated October 1, 20 Official Records of Hidalgo County (O.R.H.C.), Texas, said 12.038 acre tract of land is bounded as follows with all bearings and coordinates based on the Texas State Plane Cot (1993 Adjustment). Distances and Coordinates are surface and may be converted to grid 0.999960016.

BEGINNING at a cotton spindle found on the centerline of Mile 11 North, based on a plat of said subdivision, for the southwest corner of said Farm Tract 1073 and said 12.4 278 of said subdivision and that called 17.68 acre tract of land conveyed to James H, recorded in Document Number 1471834 O.R.H.C., having surface coordinates of southwest corner of the herein described tract;

THENCE, North 01°12'51" West, with the west line of said Farm Tract 1073 and said of said Farm Tract 278 and said 17.68 acre tract, at a distance of 25.00 feet pass a 1/2-in of-way line of said Mile 11 North, at a distance of 64.90 pass a found 1/2-inch iron ro found 1/2-inch iron rod with cap, containing a total distance of 1,169.29 feet (called L, cap stamped "RODS Surveying, Inc." set on the south line of Hidalgo County Drainage way easement (150-foot width), as described in Condemnation Cause No. 997A, dated Page 510 of the Deed Records of Hidalgo County (D.R.H.C.), for the northwest corner a inch iron rod found bears North 01°12'51" West, a distance of 50.71 feet;

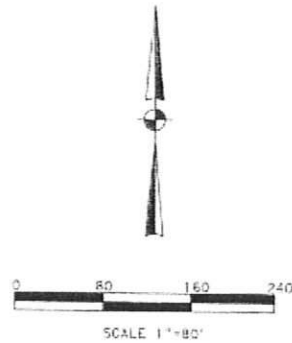
THENCE, North 88°38'22" East, with the south line of said drainage ditch right-of-9 73.76 feet) to a 5/8-inch iron rod with plastic cap stamped "RODS Surveying, Inc." as described tract;

THENCE, South 46°21'38" East, with the southerly line of said drainage ditch right (called 647.03 feet) to a 5/8-inch iron rod with plastic cap stamped "RODS Surveying tract, for the northeast corner of the herein described tract;

THENCE, South 01°12'51" East, with the east line of said 12.48 acre tract, at a distance found for the northwest corner of Mirasoles Subdivision, as shown on the plat thereof, conveyed to Leopoldo Garcia as a called 11.567 acre tract of land in that deed dated Se 549859 O.R.H.C., continuing with the east line of said 12.48 acre tract, coincident with a distance of 670.82 feet pass a 1/2-inch iron rod found on the existing north right-of-way), continuing with said coincident line and the existing north right-of-way line of s pass a 1/2-inch iron rod with cap found for an angle point in said existing north right- 730.29 feet to a pin-set on the centerline of said Mile 11 North, for the southwest cor

THENCE, South 88°47'09" West, with the south line of aforementioned Farm Tract 10 distance of 551.28 feet to the **POINT OF BEGINNING**, containing 12.038 acres (524, being located within the existing right-of-way of said Mile 11 North.

SURVEYED: April, 2008



DATE: 6/1/2008 TIME: 9:23:10 AM

Notes:

- All bearings and coordinates are based on the Texas State Plane Coordinate System, South Zone (4205), North American Datum of 1983, 1993 Adjustment. All distances and coordinates shown are surface and may be converted to grid by multiplying by a combined adjustment factor of 0.999960016.
- A meters and bounds description accompanies this plat.
- This survey was prepared with the benefit of a title report from Commonwealth Land Title Insurance Company, C.F. No. 109400, name of insured being County of Hidalgo, dated November 9, 2007.
- D.R.H.C. indicates Deed Records of Hidalgo County, Texas.
- M.R.H.C. indicates Map Records of Hidalgo County, Texas.
- O.R.H.C. indicates Official Records of Hidalgo County, Texas.
- O indicates a found 1/2" iron rod unless otherwise noted.
- ⊙ indicates a set 5/8" iron rod with plastic cap marked "RODS Surveying, Inc." unless otherwise noted.
- This tract lies within floodway area "AE" with a base flood elevation of 64 according to FEMA floor insurance rate map community panel number 480334 0450G, revised May 30, 2002.

Easements:

- Blanket easements, rules, regulations and rights in favor of Hidalgo and Cameron Counties Water Control and Improvement District No. 9
- Roads, easements and reservations as shown on the map and dedication of West and Adams Tract, recorded in Volume 2, Pages 34 and 35, M.R.H.C.
- Easements for roadways, canals drainage ditches, etc. easement in favor of American Rio Grande Land & Irrigation Co. as shown by instrument dated June 30, 1919, recorded in Volume 89, Page 23 D.R.H.C.

DIVISION
678

DO GARCIA
11.567 ACRES
S. 549859
O.R.H.C.
R 11, 1996



I, Jimmy D. Walton, hereby certify that this survey was made on the ground under my supervision and that this survey correctly represents the facts found on the ground at the time of the survey.

Jimmy D. Walton
Jimmy D. Walton, R.P.L.S.
Texas Reg No. 5889

4.9-2008

BOUNDARY SURVEY OF
12.038 ACRES OF LAND
OUT OF FARM TRACT 1073
WEST & ADAMS TRACT SUBD.
VOL. 2, PG. 34-37 M.R.H.C.
LLANO GRANDE GRANT
HIDALGO COUNTY, TEXAS

JOB No. 199-20842000 DATE: APRIL, 2008

RODS
Surveying, Inc.
5201 1/2 MILE LINE ROAD
EDINBURG, TEXAS 78541
TEL (956) 583-2080
FAX (956) 583-2555

POINT	DATE
UV 101	
RV 102	

APPENDIX III - PVR

potential vertical rise

Project: Hidalgo County Sheriff's Office Substation

Number: GL08007

Boring: B-1

Date: 9/30/2008

Engineer: Rene C. Casares, E.I.T.

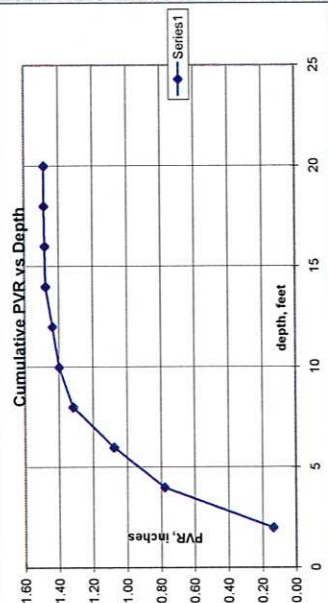
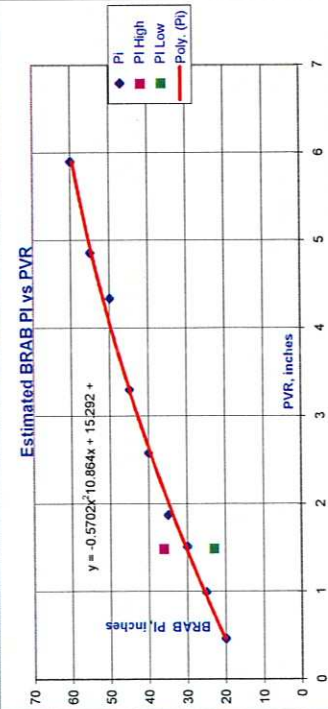


Existing in-situ soil has a PVR of approximately 1.5 inches at this location.

Surcharge
Wet Density 1
125 psf

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differential PVR	PVR in Layer	Cumulative PVR
1	0	2	8	0	2	1	wet	100%	3.0	0.00	0.14	0.14	0.14	0.14
2	2	4	38	2	4	3	avg	100%	12.0	0.88	1.52	0.64	0.64	0.78
3	4	6	33	4	6	5	avg	100%	10.0	1.20	1.50	0.30	0.30	1.08
4	6	8	28	6	8	7	dry	100%	11.0	1.72	1.96	0.24	0.24	1.32
5	8	10	28	8	10	9	wet	100%	7.0	0.92	1.00	0.08	0.08	1.40
6	10	12	28	10	12	11	wet	100%	7.0	1.00	1.04	0.04	0.04	1.44
7	12	14	29	12	14	13	wet	100%	7.0	1.04	1.08	0.04	0.04	1.48
8	14	16	29	14	16	15	wet	100%	7.0	1.08	1.08	0.00	0.00	1.48
9	16	18	24	16	18	17	wet	100%	6.0	0.74	0.75	0.00	0.00	1.49
10	18	20	20	18	20	19	wet	100%	5.0	0.40	0.40	0.00	0.00	1.49

PVR 1.5
Equivalent BRAB PI
27



potential vertical rise

Project: Hidalgo County Sheriff's Office Substation
 Number: GL08007
 Boring: B-2
 Date: 9/30/2008
 Engineer: Rene C. Casares, E.I.T.

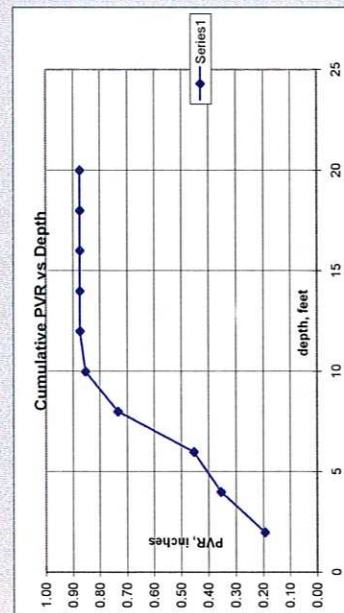
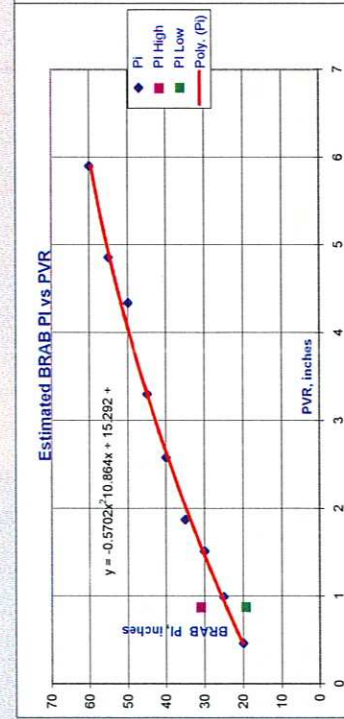


Construction Material Testing
 Geotechnical Engineering

Existing in-situ soil has a PVR of approximately 0.9 inches at this location.

Surcharge
 Wet Density 1
 125 psf

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differential PVR	PVR in Layer	Cumulative PVR
1	0	2	14	0	2	1	wet	100%	4.0	0.00	0.19	0.19	0.19	0.19
2	2	4	22	2	4	3	wet	100%	6.0	0.36	0.52	0.16	0.16	0.35
3	4	6	22	4	6	5	wet	100%	6.0	0.52	0.62	0.10	0.10	0.45
4	6	8	31	6	8	7	dry	100%	12.0	1.94	2.22	0.28	0.28	0.73
5	8	10	21	8	10	9	dry	100%	8.0	1.18	1.30	0.12	0.12	0.85
6	10	12	19	10	12	11	avg	100%	6.0	0.70	0.72	0.02	0.02	0.87
7	12	14	18	12	14	13	wet	100%	5.0	0.40	0.40	0.00	0.00	0.87
8	14	16	18	14	16	15	wet	100%	5.0	0.40	0.40	0.00	0.00	0.87
9	16	18	18	16	18	17	wet	100%	5.0	0.40	0.40	0.00	0.00	0.87
10	18	20	18	18	20	19	wet	100%	5.0	0.40	0.40	0.00	0.00	0.87



PVR 0.9
 Equivalent BRAB PI 21

potential vertical rise

Project: Hidalgo County Sheriff's Office Substation
 Number: GL08007
 Boring: B-3
 Date: 9/30/2008
 Engineer: Rene C. Casares, E.I.T.

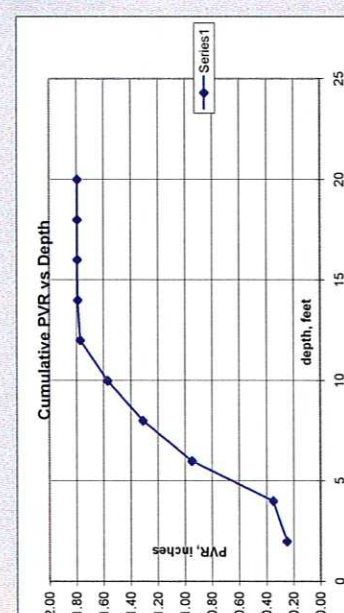
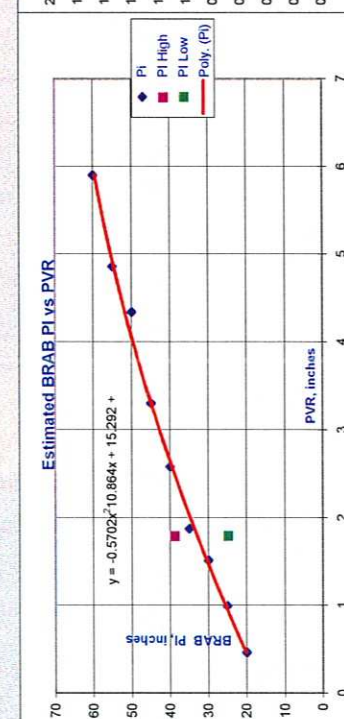


Construction Material Testing
 Geotechnical Engineering

Existing in-situ soil has a PVR of approximately 1.8 inches at this location.

Surcharge
 Wet Density 1
 125 psf

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differential PVR	PVR in Layer	Cumulative PVR
1	0	2	19	0	2	1	wet	100%	5.0	0.00	0.25	0.25	0.25	0.25
2	2	4	19	2	4	3	wet	100%	5.0	0.25	0.35	0.10	0.10	0.35
3	4	6	40	4	6	5	dry	100%	15.0	2.00	2.60	0.60	0.60	0.95
4	6	8	38	6	8	7	dry	100%	14.0	2.38	2.74	0.36	0.36	1.31
5	8	10	31	8	10	9	dry	100%	12.0	2.22	2.48	0.26	0.26	1.57
6	10	12	31	10	12	11	dry	100%	12.0	2.48	2.68	0.20	0.20	1.77
7	12	14	24	12	14	13	wet	100%	6.0	0.72	0.74	0.02	0.02	1.79
8	14	16	24	14	16	15	wet	100%	6.0	0.74	0.74	0.00	0.00	1.79
9	16	18	17	16	18	17	wet	100%	4.0	0.33	0.33	0.00	0.00	1.79
10	18	20	11	18	20	19	wet	100%	3.0	0.25	0.25	0.00	0.00	1.79



PVR 1.8
 Equivalent BRAB PI
 28

potential vertical rise

Project: Hidalgo County Sheriff's Office Substation
 Number: GL08007
 Boring: B-1
 Date: 9/30/2008
 Engineer: Rene C. Casares, E.I.T.



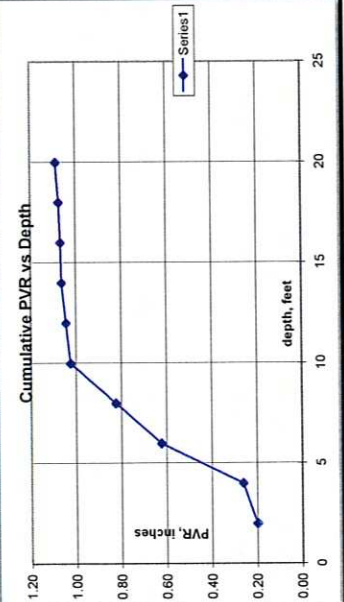
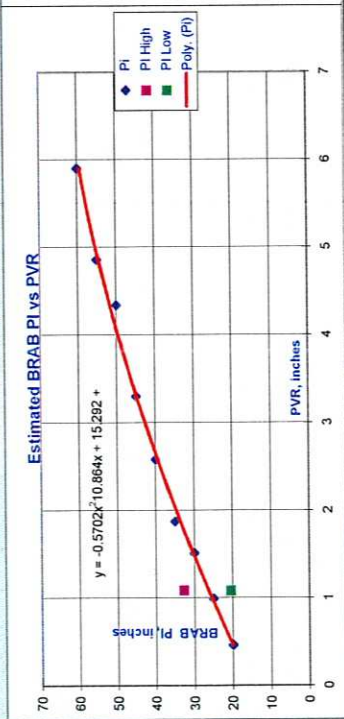
Construction Material Testing
 Geotechnical Engineering

Recommendations:
 1. Remove top 6" (organics)
 2. Compact and build up to elevation 65.

Surcharge
 Wet Density
 1
 125 psf

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differenti al PVR	PVR in Layer	Cumulative PVR
1	0	2	20	0	2	1	wet	80%	5.0	0.00	0.25	0.20	0.20	0.20
2	2	4	8	2	4	3	wet	100%	3.0	0.14	0.20	0.06	0.06	0.26
3	4	6	38	4	6	5	avg	100%	11.0	1.36	1.72	0.36	0.36	0.62
4	6	8	33	6	8	7	avg	100%	10.0	1.50	1.70	0.20	0.20	0.82
5	8	10	28	8	10	9	dry	100%	10.0	1.70	1.90	0.20	0.20	1.02
6	10	12	28	10	12	11	wet	100%	6.0	0.70	0.72	0.02	0.02	1.04
7	12	14	28	12	14	13	wet	100%	6.0	0.72	0.74	0.02	0.02	1.06
8	14	16	29	14	16	15	wet	100%	7.0	1.08	1.08	0.00	0.00	1.07
9	16	18	29	16	18	17	wet	100%	7.0	1.08	1.09	0.01	0.01	1.07
10	18	20	24	18	20	19	wet	100%	6.0	0.75	0.76	0.01	0.01	1.09

PVR 1.1
 Equivalent BRAB PI
 25



potential vertical rise

Project: Hidalgo County Sheriff's Office Substation

Number: GL08007

Boring: B-2

Date: 9/30/2008

Engineer: Rene C. Casares, E.I.T.



Construction Material Testing
Geotechnical Engineering

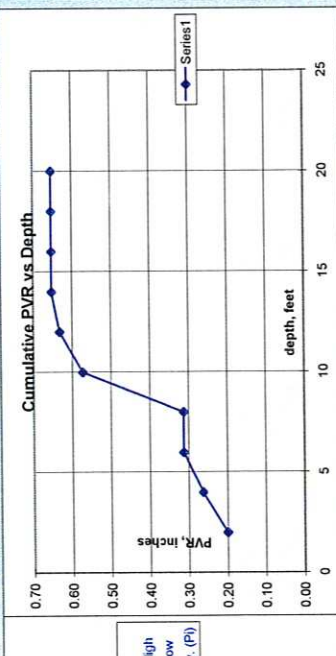
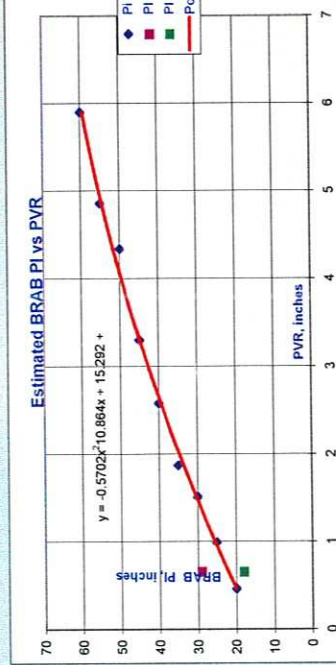
Recommendations:

1. Remove top 6" (organics)
2. Compact and build up to elevation 65.

Surcharge
Wet Density 1
125 psf

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differenti al PVR	PVR in Layer	Cumulative PVR
1	0	2	20	0	2	1	wet	80%	5.0	0.00	0.25	0.20	0.20	0.20
2	2	4	14	2	4	3	wet	100%	3.0	0.14	0.20	0.06	0.06	0.26
3	4	6	22	4	6	5	wet	100%	5.0	0.35	0.40	0.05	0.05	0.31
4	6	8	22	6	8	7	wet	100%	5.0	0.40	0.40	0.00	0.00	0.31
5	8	10	31	8	10	9	dry	100%	12.0	2.22	2.48	0.26	0.26	0.57
6	10	12	21	10	12	11	dry	100%	8.0	1.30	1.36	0.06	0.06	0.63
7	12	14	19	12	14	13	avg	100%	6.0	0.72	0.74	0.02	0.02	0.65
8	14	16	18	14	16	15	wet	100%	4.0	0.33	0.33	0.00	0.00	0.65
9	16	18	18	16	18	17	wet	100%	4.0	0.33	0.33	0.00	0.00	0.65
10	18	20	18	18	20	19	wet	100%	4.0	0.33	0.33	0.00	0.00	0.65

PVR 0.7
Equivalent BRAB PI
21



potential vertical rise

Project: Hidalgo County Sheriff's Office Substation

Number: GL08007

Boring: B-3

Date: 9/30/2008

Engineer: Rene C. Casares, E.I.T.



Construction Material Testing
Geotechnical Engineering

Surcharge
Wet Density 1 125 psf

Recommendations:

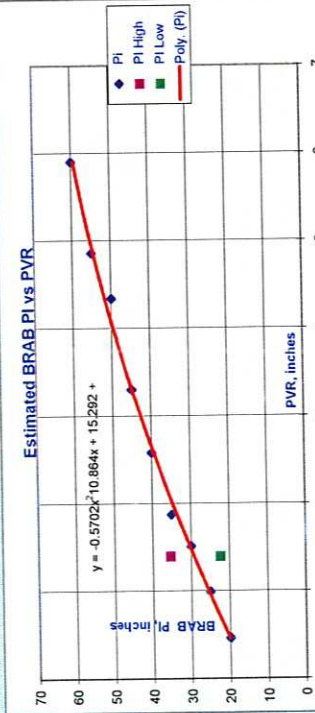
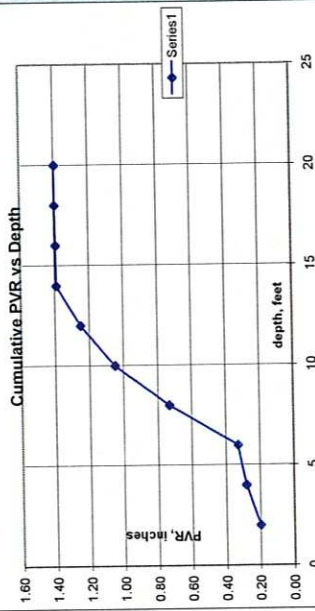
1. Remove top 6" (organics)
2. Compact and build up to elevation 65.

Layer	Top	Bottom	PI	Load Top	Load Bottom	Average Load, psi	Moisture content	Minus No. 40	Free Swell	Top of Layer	Bottom of Layer	Differenti al PVR	PVR in Layer	Cumulative PVR
1	0	2	20	0	2	1	wet	80%	5.0	0.00	0.25	0.20	0.20	0.20
2	2	4	19	2	4	3	wet	100%	4.0	0.19	0.28	0.08	0.08	0.28
3	4	6	19	4	6	5	wet	100%	4.0	0.28	0.32	0.05	0.05	0.33
4	6	8	40	6	8	7	dry	100%	15.0	2.60	3.00	0.40	0.40	0.73
5	8	10	38	8	10	9	dry	100%	14.0	2.74	3.06	0.32	0.32	1.05
6	10	12	31	10	12	11	dry	100%	12.0	2.48	2.68	0.20	0.20	1.25
7	12	14	31	12	14	13	dry	100%	12.0	2.68	2.82	0.14	0.14	1.39
8	14	16	24	14	16	15	wet	100%	6.0	0.74	0.74	0.00	0.00	1.39
9	16	18	24	16	18	17	wet	100%	6.0	0.74	0.75	0.00	0.00	1.39
10	18	20	17	18	20	19	wet	100%	4.0	0.33	0.33	0.00	0.00	1.39

PVR 1.4

Equivalent BRAB PI

26



APPENDIX IV – UNCONFINED COMPRESSION

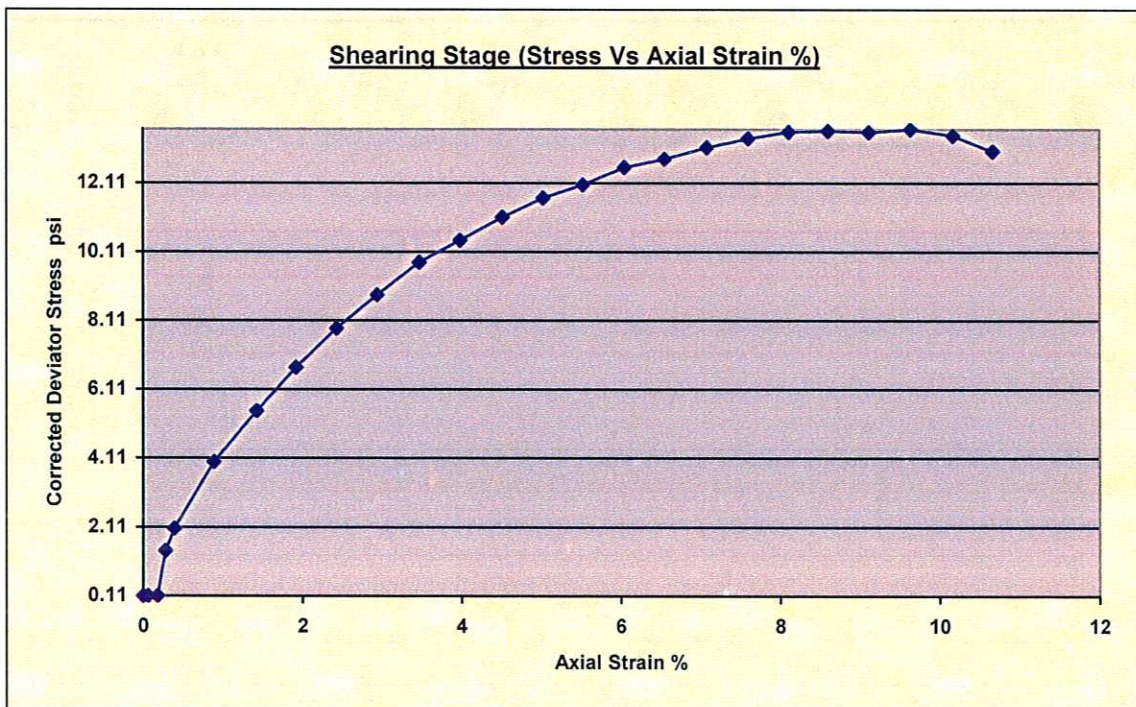
Unconfined Compression Test on Cohesive Soils

Client	Hidalgo County		
Project	Hidalgo County Sheriff's Office Substation	Job	GL08007
Borehole	B-2	Sample	A

Test & Sample Details			
Standard	ASTM D2166-00 / AASHTO T208	Sample Depth	4'-6'
Sample Type	Thin walled push in sample	Sp. Gravity of Solids	2.65
		Lab. Temperature	73.5 deg.F

Specimen Details			
Specimen Reference	A		
Initial Height	5.2550 in	Description	Brown sandy lean clay
Initial Diameter	2.6260 in		
Initial Dry Unit Weight	131.14 lbf/ft ³		
Initial Moisture Content*	21.1 %	Preparation	In accordance with ASTM D2166
Void Ratio	0.26	Degree of Saturation	213.76%

* Calculated from initial and dry weights of whole specimen



Unconfined Compression Test on Cohesive Soils

Client	Hidalgo County		
Project	Hidalgo County Sheriff's Office Substation	Job	GL08007
Borehole	B-2	Sample	A

Shear Conditions	
Rate of Axial Strain	1.00%/min

Conditions at Failure			
Failure Criterion	Maximum Deviator Stress		
Compressive Strength	13.68 psi	Major Principal Stress	13.70 psi
Axial Strain	9.64%	Minor Principal Stress	0.00 psi
Final Unit Weight	158.68 lbf/ft ³	Final Moisture Content	21.0 %



Mode of Failure

Tested By and Date:	R.C. 09/29/2008
Checked By:	R.C.C.
Approved By:	R.B.

APPENDIX V – CONSOLIDATION TESTS

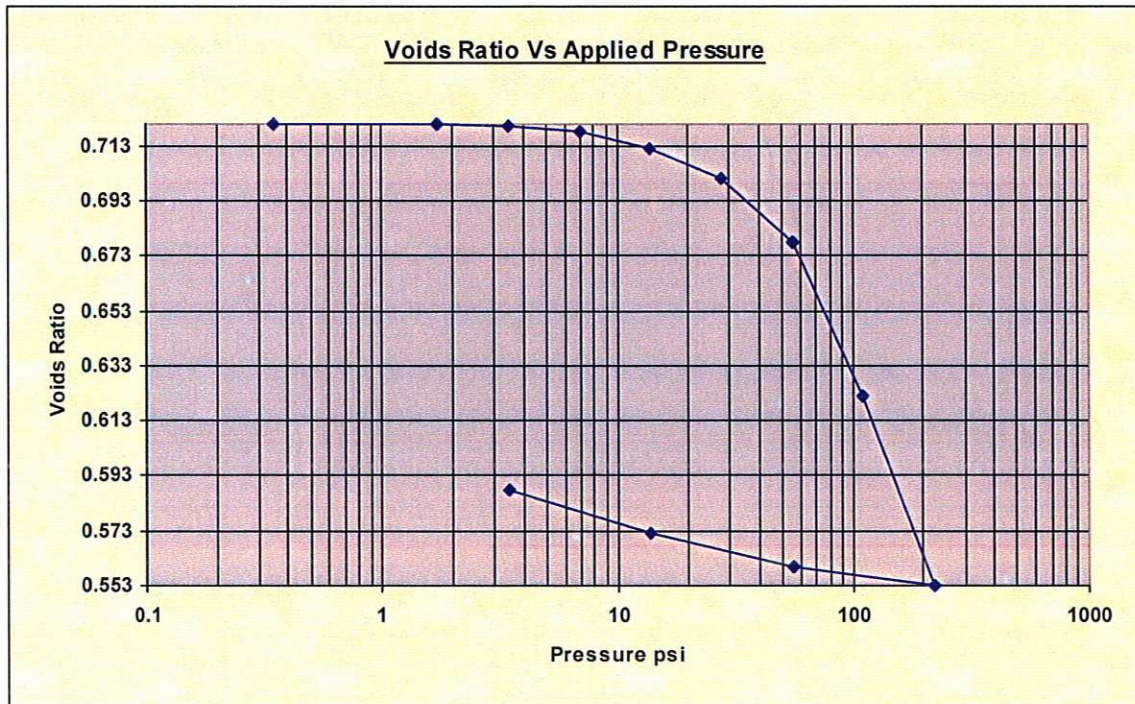
One Dimensional Consolidation Properties (Oedometer)

Client	Hidalgo County		
Project	Hidalgo Co. Sheriff's Office Substation	Job	GL08007
Borehole	B-1	Sample	A
Location	Hidalgo County	Depth	6'-8'

Test Details			
Standard	ASTM D2435-96 / AASHTO T216-94	Particle Specific Gravity	2.65
Sample Type	Thin walled push in sample	Lab. Temperature	73.5 deg.F
Method of Testing (A/B)	A		

Specimen Details			
Specimen Reference	A	Description	Brown lean clay w/ sand
Specimen Mass	0.3268 lb	Condition	Natural Moisture
Specimen Height	1.0000 in	Preparation	In accordance with ASTM D 2435

Apparatus			
Ring Number	1	Ring Diameter	2.5000 in
Ring Height	1.0000 in	Ring Weight	0.2410 lb
Lever Ratio	1.00 : 1	Drainage	Double-Sided



One Dimensional Consolidation Properties (Oedometer)

Client	Hidalgo County		
Project	Hidalgo Co. Sheriff's Office Substation	Job	GL08007
Borehole	B-1	Sample	A
Location	Hidalgo County	Depth	6'-8'

Initial Moisture Content*	19.7 %	Final Moisture Content	14.8 %
Initial Bulk Density	115.04 lb/ft ³	Final Bulk Density	119.59 lb/ft ³
Initial Dry Density	96.14 lb/ft ³	Final Dry Density	104.21 lb/ft ³
Initial Void Ratio	0.7208	Final Void Ratio	0.5875
Initial Degree of Saturation	72.29%	Final Degree of Saturation	66.56%

* Calculated from initial and dry weights of whole specimen

BL-1 @ 8 ft. deep		Total Dial Reading	Net Settlement	Vertical Strain	change in void ratio	Void Ratio
Applied Pressure						
<i>(psf)</i>	<i>(psi)</i>	<i>inches</i>	inches	%		
50.0	0.354	-0.0002	-0.0002	-0.02%	-0.0003	0.719
250.0	1.743	-0.0002	-0.0002	-0.02%	-0.0003	0.719
500.0	3.472	0.0002	0.0002	0.02%	0.0003	0.719
1000.0	6.944	0.0017	0.0017	0.17%	0.0029	0.716
2000.0	13.889	0.0052	0.0052	0.52%	0.0089	0.710
4000.0	27.778	0.0115	0.0115	1.15%	0.0198	0.699
8000.0	55.556	0.0248	0.0248	2.48%	0.0426	0.676
16000.0	111.111	0.0574	0.0574	5.74%	0.0987	0.620
32000.0	222.222	0.0975	0.0975	9.75%	0.1676	0.553
8000.0	55.556	0.0966	0.0966	9.66%	0.1661	0.560
2000.0	13.889	0.0862	0.0862	8.62%	0.1482	0.571
500.0	3.472	0.0775	0.0775	7.75%	0.1332	0.586

Method of Time Fitting Used

Log Time

P_c (psi)	C_c	C_r
21.0	0.10	0.015

Tested By	R.C.
and Date:	10/03/2008
Checked By:	R.C.C.
Approved By:	R.B.

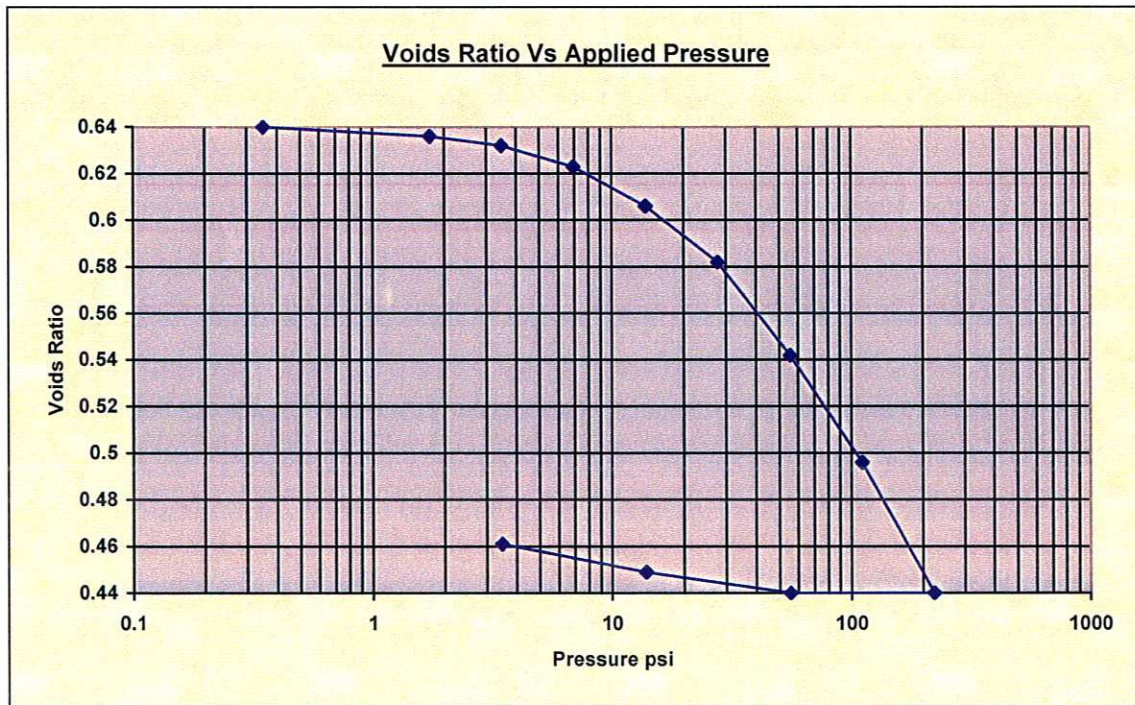
One Dimensional Consolidation Properties (Oedometer)

Client	Hidalgo County		
Project	Hidalgo Co. Sheriff's Office Substation	Job	GL08007
Borehole	B-3	Sample	A
Location	Hidalgo County	Depth	4'-6'

Test Details			
Standard	ASTM D2435-96 / AASHTO T216-94	Particle Specific Gravity	2.65
Sample Type	Thin walled push in sample	Lab. Temperature	73.5 deg.F
Method of Testing (A/B)	A		

Specimen Details			
Specimen Reference	A	Description	Brown fat clay w/ sand & calcareous nodules
Specimen Mass	0.3542 lb	Condition	Natural Moisture
Specimen Height	1.0000 in	Preparation	In accordance with ASTM D 2435

Apparatus			
Ring Number	2	Ring Diameter	2.5000 in
Ring Height	1.0000 in	Ring Weight	0.2410 lb
Lever Ratio	1.00 : 1	Drainage	Double-Sided



One Dimensional Consolidation Properties (Oedometer)

Client	Hidalgo County		
Project	Hidalgo Co. Sheriff's Office Substation	Job	GL08007
Borehole	B-3	Sample	A
Location	Hidalgo County	Depth	4'-6'

Initial Moisture Content*	23.6 %	Final Moisture Content	19.3 %
Initial Bulk Density	124.69 lb/ft ³	Final Bulk Density	135.10 lb/ft ³
Initial Dry Density	100.89 lb/ft ³	Final Dry Density	113.24 lb/ft ³
Initial Void Ratio	0.6397	Final Void Ratio	0.4609
Initial Degree of Saturation	97.70%	Final Degree of Saturation	110.95%

* Calculated from initial and dry weights of whole specimen

BL-3 @ 6 ft. deep		Total Dial Reading	Net Settlement	Vertical Strain	change in void ratio	Void Ratio
Applied Pressure						
(psf)	(psi)	inches	inches	%		
50.0	0.354	0.0000	0.0000	0.00%	0.0000	0.638
250.0	1.743	0.0021	0.0021	0.21%	0.0034	0.635
500.0	3.472	0.0049	0.0049	0.49%	0.0080	0.630
1000.0	6.944	0.0103	0.0103	1.03%	0.0169	0.622
2000.0	13.889	0.0208	0.0208	2.08%	0.0341	0.604
4000.0	27.778	0.0349	0.0349	3.49%	0.0572	0.581
8000.0	55.556	0.0596	0.0596	5.96%	0.0977	0.541
16000.0	111.111	0.0875	0.0875	8.75%	0.1434	0.495
32000.0	222.222	0.1218	0.1218	12.18%	0.1996	0.443
8000.0	55.556	0.1217	0.1217	12.17%	0.1994	0.443
2000.0	13.889	0.1162	0.1162	11.62%	0.1904	0.448
500.0	3.472	0.1091	0.1091	10.91%	0.1788	0.460

Method of Time Fitting Used

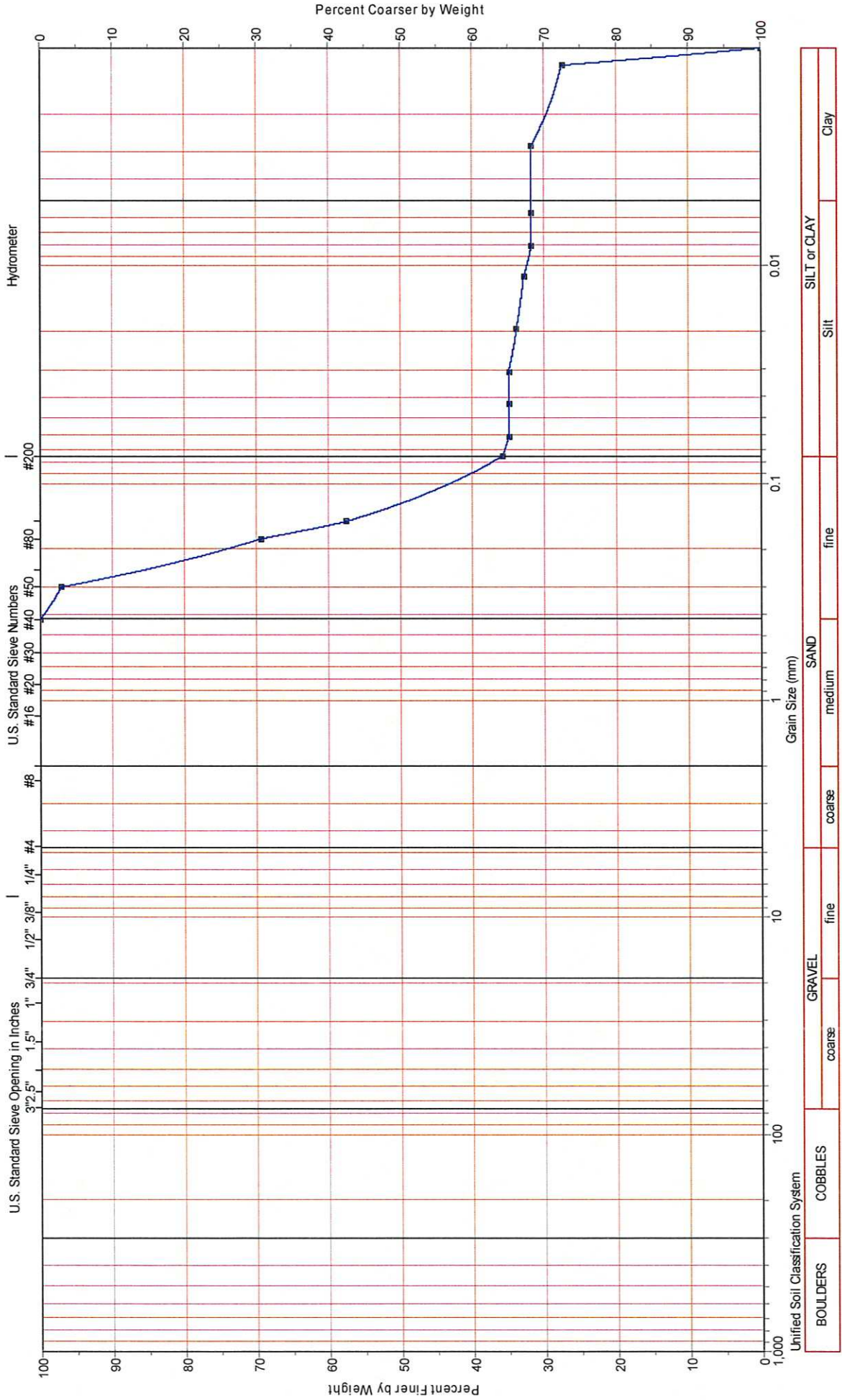
Log Time

P_c (psi)	C_c	C_r
11.5	0.13	0.004

Tested By and Date:	R.C. 10/03/2008
Checked By:	R.C.C.
Approved By:	R.B.

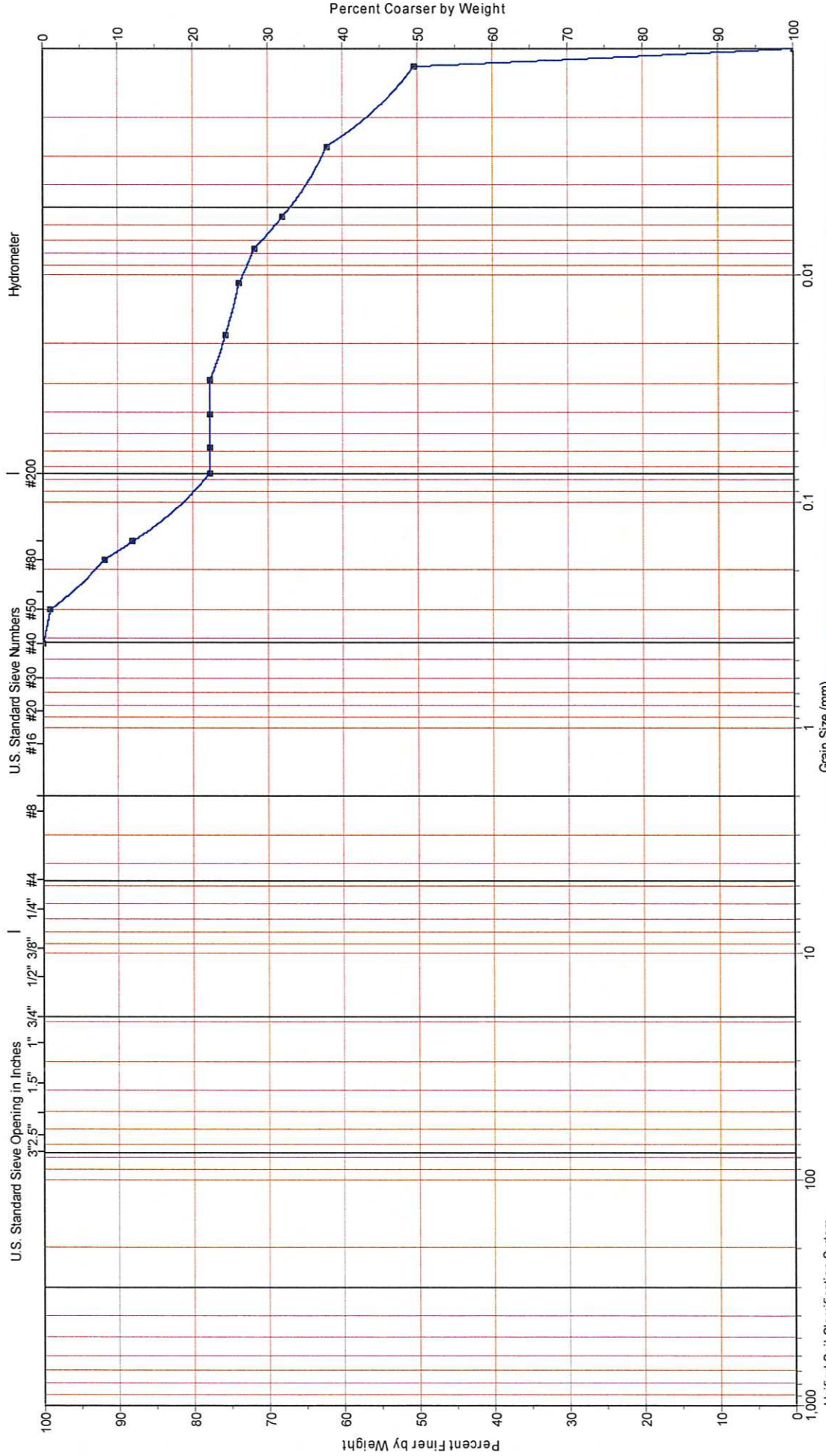
APPENDIX VI – HYDROMETER TESTS

L&G Engineering Laboratory, LLC		Project No.: Hidalgo County Sheriff Office Substation				GRAINSIZE DISTRIBUTION GRAPH			
Borehole No.: B-1		Client: Hidalgo County				Tested By: R.C.			
Test Date: 10/1/2008									
Symbol	Depth Ft	% Clay	% Silt	% Fine Sand	% Medium Sand	% Coarse Sand	% Fine Gravel	% Coarse Gravel	% Cobbles
■	2	31.8	4.1	64.1	0.1	0.0	0.0	0.0	0.0



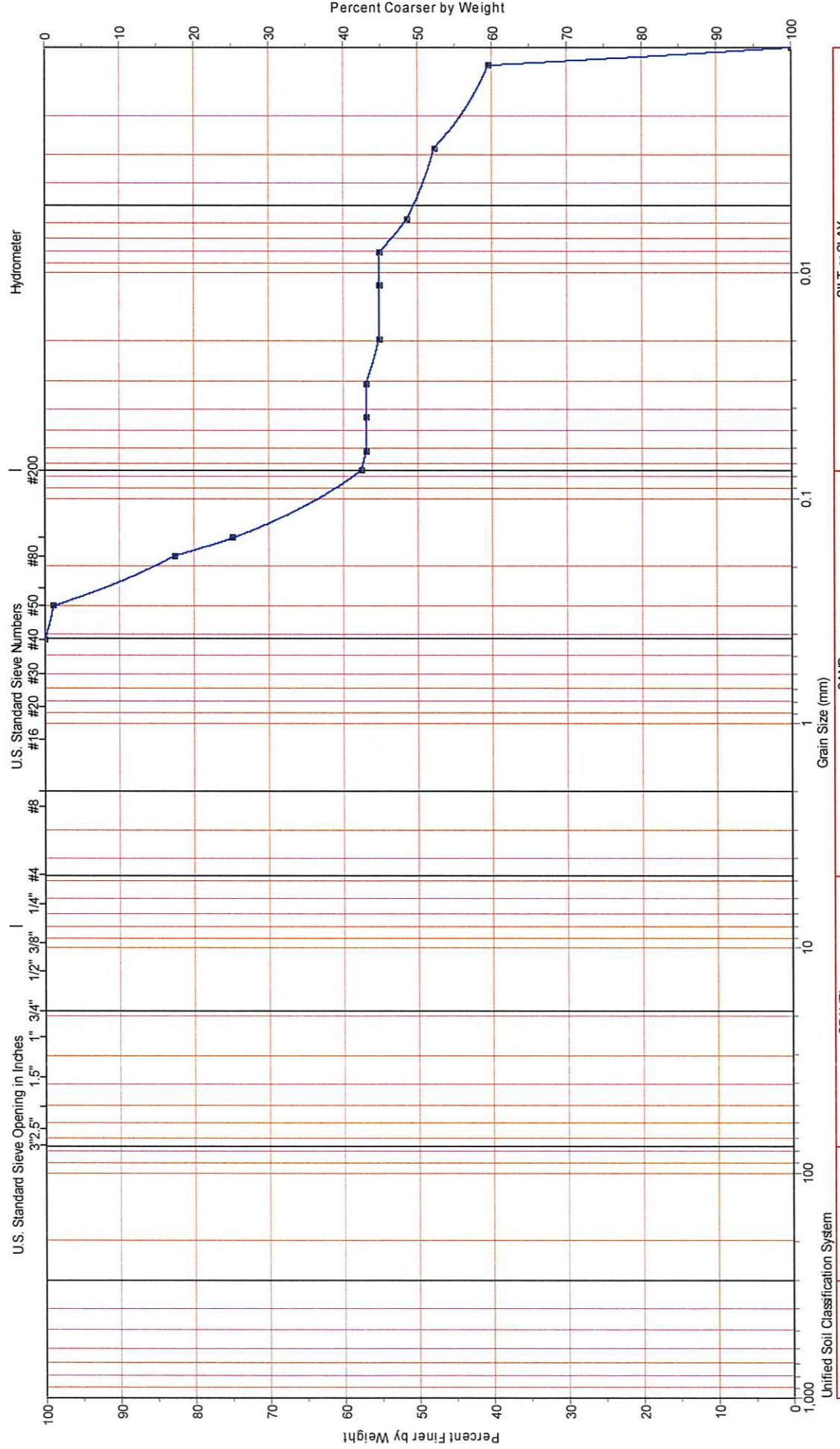
L&G Engineering Laboratory, LLC		Project No.: Hidalgo County Sheriff Office Substation		GRAINSIZE DISTRIBUTION GRAPH	
Borehole No.: B-1		Client: Hidalgo County		Tested By: R.C.	
Test Date: 10/1/2008					

Symbol	Depth Ft	% Clay	% Silt	% Fine Sand	% Medium Sand	% Coarse Sand	% Fine Gravel	% Coarse Gravel	% Cobbles
■	6	67.0	11.0	22.2	0.0	0.0	0.0	0.0	0.0



BOULDERS	GRAVEL	SAND	SILT or CLAY
coarse	coarse	medium	Silt
		fine	Clay

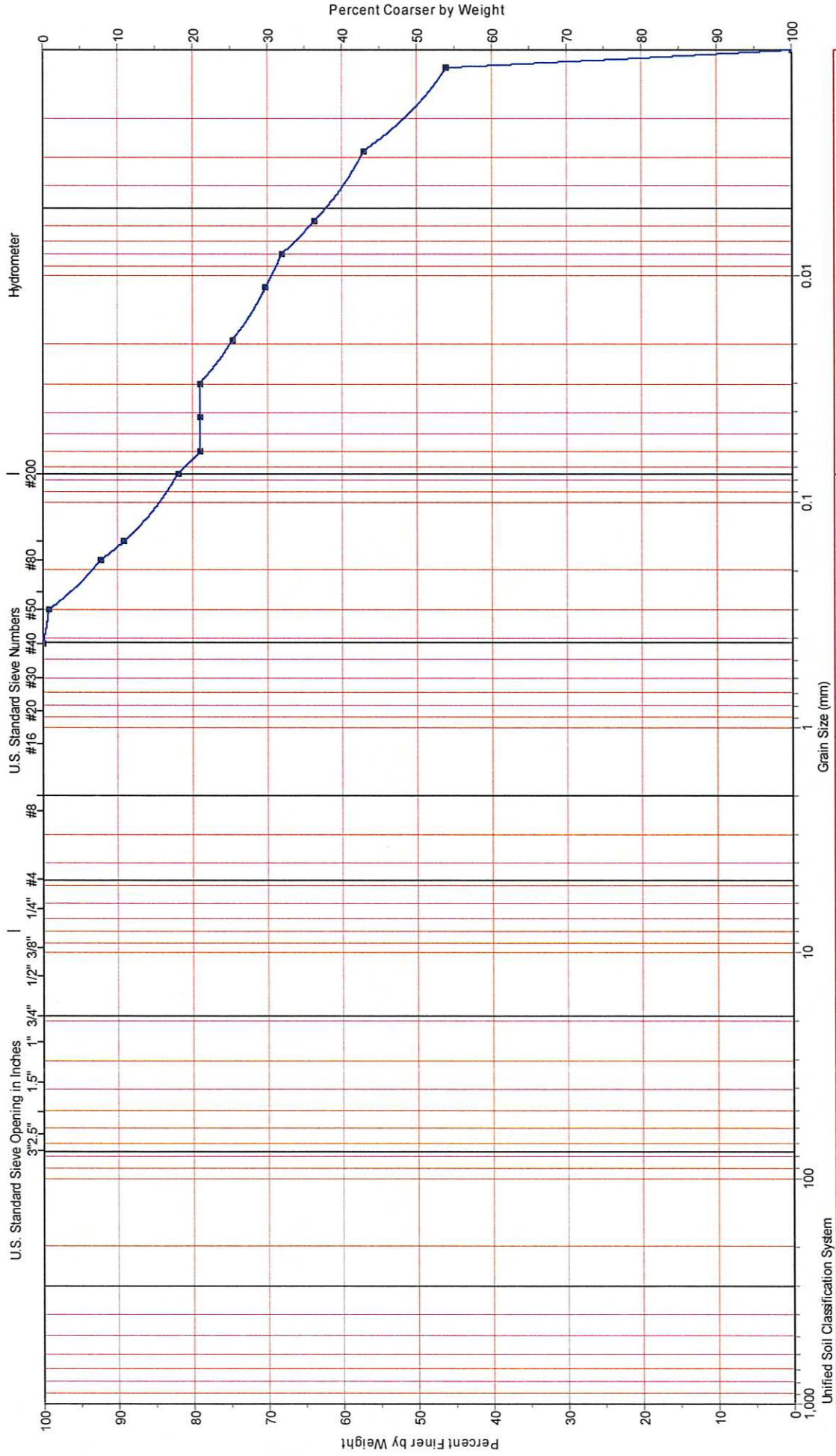
L&G Engineering Laboratory, LLC		Project No.: Hidalgo County Sheriff Office Substation					GRAINSIZE DISTRIBUTION GRAPH		
Borehole No.: B-1		Tested By: R.C.							
Client: Hidalgo County		Test Date: 10/1/2008							
Symbol	Depth Ft	% Clay	% Silt	% Fine Sand	% Medium Sand	% Coarse Sand	% Fine Gravel	% Coarse Gravel	% Cobbles
■	10	50.6	7.1	42.4	0.1	0.0	0.0	0.0	0.0



BOULDERS	COBBLES	GRAVEL	SAND	SILT or CLAY
		coarse	coarse medium fine	Silt Clay

L&G Engineering Laboratory, LLC		Project No.: Hidalgo County Sheriff Office Substation		GRAIN SIZE DISTRIBUTION GRAPH	
Borehole No.: B-2		Tested By: R.C.			
Client: Hidalgo County		Test Date: 10/1/2008			

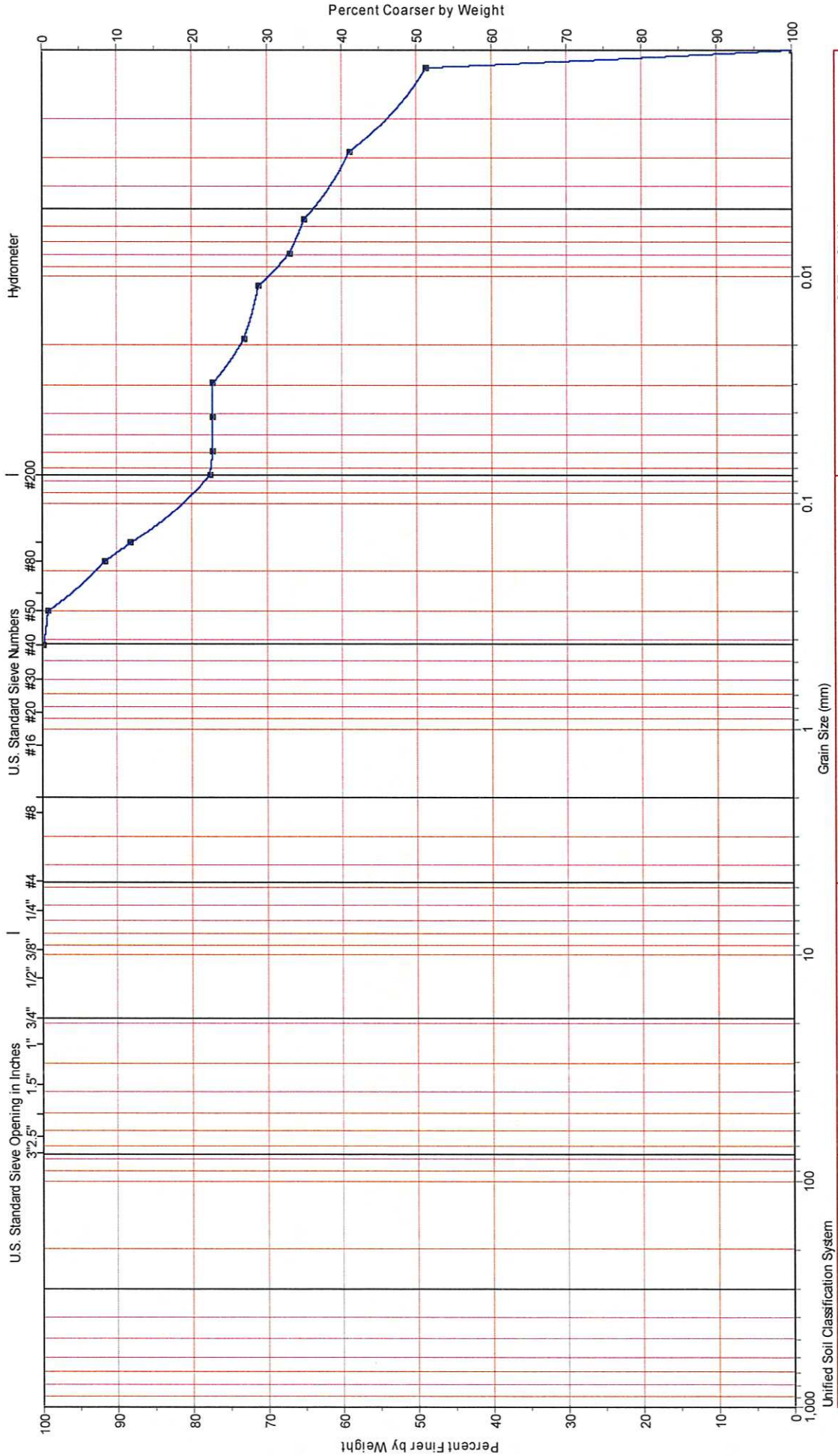
Symbol	Depth Ft.	% Clay	% Silt	% Fine Sand	% Medium Sand	% Coarse Sand	% Fine Gravel	% Coarse Gravel	% Cobbles
■	4	62.1	20.0	18.1	0.0	0.0	0.0	0.0	0.0



BOULDERS	GRAVEL	SAND	SILT or CLAY
coarse	fine	coarse medium fine	Silt Clay

L&G Engineering Laboratory, LLC		Project No.: Hidalgo County Sheriff Office Substation		GRAIN SIZE DISTRIBUTION GRAPH	
Borehole No.: B-3		Client: Hidalgo County		Tested By: R.C.	
Test Date: 10/1/2008					

Symbol	Depth Ft.	% Clay	% Silt	% Fine Sand	% Medium Sand	% Coarse Sand	% Fine Gravel	% Coarse Gravel	% Cobbles
■	8	63.8	14.0	22.2	0.0	0.0	0.0	0.0	0.0



BOULDERS	GRAVEL	SAND	SILT or CLAY
coarse	coarse	medium	Silt
	fine	fine	Clay

SECTION 00300

COMPETITIVE SEALED PROPOSAL FORM

PROJECT: SHERIFF'S OFFICE SUBSTATION
HIDALGO COUNTY
EDINBURG, TEXAS

PLACE: Hidalgo County Purchasing Department
Hidalgo County New Administration Building
2802 S. Business Hwy 281
Edinburg, Texas

DATE & TIME: Tuesday, November 8, 2011
@ 4:00 p.m., C.S.T.

TO: Martha L. Salazar, CPPB
HIDALGO COUNTY PURCHASING AGENT
2802 S. Business Hwy 281
Edinburg, Texas 78539

1. Pursuant to and in compliance with the Request for Competitive Proposals and the proposed Contract Documents dated September 23, 2011, prepared by Gignac & Associates LLP relating to the above referenced project, the undersigned, hereby proposes and agrees to fully perform the work within the time stated and in strict accordance with the proposed Contract Documents, and addenda thereto, for the following sum of money:

A. BASE PROPOSAL

All labor, materials, services, and equipment necessary for completion of the work shown on the drawings and in the specifications except the work indicated by the alternates.

_____ DOLLARS(\$_____)

The following are alternates to the Base Proposal: It is understood that if no figure is listed for an Alternate, that the Alternate may be accepted and there will be no change in the Base Proposal amount indicated above. Strike out (add) or (deduct) as required for each alternate. Refer Division 1 Section "Alternates" for complete description of the alternates.

B. ALTERNATES

ALTERNATE NUMBER ONE: All labor, materials, services and equipment necessary for the complete construction of a community room in accordance with the plans and specifications.

If the Owner elects to proceed with Alternate Number One, (add) (deduct) the sum of:

_____ DOLLARS (\$_____)

ALTERNATE NUMBER TWO: All labor, materials, services and equipment necessary for the complete construction of an intoxication lab in accordance with the plans and specifications.

If the Owner elects to proceed with Alternate Number Two, (add) (deduct) the sum of:

_____ DOLLARS (\$_____)

ALTERNATE NUMBER THREE: All labor, materials, services and equipment necessary for the complete construction of four (4) additional holding cells in accordance with the plans and specifications.

If the Owner elects to proceed with Alternate Number Three, (add) (deduct) the sum of:

_____ DOLLARS (\$_____)

ALTERNATE NUMBER FOUR: NOT USED

ALTERNATE NUMBER FIVE: NOT USED

ALTERNATE NUMBER SIX: All labor, materials, services and equipment necessary for the complete construction of 8' security fence along site perimeter and enclosing retention pond in accordance with the plans and specifications.

If the Owner elects to proceed with Alternate Number Three, (add) (deduct) the sum of:

_____ DOLLARS (\$_____)

2. Contract Execution:

If awarded this contract the undersigned will execute a satisfactory Construction Contract, Performance Bond, Labor and Material Payment Bond and proof of insurance coverage, with the Owner for the entire work as per the contract Documents within 10 days after notice of award. It is agreed that this proposal is subjected to the Owners acceptance for a period of 30 (thirty days) from the above date.

3. Enclosed is a Certified Check or offerer's Bond in the amount of \$_____ in compliance with the specification requirements. (5% of highest amount bid.)

The above Check or Offerer's bond is to become the property of the Owner in the event the Construction Contract (when offered by the Owner) and the bonds and proof of insurance coverage are not executed within the time set forth above.

4. Extra Work:

The undersigned agrees that should any change in the work or extra work be ordered, the allowance for overhead and profit combined shall be as scheduled below, but in no case shall it exceed 5%. The following applicable percentages shall be added to the extra work cost as defined by Article 12 of the General Conditions.

- A. Allowance to the Contractor for overhead and profit for extra work provided by his own forces: Maximum 5%
 - B. Allowance to the Contractor for overhead and Profit for extra work provided by a subcontractor and supervised by the Contractor: Maximum 5%.
 - C. The General Contractor shall not be allowed to charge the Owner for "extended overhead" changes relating to Change of Orders or weather delays.
5. The undersigned agrees to the following:
- A. To furnish all labor and materials as shown and specified.
 - B. To complete the base proposal (and any alternates selected) including anticipated delays due to inclement weather or muddy ground conditions in _____ calendar days.
 - C. To work ____ working days per week.
 - D. To start work ____ days after notice of award of contract.
6. The full amount of all Allowances as specified in the General Requirements, Division I, of the Specifications, is included in the proposal item price shown.
7. Receipt is acknowledgment of the following addenda:
- | | |
|-----------|-------------|
| No. _____ | Dated _____ |
| No. _____ | Dated _____ |
| No. _____ | Dated _____ |
| No. _____ | Dated _____ |
| No. _____ | Dated _____ |
| No. _____ | Dated _____ |
8. The Offerer attests and affirms that he and his subcontractors are skilled and experienced in the use and interpretation of plans, specifications, addenda and related proposal documents and, that he has carefully reviewed the plans, specifications, addenda and related proposal documents for this project and has found them to be free of conflicts and/or ambiguities and sufficient for proposal and construction purposes. Further, he has carefully examined the soils reports and the site of the work, and, through his own personal observations, has satisfied himself as to the nature, location and requirements of the work; the character, quality and quantity of materials required; the difficulties likely to be encountered; the other items and/or conditions which may affect the satisfactory performance of the work. He has based his bid solely on these documents, and personal observations, and has not relied in any way on any explanation or interpretation, oral or written, from any source other than those written and issued by the Architect/Engineer.
9. Offerer agrees that the Owner has the right to accept or reject any or all proposals and to waive all informalities.

Respectfully submitted,

By: _____
Signature

(Seal, if Offerer is a corporation)

Title

Company

SECTION 00400

SUPPLEMENTS TO BID FORMS

BID SECURITY

Each Proposal must be accompanied by a Bid Security in the amount of 5% of the largest possible total of the Proposal submitted.

The Bid Security may be by cash, certified check or a Bid Bond. The Bid Bond must be executed by the Proposer as principal. The Bid Bond form and security company are subject to approval by the Owner and the Surety must comply with requirements noted in Article 11 of the Supplementary General Conditions.

The Bid Security will be returned to all except the three lowest Proposers within three days after opening of the Proposals.

The remaining Bid Securities will be returned promptly after the Owner and the accepted Proposer have executed the contract, or, if no award has been made within thirty days after the date of the opening of Proposals, upon demand of the Proposer anytime thereafter so long as he has not been notified of the acceptance of his proposal.

END OF SECTION

SECTION 00500

AGREEMENT FORM

AGREEMENT (Stipulated Sum)

The Agreement shall be executed on AIA Document Number A-101 "Standard Form of Agreement between Owner and Contractor", 2007 edition. A sample of this form is attached herein.

END OF SECTION 00500

DRAFT AIA® Document A101™ - 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, legal status, address and other information)

County of Hidalgo
2812 S. Business Hwy 281
Edinburg, Texas 78539

and the Contractor:
(Name, legal status, address and other information)

« »« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

The Architect:
(Name, legal status, address and other information)

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

« »

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

« »

3.1.1 Liquidated Damages: Owner and Contractor recognize that time is of the essence in this Agreement and that Owner will suffer financial loss if the Work is not completed within the time specified in Paragraph 3.1 above, plus any extension thereof allowed in accordance with Article 8 of the General Conditions. They also recognize the delays, expense and difficulties involved in providing in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring such proof, Owner and Contractor agree that as liquidated damages for delay (but not as penalty) Contractor shall pay Owner, Five Hundred Dollars (\$500.00) for each day that expires after the time specified in Paragraph 3.1 for Substantial Completion until the work is substantially complete.

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than « » () days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

« »

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

See 3.1.1 above.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 4.3 Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$ 0.00)
------	-----------------------	--------------------------

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Betterment Allowance		
HVAC Contingency		.00
Plumbing Contingency		.00
Electrical Contingency		.00
Structural Contingency		.00
Lawn Sprinkler Allowance		.00
TOTAL AMOUNT		\$.00

4.5 Commitment of Current Revenues Only. In the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Contract upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Contract. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

<< >>

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 30th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than **the fifth day following approval by Commissioners Court.** .

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Percent (%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™–2007, General Conditions of the Contract for Construction, **as modified by Owner and attached hereto as Exhibit C**;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit "C"**;

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201–2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit "C"**;

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Not Applicable

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “C”**; and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment **and upon acceptance by the Owner and Architect, and after satisfactory evidence has been given by the Contractor that all his bills have been paid and the entire project is free from liens.**

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “C”**, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

<< >>
<< >>
<< >>
<< >>

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, **as modified by Owner and attached hereto as Exhibit “C”**, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[] Arbitration pursuant to Section 15.4 of AIA Document A201–2007

[] Litigation in a court of competent jurisdiction

[] Other *(Specify)*

<< >>

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

« » « »

§ 8.3 The Owner’s representative:
(Name, address and other information)

[Redacted]

§ 8.4 The Contractor’s representative:
(Name, address and other information)

« »
« »
« »
« »
« »
« »

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor, as **modified by Owner and attached hereto as Exhibit “C”**,

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction, as **modified by Owner and attached hereto as Exhibit “C”**.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
[Redacted]	[Redacted]	[Redacted]	[Redacted]

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

« »

Section	Title	Date	Pages
[Redacted]	[Redacted]	[Redacted]	[Redacted]

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date

§ 9.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™–2007 as modified by Owner and attached hereto as Exhibit “C”, Digital Data Protocol Exhibit, if completed by the parties, or the following:

<< >>

- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

<<

1. Exhibit ‘A’ Bid Form and Addendums from _____
2. Exhibit ‘B’ Project Manual (Specifications)
3. Exhibit ‘C’ – A 201
4. Exhibit ‘D’ Notice to Proceed
5. Exhibit ‘E’ Certificate of Insurance
6. Exhibit ‘F’ Performance and Payment Bonds

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007, as modified by Owner and attached hereto as Exhibit “C”,
(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007, as modified by Owner and attached hereto as Exhibit “C”).

Type of insurance or bond	Limit of liability or bond amount (\$ 0.00)

This Agreement entered into as of the day and year first written above and is executed in three (3) original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER (Signature)

Ramon Garcia, County Judge

(Printed name and title)

APPROVED AS TO FORM:

Atlas & Hall, LLP

(Signature)

Steve L. Crain

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)

ATTEST:

(Signature)

Arturo Guajardo Jr., County Clerk

(Printed name and title)

SECTION 00600

BONDS AND CERTIFICATES

The Contractor shall furnish the following Bonds and Certificates to be delivered simultaneously with the executed contract:

- A. Performance Bond
- B. Labor and Materials Payment Bond
- C. Certificates of Insurance - provide on AIA Documents G- or approved format.

The Performance, Labor and Materials bond shall be provided on Bonds which comply with Article 5160 of the Revised Civil Statutes of the State of Texas as amended by Acts of the 64th Legislature 1975 and Acts of the 65th Legislature, 1977.

The Surety on such bonds shall be a surety company satisfactory to the Owner. See Article 11 of the supplementary condition.

Costs of the above stated bonds and insurance are to be included in the bid.

Attorneys-in-Fact who sign bonds must file with each bond a certified and effective dated copy of their Power of Attorney.

The Performance Bond shall guarantee the repair and maintenance of all defects due to faulty materials and workmanship that appear within one (1) year from date of substantial completion.

END OF SECTION 00600

SECTION 00700

GENERAL CONDITIONS

The General Conditions of the Contract are set forth in the American Institute of Architects Document A201, 2007 entitled "General Conditions of the Contract of Construction", containing Articles 1 through 14 and are hereby made part of the Contract Documents.

The General Conditions shall become a part of this Contract shall apply to the Contractor and all Subcontractors. Additional copies of the General Conditions may be examined from the Owner.

END OF SECTION 00700

DRAFT AIA® Document A201™ - 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

[REDACTED]

THE OWNER:

(Name, legal status and address)

« County of Hidalgo »

« 3100 South Business Highway 281, Suite D

Edinburg, Texas 78539 »

THE ARCHITECT:

(Name, legal status and address)

« [REDACTED]

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect pursuant to Paragraph 7.4. At the Owner's option, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.1.1 Contractor acknowledges and warrants that it has closely examined all the Contract Documents and is unaware of any instance where the documents are not suitable or are insufficient, to enable the Contractor to complete the Work in a timely manner for the Contract sum, and that they include all Work, whether or not shown or described, which reasonably may be inferred or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, and regulations.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor except as provided in Paragraph 5.3 and 5.4 hereof, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations of the Contractor under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.3.1 The Work shall include the obligation of the Contractor to visit the site of the project before submitting a proposal. Such site visit shall be for the purpose of familiarizing Contractor with the conditions as they exist and the character of the operations to be carried on under the Contract Document, including all existing site conditions, access to the site, physical characteristics of the site and surrounding areas. It also includes all supplies, skill, supervision, transportation services and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract and all other items of cost or value needed to produce, construct and fully complete the public work identified by the Contract Documents identified.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams wherever located and whenever issued.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. Any differences between the requirements of the Drawings and the Specifications or any differences noted within the Drawings themselves or within the Specifications themselves have been referred to Owner and Architect by Contractor prior to the submission of bids and have been clarified by a Addendum issued to all bidders.

If such differences or conflicts were not called to Owner's and Architect's attentions prior to submission of bids, Architect shall decide which of the conflicting requirements will govern based upon the following: the most stringent of the requirements will take precedence over the less stringent; the most expensive item will take precedence over the less expensive, and subject to the approval of Owner, Contractor shall perform the Work at no additional cost and/or time to Owner in accordance with the Architect's decision. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable as being necessary to produce the intended results.

§ 1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

- .1 The Agreement;
- .2 Addenda, with those of later date having precedence over those of earlier date;
- .3 Supplemental Conditions;
- .4 The General Conditions of the Contract for Construction;
- .5 Specifications
- .6 Drawings, in the case of inconsistency between the Drawings and Specifications or within either

document, not clarified by Addendum, the better quality or greater quantity of Work shall be included in the Contract Documents. Clarifications of the inconsistency will be accomplished with the Contractor and, if necessary, an appropriate reduction in the contract will be accomplished with the Contractor and, if necessary, an appropriate reduction in the contract will be accomplished by Change Order. Figures given on drawings govern scale measurements. Large scale drawings take precedence over small scale drawings. Written words, take precedence over numbers. Handwritten documents take precedence over typewritten documents. Existing conditions take precedence over drawings and specifications for dimensions and shall be verified by the Contractor. The Contractor proceeds at his own risk if conflicts or discrepancies are not resolved prior to the execution of the Work.

§ 1.2.1.2 If Work is required in a manner to make it impossible to produce Work of the quality required by or reasonably inferred from the Contract Documents, or should discrepancies appear among the Contract Documents, Contractor shall request in writing an interpretation from Architect before proceeding with the Work. If Contractor fails to make such request, no excuse will thereafter be entertained for failure to carryout Work in the required manner or provide required guarantees, warranties, or bonds, and Contractor shall not be entitled to any change in the Contract Sum or the Contract Time on account of such failure.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 Instruments of Service, including the Drawings, Specifications, and other similar or related documents and copies thereof are furnished to Contractor for the purpose of performing the Work and are, and shall remain, the property of Owner and Owner will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner or Owners' consultants reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Commissioners Court of Owner, by majority vote, is the only representative of Owner, having the power to enter into a Contract, to execute a change order requiring an increase in the Contract Sum, or agree to an extension of the contractual completion date. The Commissioners Court shall designate, as appropriate, an authorized representative(s) to act on its behalf during the course of construction. In the event that an emergency changes the scope of the Work before the next regular meeting or in order to facilitate and expedite the timely completion of the Work, the Commissioners Court's authorized representative(s) may approve construction changes that do not exceed \$10,000.00 in increased costs. Any such changes shall be confirmed in writing between the Contractor and the Commissioner Court's authorized representative(s) and notice of such approved changes shall be given to the Commissioners Court at its next regular meeting. The Commissioners Court will act as soon as reasonably possible to avoid undue delays in the construction completion date.

§ 2.1.2 DELETE.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics and utility locations, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. In connection with the foregoing, Contractor shall be solely responsible for locating (and shall locate prior to performing any Work) all utilities lines, telephone company lines and cable, sewer lines, water pipes, gas lines, electrical lines, including without limitation, all buried pipelines and buried telephone cables and shall perform the Work in such a manner so as to avoid damaging any such lines, cables, pipes and pipelines. Under this provision the Architect and Engineer are in no way relieved of their responsibilities outlined in the Contract or other attached contracts for identification of existing conditions.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2 for use on this Project. All costs of reproduction are the responsibility of Contractor.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents or fails to remove and discharge (within ten (10) days) any lien filed upon Owner's or Landlord's property by anyone claiming by, through, or under Contractor; or disregards the instructions of Architect or Owner when based on the requirements of the Contract Documents. The Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3, and any delay resulting from such Work stoppage shall not extend any Milestone Date identified in the Contract for Construction or the required dates of Substantial or Final Completion.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

§ 2.4.1 The rights stated in Article 2 shall be in addition and not in limitation of any other rights of Owner granted in the Contract Documents or at law or in equity.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner in writing any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for design information in such form as the Architect may require.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect and Owner in writing any nonconformity discovered by or made known to the Contractor as a request for design information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect and Owner.

§ 3.2.5 The Contractor shall not be entitled to additional compensation for the "rework portion" of any additional work caused by his failure to carefully study and compare the Contract Documents prior to execution of the Work.

§ 3.2.6 The Contractor shall make reasonable attempt to interpret the Contract Documents before asking the Architect for assistance in interpretation. The Contractor shall not ask the Architect for observation of work prior to the Contractor's field superintendent's personal inspection of the work and his determination that the work complies with the Contract Documents.

§ 3.2.7 If, in the opinion of the Architect, the Contractor does not make a reasonable effort to comply with the above requirements of the Contract Documents and this causes the Architect or his consultants to expend an unreasonable amount of the time in the discharge of the duties imposed on him by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure. The Architect will give the Contractor prior notice of intent to bill for additional services related to 3.2.6, 3.2.7, and 3.12 before additional services are performed.

§ 3.2.8 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the work or to honor his Warranty, Contractor shall promptly notify the architect in writing, providing substantiation for the position. Any necessary changes, including substitutions of materials, shall be accomplished by appropriate Modification.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 Contractor shall be responsible to Owner for acts and omissions of Contractor's employees, Subcontractors, and their agents and employees, and other persons performing portions of the Work under contract Documents or other arrangements with Contractor.

§ 3.3.5 Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on the Work, including those with respect to the safety of persons and property and their protection from damages, injury, or loss. Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by Contractor, its Subcontractor, or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable, except for damage or loss attributable solely to acts or omissions of Owner or Architect or by anyone for whose acts either of them may be liable and not attributable to the fault or negligence of Contractor, its Subcontractor, or anyone directly or indirectly employed by them. The foregoing obligations of Contractor are in addition to Contractor's obligations under other provisions hereunder.

§ 3.3.6 Contractor shall be responsible for inspection of portion of Work already performed under the Contract for Construction to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.7 Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials on time. Contractor shall coordinate its Work with that of all others on the Project, including of construction utilities.

§ 3.3.8 Contractor shall establish and maintain bench marks and all other grades, lines, and levels necessary for the Work; report errors or inconsistencies to Owner and Architect before commencing Work; and, if applicable, review the placement of the buildings and permanent facilities on the site with Owner and Architect after all lines are staked out and before foundation Work is started. Contractor shall provide access to the Work for Owner, Architect, other persons designated by Owner, and governmental inspectors. Any encroachments made by Contractor or its Subcontractors on adjacent properties caused by construction as revealed by an improvements survey, except for encroachments arising from errors or omissions not reasonably discoverable by Contractor in the Contract Documents, shall be the sole responsibility of Contractor, and Contractor shall correct such encroachments within thirty (30) days of the improvement survey (or as soon thereafter as reasonably possible), at Contractor's sole cost and expense, either by the removal of the encroachment (and subsequent reconstruction on the Project site) or agreement with the adjacent property Owner (s) (in form and substance satisfactory to Owner in its sole discretion) allowing the encroachments to remain.

§ 3.3.9 Contractor shall verify at the Work site the measurements indicated on the Drawings and Specifications and shall establish correctly the lines, levels, and positions for the Work and be responsible for their accuracy and proper correlation with control lines, monuments, and data, as established by surveys furnished by Owner. Work shall be erected square, plumb, level, true to line and grade, in the exact plane and to the correct elevation and/or sloped to drain as indicated. To ensure the proper execution of its subsequent Work, Contractor shall measure all Work

already in place (including but not limited to utilities and grades installed or prepared by others) and shall at once report to Architect and Owner any discrepancy between said Work and the Drawings and Specifications for the Work.

§ 3.3.10 Any discrepancy or omission in the dimensions or elections shown on the Drawings and Specifications or found in previous Work which may prevent accurate layout or construction of the Work, shall immediately be reported by Contractor to Owner and Architect. If Contractor performs, permits, or causes performance of any Work when Contractor knows or reasonably should have known that such discrepancy or omission exists, without first obtaining further instruction from Architect or Owner, Contractor shall bear any and all costs arising therefrom including, without limitation, the costs of correction thereof without increase or adjustment in the Contract Sum. Omissions from the Drawings or Specifications, or the misdescription of details of Work which are reasonably inferable in order to carry out the intent of the Drawings and Specifications, or which are customarily performed, shall not relieve contractor from performing such omitted or mis-described details of the Work, and they shall be performed as if fully and correctly set forth and described in the Drawings and Specifications, at no additional cost to Owner.

§ 3.3.11 Contractor shall engage workers who are skilled in performing the Work, and all Work shall be performed with care and skill and in a good workmanlike manner under the full-time supervision of an approved engineer or foreman. Contractor shall be liable for all property damage, including repairs and replacements of the Work and economic losses, which proximately result from the breach of this duty. Contractor shall advise Architect:

1. if a specified product deviates from good construction practices;
2. if following the Specifications will affect any warranties; or
3. any objections which Contractor may have the Specifications.

Nothing contained in Subparagraph 1.1.3 shall alter the responsibilities established in this Subparagraph.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive by making requests for substitutions based on Subparagraph 3.4.2, Contractor:

- .1 represents that Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
2. represents that Contractor will provide the same warranty for the substitution that Contractor would for that specified;
3. certifies that the cost data presented is complete and includes all related costs under this Contract except Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
- .4 will coordinate the installation for the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Contractor shall also be responsible for labor peace on the Project and shall at all times make its best efforts and judgments as an experienced Contractor to adopt and implement policies and practices designed to avoid Work stoppages, slowdowns, disputes, or strikes where reasonably possible and practical under the circumstances and shall at all times maintain Project-wide labor harmony. Except as specifically provided in Subparagraph 8.3 hereof, Contractor shall be liable to Owner for all damages suffered by Owner.

§ 3.4.4 Materials shall conform to manufacturer's standards in effect at the date of execution of the Agreement and shall be installed in strict accordance with manufacturer's directions. Contractor shall, if required by Owner or

Architect, furnish satisfactory evidence as to the kind and quality of any materials. All packaged materials shall be shipped to the site in the original containers clearly labeled, and delivery slips shall be submitted with bulk materials identifying thereon the source, and warranting quality and compliance with Contract Documents.

§ 3.4.5 When the Contract Documents require the Work, or any part of same, to be above the standards required by applicable laws, ordinances, rules and regulations, and other statutory provisions pertaining to the Work, such Work shall be performed and completed by Contractor in accordance with the Contract Documents.

§ 3.4.6 When the manufacturer's name, patent numbers, underwriter's labels, model numbers or similar identifying marks are required, such markings shall be located as inconspicuously as possible.

§ 3.5 WARRANTY

§ 3.5.1

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of the best quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements may be considered defective. If required by the Architect or Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 ALL WARRANTIES SHALL INCLUDE LABOR AND MATERIALS AND THE MANUFACTURER'S WARRANTY SHALL BE SIGNED BY SUBCONTRACTOR AND COUNTERSIGNED BY CONTRACTOR. ALL WARRANTIES SHALL BE ADDRESSED TO OWNER AND DELIVERED TO ARCHITECT UPON COMPLETION OF THE WORK AND BEFORE OR WITH THE SUBMISSION OF REQUEST FOR FINAL PAYMENT.

§ 3.5.3 Contractor shall issue in writing to Owner as a condition precedent to final payment a "general warranty" reflecting the terms and conditions of this Paragraph 3.5 for all Work under the Contract.

§ 3.5.4 The warranties provided in Paragraph 3.5 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents, and such warranty or remedy required by law or by the Contract Documents, and such warranty shall be interpreted to require Contractor to replace defective materials and equipment and re-execute defective Work which is disclosed to the Contractor by the Owner within a period of one (1) year after final completion of the entire Work unless a longer time is specifically called for in the specifications. The Contractor shall assign all components, equipment and fixture warranties to the Owner and will deliver all manuals to the Owner at the completion of construction.

§ 3.5.5 Except when a longer warranty time is specifically called for in the Specification Sections or is otherwise provided by law, the General Warranty shall be for twelve (12) months and shall be in form and content otherwise satisfactory to Owner.

§ 3.5.6 Warranties shall become effective on a date established by Owner and Architect in accordance with the Contract Documents. This date shall be the Date of Substantial Completion of the entire Work, unless otherwise provided in any Certificate of Partial Substantial Completion approved by the parties.

§ 3.5.7 If Architect considers it impractical, because of unsuitable test conditions or some other factors, to execute simultaneous final acceptance of all equipment, portions of the installation may be certified by Architect for final acceptance, subject to Owner's approval, when that portion of the system is complete and ready for operation as called for under Subparagraph 9.8.1.

§ 3.5.8 Contractor shall warrant for a period of twelve (12) months that the building(s) shall be watertight and leak proof at every point and in every area, except where leaks can be attributed to damage to the building(s) by external forces beyond Contractor's control. Contractor shall, immediately upon notification by Owner of water penetration, determine the source of water penetration and, at its own expense, do any Work necessary to make the building(s) watertight. Contractor shall also, at its own expense, repair or replace any other damaged material, finishes, and furnishings, damaged as a result of this water penetration, to return the building(s) to its (their) original condition.

§3.5.9 In addition to the foregoing stipulations, Contractor shall comply with all other warranties referred to in any portions of the Contract Documents or otherwise provided by law or in equity, and where warranties overlap, the more stringent requirement shall govern.

§3.5.10 If for any reason Contractor cannot warrant any part of the Work using material or construction methods that have been specified, or shown, it shall notify Owner and Architect in writing before the Contract is signed, giving reasons, together with the name of product and data on a substitution it can warrant.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall make application, secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract including, without limitation, street openings, sidewalk, and other obstructions, access over public ways and storage necessary for proper execution of the Contract and which are, legally required at the time bids are received or negotiations concluded.

§3.7.1.1 The Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency and state and local authorities, that require completion of documentation and/or acquisition of all permits for the Project. Contractor's obligations under this paragraph do not require it to perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. However, any drainage alterations made by Contractor during construction phase which modifies the original site drainage plan and requires the issuance of a permit shall be at Contractor's sole cost.

- a. The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar utility connection charges.
- b. The Contractor shall be responsible for obtaining and paying for all City and County Building Permits, Inspection Fees and Plan Checking Fees; temporary utility charges, tap charges and water meter charges and any other similar fees assessed by jurisdictional authorities having control over the Project.
- c. The Owner shall pay fees payable to the Texas Department of Licensing and Regulations (TDLR) for document review relative to the Elimination of Architectural Barriers Act and the Architect will submit the documents to the TDLR for review and approval.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders and all other requirements of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work (including, without limitation, the installation of any materials or equipment) that it knows or reasonably should have known would be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or

decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend to the Owner in writing, an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15. No adjustment in the Contract Time or Contract Sum shall be permitted in connection with a concealed or unknown condition that does not differ materially from those conditions disclosed or based on data provided to Contractor and by the Contractor's prior inspections, tests, reviews, and pre-construction services for the Project; or by the Contractor's inspections, tests, reviews and pre-construction services that Contractor had the opportunity and obligation to make in connection with the Project but did not do so.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect in writing. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness. If a decision is needed to avoid a delay, Contractor shall notify Architect, Construction manager and Owner in writing sufficiently in advance of needed date to allow reasonable time for selections to be made.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Superintendent shall be satisfactory to the Owner and shall not be changed except with the consent of the Architect, unless the Superintendent leaves the employment of the Contractor. No increase in Contract Time or Contract Sum shall be allowed in the even the Owner or Architects object to any nominated superintendent. Such approval by the Owner shall not be unreasonably withheld.

§ 3.9.3 DELETED.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's review and approval a Contractor's construction schedule for the Work. The schedule shall not exceed

time limits current under the Contract Documents, shall be revised as required herein and at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The schedule shall indicate the proposed starting and completion dates for the various subdivisions of the Work as well as the totality of the Work. The schedule shall be updated every thirty (30) days and submitted to Architect with Contractor's Applications for Payment. Each schedule shall contain a comparison of actual progress with the estimated progress for such point in time stated in the original schedule. If any schedule submitted sets such a date for Substantial Completion for the Work or any phase of the Work beyond the date(s) of Substantial Completion established in the Contract (as the same may be extended as provided in the Contract Documents), then Contractor shall submit to Architect and Owner for their review and approval a narrative description of the means and methods that Contractor intends to employ to expedite the progress of the Work to ensure timely completion of the various phases of the Work as well as the totality of the Work. To ensure such timely completion, Contractor shall take all necessary action including, without limitation, increasing the number of personnel and labor on the Project and implementing overtime and double shifts. In that event, Contractor shall not be entitled to an adjustment in the Contract Sum or the schedule.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's and Owner's approval. The Architect's and Owner's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The process of approving Contractor's schedules and updates to Contractor's schedule shall not constitute a warranty by the Owner that any non-Contractor milestones or activities will occur as set out on Contractor's schedule. Approval of a Contractor's schedule does not constitute a commitment by the Owner to furnish any Owner-furnished information or material any earlier than Owner would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a Claim for additional compensation or time. In the event there is interference with the Work, which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold resulting additional time and cost to a minimum. The construction schedule shall be in a detailed format satisfactory to the Owner and the Architect and shall also:

- .1 Provide a graphic representation of all activities and events that will occur during performance of the Work;
- .2 identify each phase of construction and occupancy; and
- .3 set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents hereinafter referred to as Milestone Dates.

§ 3.10.5 The Owner shall have the right to reschedule the time of day for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any rescheduling of performance of the Work under this Subparagraph 3.10.5 may be grounds for an extension of the Contract Time, if permitted under Subparagraph 8.3.1 and an equitable adjustments in the Contract Sum, if: (1) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents, (2) such rescheduling is required for the convenience of the Owner and is not attributable to any act of omission of Contractor, and (3) if Owner agrees to the Contract Sum adjustment prior to any rescheduling.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections (all changes and selections to be approved by Owner and Architect in advance) made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the

Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 At the Date of Substantial Completion and as a condition precedent to final payment, Contractor shall furnish the following documents to Architect for submittal to Owner: Record Drawings showing the field changes and selections (all changes and selections to be approved by Owner and Architect in advance) affecting the general construction, mechanical, electrical, plumbing, and all other Work, and indicating the Work as actually installed. These shall consist of carefully drawn markings on a set of reproducible prints of Architect's Drawings obtained and paid for by Contractor. Contractor shall maintain at the job site one (1) set of Architect's Drawings and indicate thereon each field change as it occurs. The Contractor shall post all Addenda on Construction Documents prior to commencing work on the site.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. If, in the opinion of the Architect, the Shop Drawings, Product Data, Samples and similar submittals are incomplete, indicate an inadequate understanding of the work covered by the submittals, or indicate a lack of study and review by the Contractor prior to submittal to the Architect, the submittals will be returned, unchecked, to the Contractor for correction of these three deficiencies and subsequent re-submittal. Additional service charges as outlined in 3.2.7 may be charged by the Architect in this event.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional and who shall comply with requirements of Owner regarding qualifications and insurance and, 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 the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.11 The Contractor shall submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents to the Architect at least 30 days prior to the date the Contractor needs the reviewed submittals returned. Where colors are to be selected by the Architect, the Contractor shall submit all Samples in adequate time to allow the Architect to prepare a complete selection schedule. In general, all submittals requiring color selection shall be submitted to the Architect within four weeks of the date of the Contract for construction.

§ 3.12.12 The Contractor shall submit the number of copies of Shop Drawings, Product Data, Samples and similar submittals which the Contractor and his Subcontractors need for their use plus two additional sets for the Architect and one additional set for each of the Architect's consultants involved with the particular section of work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect plus one additional opaque print for each of the Architect's consultants involved with the particular section of work. The reproducible transparency will be marked by the Architect and/or his consultants and returned to the Contractor for his use, distribution, correction or re-submittal as required. The Architect and his consultants will retain the marked up prints. After final review and correction of the submittal, the Contractor shall send two corrected sets to the Architect, and one to each of the Architect's consultants involved with the particular section of work.

§ 3.13 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.1 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.2 The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without written consent of the Owner.

§ 3.13.3 Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials and equipment likely to cause hazardous conditions. Without limitation of any

other provision on the Contract Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of: (1) any area and buildings adjacent to the site or the Work or (2) the Building in the event of partial occupancy.

§3.13.4 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including without limitation, lavatories, toilets, entrance and parking areas other than those designated by Owner. Without limitation of any other provisions of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building, as amended from time to time.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 Prior to the Architect's inspection for Submittal Completion the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, and foreign substances; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roof, gutters and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Owner, the Commissioners Court of Owner, all elected officials, employees and agents of Owner of any of the above mentioned parties (the "INDEMNIFIED PARTIES") from and against any and all loss, cost, expense, damage, injury, liability, claim, demand, penalty, or cause of action (including attorneys' fees), directly or indirectly arising out of, resulting from, or related to (in whole or in part), (1) the Work performed hereunder, (2) the Contract, or (3) the act or

omission of Contractor, a Subcontractor, or an individual, partnership, joint venture, or corporation (a) directly or indirectly employed by Contractor or a Subcontractor, or (b) for whose acts or omissions Contractor or a Subcontractor may be liable (excluding property damage to the Work itself, covered by Owner's all-risk builder's risk insurance, subject to Contractor's liability for any deductible amounts thereunder). The obligations of Contractor under this indemnification shall apply to all matters except those arising solely from the wanton and willful negligence or the malicious acts or omissions of Owner. Further, the obligations of Contractor under this indemnification shall not extend to the liability of Architect, its agents, or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or Specifications, (2) the giving of or failure to give directions or instructions by Architect, its agents, or employees, provided such giving or failure to give is the primary cause of the injury or damage, or (3) any matter prohibited by Section 130.002, Texas Civil Practice and Remedies Code. Contractor shall promptly advise Owner in writing of any action, administrative or legal proceeding, or investigation as to which this indemnification may apply, and Contractor, at Contractor's expense, shall assume on behalf of Owner and conduct with due diligence and in good faith the defense thereof with counsel satisfactory to Owner; provided, Owner shall have the right to be represented therein by advisory counsel of its own selection and at its own expense; and provided further, that if the defendants in any such action include both Contractor and Owner and Owner shall have reasonably concluded that they may be legal defenses available to it that are different from, or additional to, or inconsistent with, those available to it that are different from, or additional to, or inconsistent with, those available to Contractor. Owner shall have the right to select separate counsel to participate in the defense of such action on its own behalf at Contractor's expense. In the event of failure by Contractor to fully perform in accordance with this indemnification paragraph. Owner, at its option, and without relieving Contractor of its obligations hereunder, may so perform, but all costs and expenses so incurred by Owner in that event shall be reimbursed by Contractor to Owner, together with interest on the same from the date any such expense was paid by Owner until reimbursed by Contractor, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of the Contract is subject. The obligations of Contractor under this Section shall survive the expiration of the Contract and specifically shall survive the limitations contained in Subparagraph 15.1 hereof.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.19 SUBSTITUTIONS OF PRODUCTS AND SYSTEMS, "OR EQUAL" BRANDS

§ 3.19.1 The materials, products and the systems covered by these specifications have been selected as a standard because of quality, particular suitability, or record of satisfactory performance. It is not intended to preclude the use of equivalent or better materials, products or systems provided that it meet the requirements of the particular project and have been approved in an addendum as a substitution prior to the submission of bids. If prior written approval in an addendum has not been obtained, it will be assumed that the Bid is based upon the materials, products, and systems described in the Bidding Documents and no substitutions will be permitted, except as provided hereinafter.

§ 3.19.2 If, after award of contract, the Contractor or one of his Subcontractors or Suppliers determines that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the work or to honor the Warranty, the Contractor shall promptly notify the Architect, in writing, providing detailed substantiation for his position. Any changes deemed necessary by the Owner and Architect, including substitution of materials and change in Contract Sum, either upward or downward, if any, shall be accompanied by appropriate modification.

§ 3.20 RECORD DRAWINGS

§ 3.20.1 At the completion of the project, the Contractor shall submit one complete set of blue lines showing all changes and routing of utilities made during construction, excluding Architect made CAD changes, to the Architect. Drafting shall be legible to the Architect's satisfaction. The Contractor shall pay for the cost of the required recording/drafting. The record set shall be kept up to date on a daily basis and the Architect shall review its status at the project meetings. The Architect shall furnish the Contractor with a blueline set at contract award which shall have all Addenda incorporated. The Owner will pay for the printing of the blueline set. The Architect will incorporate any record information into the construction (CAD) documents and provide the Owner with an electronic copy of the record information on the Construction documents that have all bid and construction changes incorporated. The cost for incorporating the record information into the CD will be paid for by the Owner. The Architect will transmit the electronic CD to the Owner with a copy of the transmittal to the Contractor's construction

manager.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect whose status under the Contract Documents shall be that of the former Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate For Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect as a representative of the Owner, will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect will be required to make on-site inspections as necessary to keep the Owner informed of the progress of the Work and as necessary to guard the Owner against defects and deficiencies in the Work. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Architect shall not have control over or charge of and shall not be responsible for safety precautions and programs in connection with the Work. Architect shall be responsible for promptly notifying Contractor of the failure of Contractor, Subcontractors or any other persons performing any of the Work, in failing to use proper construction means, methods, techniques, sequences, procedures, safety precautions and programs, but only to the extent Architect becomes aware of, or should, exercising due professional diligence, be aware of, same. Architect shall also promptly notify Owner in writing of the failure of any of the foregoing parties to carry out the Work in accordance with the Contract Documents.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority and responsibility to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is

fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve or reject, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 DELETED.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site or to otherwise furnish labor, material, or other services with respect to a portion of the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site or to otherwise furnish labor, material, or other services with respect to a

portion of the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, but no later than 10 days prior to the submittal date for the Contractor's first Application for Payment, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection. Failure of the Contractor to submit the subject names in a timely manner may delay processing of the Contractor's Application for Payment.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.1 All subcontracts shall be in written form and shall specifically provide that Owner is an intended third-party beneficiary of the subcontract.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

§ 5.5 Contractor shall promptly notify Owner and Architect of any material defaults by any Sub-contractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Sub-contractor or other materialman or workman employed by Contractor the right to obtain a personal judgment or to create a lien against Owner for the amount due from the Contractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 DELETED.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be only based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect and is subject to the approval of Owner.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work. Except as permitted in Paragraph 7.3 and 9.7, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited, to all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

§ 7.2.3 Contractor shall keep and periodically submit to Owner copies of a log for all Change Orders.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Contractor shall keep and periodically submit to Owner copies of a log for all Construction Change Directives and a log for all requests for information.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit not to exceed a total maximum of **fifteen percent (15%)** for all Work, and further limited to as follows, not to exceed five percent (5%) for Work done by Contractor's employees and **ten percent (10%)** of such Work's actual cost to be apportioned between any and all Subcontractors and Sub-subcontractor. "Actual cost" does not include any item that could be deemed to be a general conditions cost or overhead, such as, but not limited to, the cost of Contractor and Subcontractor supervisory personnel assigned to the Work, and field office and related expenses. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority after having obtained Owner's approval to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.1.1 The Work shall be fully completed within the time limit and/or date stated in the Contract between Owner and Contractor.

§ 8.1.1.2 **Liquidated Damages:** If the Contractor should fail to fully complete the Work within the stated time (subject however to extension of time duly granted in the manner and for the causes specified in the General Conditions), Contractor shall be charged by and shall pay to Owner, as liquidated damages, the sum specified in Article 3.1 of the Modified AIA document A101 – 2007 Edition per calendar day that the Work remains incomplete beyond the time fixed for completion. Contractor hereby agrees that from the nature of the project it would be impracticable and extremely difficult to fix the actual damage that would or will be suffered in the event that Contractor should fail to fully complete the Work by the time limit or date stated and the amount of the liquidated damages are fair and reasonable. The parties agree that the liquidated damages are a reasonable forecast of just compensation for the harm done to Owner that would be caused by Contractor's failure to timely complete the Work. Contractor agrees that the amount of liquidated damages due Owner may be deducted by Owner from any monies that might otherwise be or become payable to Contractor.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation, provided, however, that such extension of Contract time shall be net of any delays caused by or due to the fault or negligence of Contractor or that are otherwise the responsibility of Contractor and shall also be net of any contingency or "float" time allowance included in Contractor's construction schedule. Contractor shall, in the event of any occurrence likely to cause a delay, cooperate in good faith with Architect and Owner to minimize and mitigate the impact of any such occurrence and do all things reasonable under the circumstances to achieve this goal; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents. Contractor shall not be entitled to damages of any type for delays caused by Owner, his servant, agents, employees, or separate Contractors hired or retained by Owner. Contractor may receive an extension or extensions for additional time in which to complete the Contract but shall not receive any damages of

any type for such delays. Changes in the Work, regardless of the extent or number of such Changes or Owner's exercise of any of its remedies of suspension of the Work or requirement of correction or re-execution of any defective Work, shall not under any circumstances be construed as intentional interference with Contractor's performance of the Work.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.1 Commitment of Current Revenues Only. As reflected in paragraph 4.5 of the modified AIA document A 101 – 2007 Edition by and between Owner and Contractor dated of even date herewith, in the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Contract, then any party may terminate this Contract upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. ' 271.903.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Owner and to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work which in the aggregate equals the total Contract Sum, divided so as to facilitate payments to Subcontractors, supported by such evidence of correctness as Architect may direct or as required by Owner. This schedule, when approved by Architect and Owner, shall be used to monitor the progress of the Work and as a basis for Certificates for Payment. All items with entered values will be transferred by Contractor to the "Application and Certificate for Payment," and shall include the latest approved Change Orders and Construction Change Directives. Change Order values and Construction Change Directives values shall be broken down to show the various subcontracts. The Application for Payment shall be on a form as provided by Architect and approved by Owner. Each item shall show its total scheduled value, value of previous applications, value of the application, percentage completed, value completed, and value yet to be completed. All blanks and columns must be filled in, including every percentage complete figure. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. Any allowances included in the Application for Payment shall be separately itemized with supporting data attached. The Application for Payment shall be accompanied by a certification by an office of Contractor to the effect that:

There are no known mechanics', materialman's or laborers' liens or claims, or any other liens or claims, legal or equitable, contractual, statutory, or constitutional, outstanding or known to exist at the date of this Application; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Application and there is no known basis for the filing of any mechanics', materialman's or laborers' lien or claim, or any other lien or claim, legal or equitable, contractual, statutory, or constitutional, on the Work; and waivers and releases from all Subcontractors, laborers, and material men for Work done and materials furnished have been obtained in such form as to constitute an effective waiver and release of all such liens and claims under the laws of the state within which the Project is located and shall be delivered to Architect together with Contractor's waiver and release of liens and claims at the time of submission of the Application for Payment.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing by the Owner and Surety. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. The vesting of such title shall not impose any obligations on Owner or relieve Contractor of any of its obligations under the Contract, that Contractor shall remain responsible for damage to or loss of the Work, whether completed or under construction, until responsibility for the Work has been accepted by Owner in the manner set forth in the Contract Documents.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and on all other information available to Architect including, without limitation, the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified and that the aggregate amount theretofore paid to Contractor plus any applicable retention does not exceed the value of the completed portion of the Work. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;

- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, or that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.5.4 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion with the contract time, subject to extensions of time allowed under these Conditions, Architect may withhold any further payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages assessed against Contractor up to the time of the Application for Payment and to the time it is reasonably anticipated that Substantial Completion will be achieved.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner may refuse to make payment on any Certificate for Payment for any default of the Contract, including, but not limited to, those defaults set forth in Clauses 9.5.1.1 through 9.5.1.7. Owner shall not be deemed in default by reason of withholding payment while any of such defaults remain uncured.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor. .

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 DELETED.

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not, for reasons other than a default of the Contract, including, but not limited to, those defaults set forth in Clauses 9.5.1.1 through 9.5.1.7 pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.7.1 If Owner is entitled to reimbursement or payment from Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if Contractor fails to promptly make any payment due Owner, or if Owner incurs any costs and expenses to cure any default of Contractor or to correct defective Work, Owner shall have an absolute right to offset such amount against the Contract Sum and may, in Owner sole discretion, elect either to (i) deduct an amount equal to that which Owner is entitled from any payment then or thereafter due Contractor from Owner, or (ii) issue a written notice to Contractor reducing the Contract Sum by an amount equal to that which Owner is entitled.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof (which Owner agrees to accept separately) is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of issuance of the certificate of final payment by Architect unless otherwise provided in the Certificate of Substantial Completion. The Work will not be considered suitable for Substantial Completion review until all Project systems included in the Work are operational as designed and scheduled, all designated or required governmental inspections and certifications have been made and posted, designated instruction of Owner's personnel in the operation of systems has been completed, and all final finishes within the Contract are in place. In general, the only remaining Work shall be minor in nature, so that Owner and/or Owner's employees and if applicable, the public, could occupy the building on that date and the completing of the Work by Contractor would not materially interfere or hamper Owner's or Owner's employees and if applicable, the public, (or those claiming by, through, or under Owner) from normal County operations. As a further condition of Substantial Completion acceptance, Contractor shall certify that all remaining Work will be completed within thirty (30) consecutive calendar days or as agreed upon following the Date of Substantial Completion. If Contractor requests a Substantial Completion review, and Architect, after performing the Substantial Completion review, finds that the Project was not ready for the Substantial Completion review, then Contractor shall pay the Architect's fees for any additional Substantial Completion reviews.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if

any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§9.8.6 In order for the project or a major portion thereof to be considered substantially complete, the following conditions must be met: (1) All inspections by governmental authorities have jurisdiction over the project must have been finalized, any remedial work required by those authorities must have been completed, and Certificates of Occupancy and similar governmental approval forms must have been issued and copies delivered to the Owner and Architect. (2) All work, both interior and exterior, shall have been completed and cleaned except minor items which if completed after occupancy, will not, in the Owner's opinion, cause interference to the Owner's use of the building or any portion thereof. A significantly large number of items to be completed or corrected will preclude the Architect from issuing a Certificate of Substantial Completion. The Owner and Architect will be the sole judge of what constitutes a significantly large number of items.

§9.8.7 After the date of Substantial Completion of the Project is evidenced by the Certificate of Substantial Completion, the Contractor will be allowed a period of thirty (30) days, unless extended by mutual agreement or provision of the Contract, within which to correct all deficiencies attached to the Certificate of Substantial Completion. Failure of the Contractor to complete such corrections within the stipulated time will be reported to the Contractor's surety. In this report, the Contractor and surety will be informed that, should correction remain incomplete for fifteen (15) days, the Owner may initiate action to complete corrective work out of the remaining Contract funds in accordance with Article 14.

§ 9.9 PARTIAL OCCUPANCY OR USE

§9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the

Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, 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 for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 faulty or defective Work appearing after Substantial Completion.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Owners and users of adjacent sites and utilities. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 DELETED.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 DELETED.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor and Owner from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of Ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.1.5 SCHEDULE OF INSURANCE COVERAGES

§ 11.1.5.1 Contractor shall carry and keep in full force for the duration of the project the following Coverage.

Coverage

Minimum Amounts and Limits

Worker's Compensation	Statutory Limits
Employer's Liability:	
Bodily Injury by Accident	\$500,000.00/each accident
Bodily Injury by Disease	\$500,000.00/each employee
Bodily Injury by Disease	\$500,000.00/Policy Limit

Commercial General Liability

Bodily Injury/Property Damage	\$1,000,000.00 per occurrence
	\$2,000,000.00 aggregate

(Premises Operations, Independent Contractors, Product/Completed Operations, Personal Injury, Contractual Liability, Explosion, Collapse, Underground and Broad Form Property Damage).

Comprehensive Automobile Liability	\$1,000,000.00 Combined Single Limit per Occurrence
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Auto liability insurance shall be on a standard form written to cover all owned, hired, and non-owned automobiles. The policy shall be endorsed to include the Indemnified Parties (paragraph 3.18) as additional insured, contain cross-liability and severability of interest endorsements, and state that this insurance is primary insurance as regards to any other insurance carried by the Indemnified Parties (see paragraph 3.18).

§11.1.5.2 All policies shall contain special endorsements to include:

- .1 The Owner as an additional insured (except for Worker's Compensation) and all other parties identified in 3.18 (Indemnified Parties);
- .2 Waiver of Subrogation in favor of Owner under the Worker's Compensation and Employer's Liability policies.
- .3 A statement that a notice shall be given to Owner by certified mail thirty (30) days prior to cancellation or upon any material changes in coverage.
4. Contain cross-liability and severability of interest endorsements;
5. state that this insurance is primary insurance in regard to any other insurance carried by the an Indemnified Party (see 3.18);
- .6 the following coverage:
 - a. Premises/Operations;
 - b. Independent Contractors;
 - c. Completed Operations for a period of two years following the acceptance of Contractor's Work;
 - d. Comprehensive General Liability Endorsement to include Blanket Contractual Liability (specifically covering, but not limited to, the contractual obligations assumed by Contractor, Broad Form Property Damage, and Personal Injury Liability with employee and contractual exclusions removed;
 - e. Deletion of exclusions relative to Collapse, Explosion, and Underground Property Damage Hazards;
 - f. Personal Injury Liability with the contractual exclusions removed;
 - g. Cross Liability Endorsement.

§11.1.5.6 Umbrella Excess Liability Insurance

Bodily Injury and Property Damage	\$2,000,000.00 per occurrence
	\$2,000,000.00 aggregate

This policy shall be written on an umbrella excess basis above, the coverage described in this Article 11.

The policy shall be endorsed to include the Indemnified Parties (3.18) as additional insureds. The policy shall contain cross-liability and severability of interest endorsements and shall state, as regard the Indemnified Parties that the insurance is primary insurance as to any other insurance carried by any Indemnified Party. The policy shall be endorsed to provide the defense coverage obligation.

§11.1.6 Further, Contractor shall require all Subcontractors to carry similar insurance coverage and limits of liability as required under this Article 11, adjusted to the nature of Subcontractor's operations and submit same to Owner for approval before any Work commences.

§11.1.7 In the event Contractor fails to obtain the required certificates of insurance from the Subcontractor and a claim is made or suffered, Contractor shall indemnify, defend, and hold harmless the indemnified parties from any and all claims for which the required insurance would have provided coverage.

§ 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.2.1 By signing the Contract or providing or causing to be provided a Certificate of Coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that coverage will be based on proper reporting or classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§11.2.2 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Article 11.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Contractor shall obtain a builder's risk "all-risk" or equivalent policy in the amount of the initial Contract Sum (or, if applicable Guaranteed Maximum Price), plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. The policy must also name its subcontractors and the Owner as additional insured, as their respective interests may appear. Coverage shall include material stored on-site and in transit. Such insurance will be with a company or companies lawfully authorized to do business in Texas. The policy must have the following endorsement: "This insurance shall be specific as to coverage and not considered as contributing insurance with any permanent insurance maintained on the present premises.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.1.1 For any claim made against Contractor's Builder's Risk Insurance, the deductible shall not exceed \$2,500.00 for a Contract Sum of less than \$4 million. For a Contract Sum of \$4 million or more, the deductible shall not exceed \$5,000.00.

§11.3.1.1.2 The Contractor waives all rights against (1) Owner, the Subcontractors, Sub-subcontractors, agents, and employees, and (2) the Architect, Architect's consultants, separate contractors, if any, and any of their Subcontractors, Sub-subcontractors, agents, and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this paragraph or other property insurance applicable to the

Work, except such rights as Contractor has to proceeds of such insurance held by the Contractor as a fiduciary. The Contractor, as appropriate, shall require of any separate contractors, Subcontractors, Sub-subcontractors, agents, and employees of any of them by appropriate written agreements, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had a insurable interest in the property damaged.

§11.3.1.1.3 The Contractor as fiduciary shall have power to adjust and settle a loss with insurers. The Contractor shall pay all Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require Subcontractors to make payment to their Sub-subcontractors in similar manner. If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor under the insurance proceeds.

§ 11.3.1.2 DELETED.

§ 11.3.1.3 DELETED.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use shall not affect the validity or coverage of property insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE DELETED.

§ 11.3.3 LOSS OF USE INSURANCE DELETED.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 DELETED.

§ 11.3.6 DELETED.

§ 11.3.7 WAIVERS OF SUBROGATION

The Contractor waives all rights against (1) Owner, the Subcontractors, Sub-subcontractors, agents, and employees, and (2) the Architect, Architect's consultants, separate contractors, if any, and any of their Subcontractors, Sub-subcontractors, agents, and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to Article 11 or other property insurance applicable to the Work, except such rights as Contractor has to proceeds of such insurance held by the Contractor as a fiduciary. The Contractor, as appropriate, shall require of any separate contractors, Subcontractors, Sub-subcontractors, agents, and employees of any of them by appropriate written agreements, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had a insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of

insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 DELETED.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Contractor shall furnish a Performance Bond in an amount equal to one hundred percent (100%) of the Contract Sum, as security for the faithful performance of the Contract and also a one hundred percent (100%) Payment Bond, as security for the payment of all persons performing labor on the Project under this Contract and furnishing materials in connection with the Contract. The Performance Bond and the Payment Bond may be in one or in separate instruments in accordance with local law. Surety companies must be authorized to write surety bonds in Texas and any such surety bond must comply with the requirements of Subchapter A of Chapter 3503 of the Texas Insurance Code

§11.4.1.1 The Contractor shall deliver the required Bonds to the Owner not later than the date of the preconstruction meeting. All Bonds will be reviewed by the Architect for compliance with the Contract Documents prior to the execution of the Contract. In the event that Architect has any questions concerning the sufficiency of the bonds, Architect shall refer the bonds to Owner or Owner's representative for decision.

§11.4.1.2 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the Bonding Company shall be provided.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.3 The Bonds shall be provided to comply with the terms and provisions of Chapter 2253 of the Texas Government Code. Bonds shall be signed by an agent resident in the State of Texas and date of bond shall be on or after the date of execution of the Contract but prior to the date of the notice to proceed. If at any time during the continuance of the Contract, the surety of the Contractor's bonds becomes insufficient, the Owner shall have the right to require additional and sufficient sureties which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. In default thereof, the Contractor may be suspended, and all payment or money due to the Contractor withheld until sufficient bonds are provided by Contractor.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time or Contract Sum.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect as incomplete, defective, or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the entire Work (unless otherwise provided in any Certificate of Partial Substantial Completion approved by the parties), or within such longer period of time as may be prescribed by law or in equity, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be defective or otherwise not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This corrective period shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. Corrective Work shall be warranted to be free from defects for a period equal to the longer of six (6) months after the completion of the corrective Work or one (1) year after the Date of Substantial Completion (subject to extension as previously described) or such longer period of time as may be prescribed by law or in equity, or expiration of the term of any applicable special warranty, if applicable, required by the Contract Documents. Any defect in such Work shall be corrected again by Contractor promptly upon notice of the defect from Owner. This obligation under this Subparagraph 12.2.2.1 shall survive acceptance of the Work under the Contract and termination of the Contract by the Owner. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.2.4 Just before the termination of the various guarantee periods, Contractor shall accompany Owner's agent and Architect on an inspection tour of the building and shall note any defects and shall start remedying these defects within ten (10) days of the inspection tour and shall prosecute the Work without interruption until accepted by Owner and Architect, even though such prosecution should extend beyond the limit of the guarantee period.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused in whole or in part by the Contractor's correction or removal of Work that is defective or otherwise not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents or under law or in equity. Establishment of the period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is defective or otherwise not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice or if delivered by facsimile to the offices of the person or corporation for which it was intended. Facsimiles received after 5:00 p.m. on a business day, or on a weekend or legal holiday on which the recipient's offices are closed, notice shall be deemed to have been duly served on the next business day.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or in equity or by any other agreement, and any such rights and remedies shall survive the acceptance of the Work and/or any termination of the Contract Documents.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Architect, Owner and Contractor shall be afforded a reasonable opportunity to attend, observe, and witness all inspections and tests of the Work. Architect or Owner may at any time request and receive from Contractor satisfactory evidence that materials, supplies, or equipment are in conformance with the Contract Documents. The conduct of any inspection or test and the receipt of any approval shall not operate to relieve Contractor from its obligations under the Contract Documents unless specifically so stated by Owner in writing.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, or reveal faulty or otherwise defective Work, or if the necessity of any such testing, inspection, or approval procedures arises out of the fault, neglect, or omission of Contractor, Contractor shall bear all costs of such testing, inspection, and approval procedures and all other costs made necessary by Contractor's failures, including, without limitation, those costs of repeated and additional procedures and compensation for Architect's services and expenses of Owner's personnel and consultant fees and expenses. Such costs shall be paid by Contractor within ten (10) days of receipt of invoice from Owner with supporting data attached.

§ 13.5.4 Required certificates of testing, inspection or approval shall, be secured by the Contractor and delivered to Owner, unless such testing or inspection services are arranged by Owner.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

An overdue payment bears interest at the rate of one percent (1%) each month, or at the legal rate established by the Texas Government Code, currently in Section 2251.025. Any such payment shall be deemed overdue on the thirty-first (31st) day after Owner receives an invoice from Contractor.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract within the time period specified by applicable law.

§ 13.8 EQUAL OPPORTUNITY

§ 13.8.1 The Contractor shall maintain policies of employment as follows: "The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment, or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the nondiscrimination policies."

§13.8.1.1 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf; state that all qualified applicants will receive consideration for employment with regard to race, religion, color, sex, or national origin.

§13.9 CERTIFICATION OF ASBESTOS-FREE PROJECT

§13.9.1 Contractor shall submit to the Architect a letter addressed to the Owner certifying that all materials used in the construction of this Project contain less than 0.10 by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. Certification letters shall be dated, shall reference this specific Project, and shall be signed by not less than two (2) officers of the construction company.

§13.9.2 Certification shall further state that should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, that Contractor shall be responsible for determining which materials contain asbestos fibers and shall take corrective action to remove those materials from the Project at no additional cost to the Owner.

§13.9.3 Final payment shall not be made until this letter of certification has been received.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work properly executed in accordance with the Contract Documents.

§ 14.1.4 Owner shall not be responsible for damages for loss of anticipated profits on Work not performed on account of any termination described in Subparagraphs 14.1.1 and 14.1.2.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 refuses or fails to supply enough properly skilled workers or proper materials and equipment;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 disregards the instructions of Architect or Owner (when such instructions are based on the requirements of the Contract Documents);
- .5 is adjudged bankrupt or insolvent, or makes a general assignment for the benefit of Contractor's creditors, or a trustee or receiver is appointed for Contractor or for any of its property, or files a petition to take advantage of any debtor's act, or to reorganize under bankruptcy or similar law; or
- .6 otherwise does not fully comply with the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 To the extent the costs of completing Work, including compensation for additional professional services and expenses, exceed those costs that would have been payable to Contractor to complete the Work except for Contractor's default, Contractor will pay the difference to Owner, and this obligation for payment shall survive termination of the Contract. Such costs incurred by Owner will be determined by Owner and confirmed by Architect.

§ 14.2.5 In addition to Owner's right to remove Contractor from any part of Work pursuant to the Contract Documents, Owner may, at any time, at will and without cause, terminate any part of Work or any subcontract or all remaining Work for any reason whatsoever by giving seven (7) days' prior written notice to Contractor specifying the part of Work or subcontract to be terminated and the effective date of termination. Contractor shall continue to prosecute the part of Work not terminated. If any part of Work or subcontract is so terminated, Contractor shall be entitled to payment for Work properly executed in accordance with the Contract Documents (the basis for such payment shall be as provided in the Contract) and for costs directly related to Work thereafter performed by Contractor in terminating such Work or subcontract including reasonable demobilization and cancellation charges provided said Work is authorized in advance by Architect and Owner. No payment shall be made by Owner, however, to the extent that such Work or subcontract is, was, or could have been terminated under the Contract Documents or an equitable adjustment is made or denied under another provision of the Contract. In case of such termination, Owner will issue a Construction Change Directive or authorize a Change Order making any required

adjustment to the Date of Substantial Completion and/or the Contract Sum. For the remainder of the Work, the Contract Documents shall remain in full force and effect.

§14.2.6 Owner shall not be responsible for damages for loss of anticipated profits on Work not performed on account of any termination described in Subparagraph 14.2.5.

§14.2.7 Upon a determination by a court of competent jurisdiction that termination of Contractor pursuant to Subparagraph 14.2.1 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Subparagraph 14.2.5 and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Subparagraph 14.2.5

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right adjustment or interpretation of the Contract Terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. Claims must be by written notice.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Said written notice of claims shall state specifically the reason for the claim, the date or dates of the cause or causes of the claim, and if any extension of time is requested, the number of days of extension requested.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make

payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Said notice shall itemize all claims and shall contain sufficient detail and substantiating data to permit evaluation of same by Owner and Architect. No such claim shall be value unless so made. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction. Extensions of time may be requested for any month of construction for days lost due to adverse weather in excess of the normally expected lost time; provided, however, if Architect determines that the seasonal average of adverse weather days during construction is less than would be normally expected, no Change Order shall be issued and the request for extension of time shall be denied.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

Contractor shall not be entitled to claims for additional time and/or increase in Contract Price due to a problem or non-performance of a subcontractor.

§ 15.1.7 In the event the Contractor fails to achieve substantial completion by the date indicated in the Contract, and extended by approved Change Order, the Owner shall be entitled to liquidated damages in the amount as stated in Subparagraph 3.1.1 of the modified AIA document A 101 – 2007 Edition by and between Owner and Contractor dated of even date herewith per day until the Work is substantially completed. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages, which will be sustained by Owner in the event that the Work is not completed within the agreed time, or within the legally extended time, if any. Said sum shall be considered as liquidated damages only, the exact ascertainment of which is difficult and in no sense be considered a penalty.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim in whole or in part, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to litigation.

§ 15.2.6 DELETED.

§ 15.2.6.1 DELETED.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 DELETED.

§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract shall be subject to mediation as a condition precedent to litigation.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

§ 15.3.3 The parties shall share the mediator's fee. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

The parties expressly agree that disputes or claims arising under the Contract Documents shall not be subject to arbitration unless mutually agreed by the parties in writing.

§ 15.4.1 DELETED..

§ 15.4.1.1 DELETED.

§ 15.4.2 DELETED.

§ 15.4.3 DELETED.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 DELETED.

§ 15.4.4.2 DELETED.

§ 15.4.4.3 DELETED.

SECTION 00800

SUPPLEMENTARY CONDITIONS

The following supplements modify, change, delete from or add to the "General Conditions of the Contract for Construction", AIA Document A-201, Fifteenth Edition, 1997. Where an Article of the General Conditions is modified or any Paragraph, Sub-paragraph, or Clause thereof is modified or deleted by these supplements, the unaltered provisions of that Article, Paragraph, Sub-paragraph, or Clause shall remain in effect.

Article 1: General/Provisions

1.1 Add "CERTIFICATE OF CURRENT COST AND PRICING"

"A certificate that cost and pricing data are accurate, complete and current must accompany Change Order proposals, application for payment, and requests for reimbursable expenses. An authorized official who has actual knowledge of the data shall execute the certificate. This clause shall be included in all subcontracts and be understood to require an authorized official of each subcontractor to execute the certificate."

"Certificate of Current Cost or Pricing Data"

This is to certify that, to the best of my knowledge and belief, the cost and pricing data submitted in support of Project Name, Project Number, and other identifying information (e.g. Change Order number, Progress Payment Number) are accurate, complete, and current as of <insert Date of Price Proposal.>

Signature _____

Name _____

Firm Name _____

1.2.1 Add the following paragraphs:

1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities.

1. The Agreement.
2. Addenda, with those of later date having precedence over those of earlier date.
3. The Supplementary Conditions.
4. The General Conditions of the Contract for Construction.
5. Drawings and Specifications.

1.2.1.2 In the case of an inconsistency between Drawings and Specifications or within either Document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

Article 3 Contractor:

3.3.5. Add the following paragraph:

The Contractor expressly recognizes that the Architect does not owe him any duty to supervise or direct his work as to protect the Contractor from the consequences of his own acts or omissions.

3.4 Labor and Materials

Add the following paragraphs 3.4.1.1, 3.4.2.1, 3.4.3 to 3.4

3.4.1.1 The Contractor shall certify in writing that no materials used in the work contain lead or asbestos materials in them in excess of amounts allowed by Local/State standards, laws, codes rules and regulations; the Federal Environmental Protection Agency (EPA) standards and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under Section 01 700, Contract Closeout.

3.4.2 No request for the substitution of products in place of those specified shall be considered after the Contract has been executed.

3.4.3.1 Smoking and chewing of tobacco products is prohibited in enclosed new construction.

3.4.3.2 No glass bottles shall be brought on the construction site or Owner's property by any construction personnel.

3.7.2.1 Add "If the Contract Documents require the Contractor to satisfy standards more stringent than those required by public authorities, the contractor shall satisfy the contract requirements and not just the requirements of the public authorities."

3.9.1 Add the following: Prior to commencement of the work, Contractor shall provide Owner and Architect with a resume of the Superintendent. Within seven (7) days of Owner and Architect's receipt of the Superintendent's resume, Owner or Architect may object in writing to the selection of the Superintendent. Contractor shall substitute the Superintendent with a replacement acceptable to Owner and Architect upon receipt of Objection. At any time during construction, Owner or Architect may request in writing replacement of the Superintendent. The Contractor shall replace the Superintendent within ten (10) days of receipt of such written request.

Article 4: Administration of The Contract:

4.2.10.1 The Architect may appoint an employee or other person to assist him during the construction. These representatives will be instructed to assist the Contractor in interpreting the Contract Documents; however, such assistance shall not relieve the Contractor from any responsibility as set forth by the Contract Documents. The fact

that the Architect's Representative may have **allowed** work not in accordance with the Contract Documents shall not prevent the Architect from insisting that the faulty work be corrected to conform with the Contract Documents and the Contractor shall correct same.

4.3.8.2.1 A guide for average climatological conditions shall be the bulletin "Local Climatological Data", published by the Department of Commerce. No request for an extension of time due to weather conditions shall be considered unless accompanied by Weather Bureau documentary evidence showing by comparison that such weather is abnormal to any of the past five (5) years.

4.3.9 Delete in its entirety and in its place insert 'The Contractor waives Claims against the Owner for consequential damages arising out of or relating to this Contract. This waiver includes damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work. This waiver is applicable, without limitation, to all consequential damages due to Owners termination in accordance with Article 14. Nothing contained in this Subparagraph 4.3. 1 0 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

Delete these paragraphs and subsequent subparagraphs 4.5, 4.5.1, 4.5.2, 4.5.3, 4.6, 4.6.1, 4.6.2, 4.6.3, 4.6.4, 4.6.4, 4.6.5, and 4.6.6.

Article 5: Changes in the Work:

5.2.5 Add the following subparagraph:

5.2.6 Add the following subparagraph:

Article 7: Changes in the Work:

7.3.3.5 Add the following:

The total Contractor mark-up for overhead and profit on any Change Order shall not exceed 10%. On work performed by a subcontractor and supervised by the Contractor, the total Contractor mark-up for overhead and profit for any change order shall not exceed 5%.

Article 8: Time:

8.3.1 Delete the phrase "or by delay authorized by the Owner pending mediation and arbitration,". Add the following sentence to the end of the subparagraph "Extensions of time shall be granted only because of delay preventing the execution of the major items of work critical to the schedule for completion of the Work."

Add the following subparagraph:

8.3.4.1 Extensions of time will be granted only for loss of scheduled workdays, not for loss of calendar days.

Add the following subparagraph:

8.3.5 The Contractor shall include in his base bid proposal all overhead and profit necessary to complete the project. No additional overhead or profit will be paid for extensions of time granted for loss of scheduled work days.

Add the following paragraph 8.3.6

8.3.6 In the event that the Owner has specified a stipulated completion date, the provisions of 8.3.1 through 8.3.3 do not apply. However, in the event of delay(s) fully beyond the Contractors control, the Owner may authorize by change order reimbursement for additional costs to accelerate the construction in order to maintain the stipulated completion date.

Article 9: Payments and Completion:

9.1.2 Add the following subparagraph:

In any contract where the total contract price at time of execution of the contract is \$400,000-00 or more and the contract provides for retainage of greater than five percent of periodic contract payments, the school district shall deposit the retainage in an interest-bearing account, and interest earned on such retainage funds shall be paid to the General Contractor upon completion of the contract.

9.3.1 Add the following sentence:

The form of application for payment shall be AIA Document G702, (Notarized) Application for Certification of Payment, Supported by AIAI Document G703, Continuation sheet.

9.6 Progress Payments

9.6.1 Substitute the following paragraph:

After the Architect has issued a certificate for payment, the Owner shall make payments on account of the contract as follows:

Interim Payment: No later than fifteen (15) days following the end of the period covered by the application for payment, not less than ninety-five percent (95%) of the value based on the contract prices for labor and material incorporated in the work and of materials suitably stored at the site thereof unto the date of application for payment, as estimated by the Architect, less the aggregates of previous payments.

9.7.1 In the first sentence delete the words "or awarded by arbitration."

9.10 Final Completion and Final Payment:

- 9.10.1 Add the following sentence: Final payment shall be due thirty days after final completion provided the conditions set forth in Par. 9.10.2 have been fulfilled.
- 9.10.2 All references in this paragraph to mechanic's liens or liens should be deleted and replace with "bond claim" **and add the following to the end of the section:** At the option of the Owner if Contractor fails to complete any punch list items within thirty (30) days after written demand is made on Contractor to complete said items, Owner may: (i) Contract with another contractor to complete the items and deduct the cost of the completion work from Final Payment or (ii) Withhold final payment and no final payment shall be due. Punch list items shall be defined as necessary to complete the Project after a Certificate of Substantial Completion has been submitted to the Owner by the Architect.

Add the following Paragraphs:

9.11 Liquidated Damages

- 9.11.1 Liquidated damages shall be assessed the Contractor at the rate of one thousand dollars (\$1,000.00) per day for each day that actual substantial completion exceeds the contract date of completion.

9.12 Add the following paragraph:

Civil Statutes: 'The provision of Art. 601f of Vernon's Texas Civil Statutes shall not apply to this contract. Times and methods of payment of invoices shall be as specified herein. If no time for payment of invoices is otherwise specified herein, the District shall have a reasonable time to make payment. There shall be no interest on any delayed, disputed or delinquent payment, nor shall the Contractor or vendor be entitled to attorney's fees in any dispute to collect such payment. Contractor or vendor expressly waives and gives up any rights it may have under Art.601f. To the extent that any other provision in this contract shall conflict with this paragraph, this paragraph shall prevail."

Article IO: Protection of Persons And Property:

10.2.2 Add the following subparagraph:

10.2.2.1 The Contractor shall comply with and provide for, in all trenching work which will exceed a depth of five feet, trench safety systems that meet current Occupational Safety And Health Administration (OSHA) Standards. The Contractor shall be responsible for incorporating into his base bid the cost of these trench safety systems. All requirements shall be in accordance with detailed drawings and specifications.

10.2.2.2 The Contractor shall comply with Federal and State Regulations to verify use of only "lead free" and asbestos free" materials.

Article 11: Insurance And Bonds:

11.1.1 Delete subparagraph 11.1 and substitute the following:

11.1.1 The Contractor shall purchase and maintain, in a company or companies licensed to do business in the state in which the project is located, such insurance as will protect him, the Owner, and Architect, from claims set forth below which may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by himself, or by any Sub-Contractor, or be anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable (Sub-paragraphs.1 through 7 shall remain unchanged). Contractual liability shall be the same limits as #2 under 11.1.2 below.

11.1.1.8 Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operations
2. Independent Contractors Protective
3. Products and Completed Operations
4. Contractual-including Specified Provisions for the Contractors Obligation under Paragraph 3.18
5. Owned, Non-Owned and Hired Vehicles
6. Broad Form Coverage for Property Damage
7. Personal Injury

11.1.2 Substitute the following: The insurance required by sub-paragraph 11. 1.1 shall be written for not less than any limits of liability indicated below.

1. a. Workmen's Compensation - Statutory
- b. Employees Liability \$100,000.00

2. Comprehensive General Liability
- a. Bodily Injury& Personal Injury:
- Each Occurrence \$1,000,000.00
- Aggregate \$1,000,000.00
- b. Property Damage:
- Each Occurrence \$1,000,000.00
- Aggregate \$1,000,000.00

3. Automobile Liability
- a. Combined Coverage Limit \$500,000.00

4. IndependentContractorsLiability-Samelimitas#2 above.
5. Products and Completed Operations - Same limits as #2 above, commencing with issuance of final certificate of payment and remaining in effect for one (1) year.
6. Property Damage Liability Insurance will provide X, C and U coverage, as applicable.
7. Umbrella Excess Liability - \$1,000,000.00
 - a. Self Insured Retention - \$25,000.00

11.1.3 Add the following:

Furnish one copy of certificates herein required for each copy of the agreement; specifically set forth evidence of all coverage required by sub-paragraph 1 1. 1.2.

11.1.3.1 Add the following:

The form of the certificate shall be AIA Document G715 and ACORD form 25-S. Furnish to the owner copies of any endorsements that are subsequently issued amending coverage or limits.

Add the following:

Article 11.1.4. Workers' Compensation Insurance Coverage.

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in paragraph 406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to the project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide the governmental entity:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor.
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter,
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

11.4 Property Insurance:

11.4.1 Delete and substitute the following:

11.4.1 The Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. Such insurance shall be in a company or companies against which the Owner has no reasonable objection. This insurance shall include the interests of the Owner, the Contractor, Sub-Contractors and Sub-Subcontractors in the Work and shall insure against the perils of fire and extended coverage and shall include "All Risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If not covered under the All Risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off of the site or in transit when such portion of the Work are to be included in an application for payment under Sub-paragraph 9.3.2. If this insurance is written with stipulated amounts deductible under the terms of the policy, the contractor shall pay the difference attributable to deductions in any payments made by the insurance carrier or claims paid by this insurance.

11.4.1.1 Delete this clause.

11.4.1.2 Delete this clause.

11.4.1.3 Delete this clause.

11.4.4 Delete this Subparagraph.

11.4.6 Delete the first sentence and substitute the following:

Before an exposure to loss may occur, the Contractor shall file with the Owner a copy of each policy that includes insurance coverage's required by this Paragraph 11.4.

1 1.4.6 Delete the last word of this subparagraph and insert the word "Owner."

11.4.7 Modify Subparagraph 11.4.7 by substituting "Contractor" for "Owner" at the end of the first sentence.

11.4.8 Modify Subparagraph 11.4.8 by substituting "Contractor" for "Owner" as fiduciary; except that at the first reference to "Owner" in the first sentence, the word "this" should be substituted for "Owner's".

11.4.9 Modify Subparagraph 11.4.9 by substituting "Contractor" for "Owner" each time the latter word appears.

11.4.10 Modify Subparagraph 11.4.10 by substituting "Contractor" for "Owner" each time the latter word appears.

11.5 Performance Bond And Payment Bond:

11.5.1 Delete Par. 11.5.1 and substitute the following:

11.5.1 CONTRACT SECURITY: Performance and Payment Bonds shall be required for all work where the Contract exceeds \$25,000.00. After award of contracts by Owner, the successful Bidder, at Bidder's expense, must deliver to the Owner an executed Performance and Payment Bond in an amount of 100% of the accepted bid as security for the faithful performance of the Contract and payment of all persons performing labor and furnishing materials in connection with this Contract. Bonding Company must be licensed, listed, and approved in the State of Texas (State Board of Insurance). Bonding Company shall provide such other information as necessary to document net worth, stability, total bonding capacity, and projects under coverage, etc., with adequate financial capacity for this Project. If the Contract sum exceeds the underwriting limitation of the Surety on the most recent list of acceptable sureties, the Contractor shall provide the Owner with evidence that the excess is protected by re-insurance or co-insurance in a form and amount acceptable to the Owner. Such bonds shall meet the requirements of Chapter 2253 of the Texas Government Code.

Add the following paragraph:

1 1.6 Antitrust Violations:

Vendors (Contractor) hereby assigns to purchaser (Owner) any and all claims for overcharges associated with the contract (Contract) which arise under the antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq (1973!).

11.6.1 Article 15 Equal Employment Opportunity"

- 11.6.2 Add : "15.1 Contractor shall provide all persons equal opportunity for Employment without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation. Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the nondiscrimination provision of this contract.
- 11.6.3 Article 16 Minimum Wage Rate
Add: "16.1 no worker employed directly at the Project site by the Contractor or any Subcontractor, agent or other person doing or contracting to do all or a part of the Work on the Project may work more hours than the prevailing hours of labor unless paid for all hours in excess of the prevailing hours at a rate of at least one and one-half (1 ½) times the hourly basic rate of pay. If Contractor or any Subcontractor fails to pay any of its laborers or mechanics prevailing wages or overtime wages if applicable, Contractor or Subcontractor shall (a) immediately make payment of such prevailing wages to the laborers or mechanics that were underpaid; and (b) hold the Owner harmless for any claims, demands or causes of action (including reasonable attorney's fees and costs) arising for such failure."
- 11.6.4 "Article 17 Prohibition Against Gratuities"
Add: "17.1 Signing the bid and signing the Contract Documents constitutes certification that to the best of Contractor's knowledge no officer, representative, agent or employee of Owner has benefited or will benefit financially or materially from this Contract. Contractor agrees that participation with an Owner-employee constitutes material breach of contract entitling Owner to terminate this contract for default."
- 11.6.5 "Article 18 Right to Audit"
Add: "18.1 Contractor shall maintain accounting records relating to the performance of this contract in accordance with generally accepted accounting practices. Owner shall have the right to inspect and copy all books, records, and documents (in whatever medium they exist). Contractor shall make such items available for inspection during normal business hours at Contractor's place of business. Contractor shall retain all such items during the term of this Contract and for a period of three (3) years after final acceptance. Contractor shall require subcontractors to allow the Owner to audit payments and change orders between the Contractor and subcontractor priced using cost reimbursement or time and materials. Computational or clerical errors made by the Contractor in the preparation of an invoice, final payment statement, or Change Order priced on a reimbursable or time and materials basis shall be corrected as follows. If the error favors the Owner, the Owner will issue a modification correcting the error and reimburse the Contractor for the error. If the error favors the Contractor, the Contractor shall make an adjustment on the next due progress payment invoice, identifying the basis for the correction and deducting the amount of overpayment. If final payment has been made, the Contractor shall make payment in response to a formal demand issued by the Owner. Should Contractor fail to make payment, Owner may set off under any contract between Owner and Contractor. This provision shall survive completion or termination of the contract."

END OF SECTION 00800

SECTION 00820

WAGE RATES

PART 1. GENERAL

1.1 Requirements:

- A. Pay not less than the minimum wage scale and benefits accepted within the local construction industry.
- B. No claims for additional compensation will be considered by the Owner because of payments of wage rates in excess of the applicable rate contained in this contract.
- C. All contractors and subcontractors shall be equal opportunity employers.

1.2 Workmanship Standards:

Comply with the recognized workmanship quality standards within the industry as applicable to each unit of work, including ANSI standards where applicable. Project workmen should be paid in accordance with accepted pay scales for similar experience level and work in the area. It is a requirement that each category of tradesman or installer performing the work be pre-qualified, to the extent of being familiar with the applicable and recognized quality standards for his category of work, and being capable of workmanship complying with those standards.

1.3 Payroll:

- A. In compliance with Article 515a, Sections 2 and 3, and Article 5159d, Section II of the Revised Civil Statute referenced above, the Owner reserves the following rights:
 - 1. To receive weekly payroll records.
 - 2. To have the Contractor provide required earning statements to employees.

1.4 Minimum Wage Rates:

- A. Pay prevailing basic wage listed, plus any applicable fringe benefits.
- B. In no case shall wages be less than the federally determined prevailing (Davis-Bacon and Related Acts) wage rate, as issued by the U.S. Department of Labor and contained in the contract documents. In addition the successful proposer must ensure that employees and applicants for employment are not discriminated against because of race, sex, age or national origin.

PREVAILING WAGE SCALE NOTICE

- 1. This determination of prevailing wages shall not be construed to prohibit the payment of more than the rates named. Under no conditions shall any laborer,

workman or mechanic employed on this job be paid less than the minimum wage scale.

2. In execution of this contract, the contractor must comply with all applicable state and federal laws, including but not limited to laws concerned with labor, equal employment opportunity, safety, and minimum wage.