

IN WITNESS WHEREOF, the parties to these present have executed this contract in six (6) counterparts, each of which shall be deemed an original, in year and day first above mentioned.

APPROVED BY COMMISSIONERS COURT ON, _____, 2_____.

CONTRACTOR: _____
Print Name & Title: _____
Name of Firm: _____
Address: _____
Fed I.D. #/SS #: _____


STATE OF TEXAS

COUNTY OF HIDALGO

This instrument was acknowledged before me on this the _____ day of _____,
2_____, by _____ Of and on behalf of _____
(Title) (A corporation)

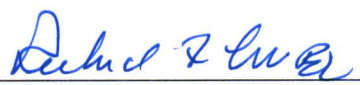
Notary Public-Signature

APPROVED AS TO FORM:
Hidalgo County District Attorney's Office

By: 
Josephine Ramirez Solis, Assistant District Attorney
ROBERT VINALLIT

ATTEST:

Arturo Guajardo, Jr., County Clerk


COUNTY OF HIDALGO:

Richard F. Cortez, County Judge

APPROVED BY
COMMISSIONERS' COURT
ON: 8-11-20 MM

Construction Contract C-19-280-08-11 Between County of Hidalgo & Noble Texas Building LLC, for ADA Bus Shelter on N. 12TH Ave. and Stubbs St.

REQUEST FOR BIDS

HIDALGO COUNTY

“ADA BUS SHELTER ON N. 12TH AVENUE AND STUBBS ST.,
EDINBURG, TEXAS”

RFB No: 2019-280-04-15-RFV

Acceptance Due Date: **April 15, 2020**

Martha L. Salazar, CPPB, Purchasing Agent
Hidalgo County Purchasing Department

Project Contract Specialist Contact Information:

Rocio Villarreal, Contract Specialist III
Hidalgo County Purchasing Department
Physical Address: 2802 S. Business Hwy. 281 - Administration Building
Mailing/Postal Address: 2812 S. Business Hwy. 281
Edinburg, Texas 78539
(956) 292-7000 Ext. 4868
Rocio.villarreal@co.hidalgo.tx.us



REQUEST FOR BIDS

TO SUPPLY HIDALGO COUNTY with sealed bids for: 2019-280-04-15-RFV “ADA BUS SHELTER ON N. 12TH AVENUE AND STUBBS ST., EDINBURG, TEXAS.”

A BIDDER’S BOND from a reliable surety company licensed to operate in the State of Texas or certified Cashier’s Check, payable without recourse to the County of Hidalgo, for the amount of not less than 5% of the total bid shall accompany the bid as guaranty that, if awarded the contract, the bidder will enter into a contract with the County of Hidalgo. Payment and Performance Bonds shall be executed except in the event into a single payment contract with the County of Hidalgo in lieu of a Performance Bond. In the event the total amount bid is \$25,000 or less, the successful contract has the option to enter into a single payment contract with the County of Hidalgo in lieu of a Payment and Performance Bond.

Bid Packets may be obtained at the office Hidalgo County Purchasing Department, 2802 South Business Hwy 281, Edinburg, Texas 78539.

UPON SUBMITTING SEALED BID, bidders are required to properly identify (handwritten, typed or printed) sealed envelope and/or packet as follows: Bidders’ name and address on the upper left hand corner of the sealed envelope and/or package and **Bid No.:2019-280-04-15-RFV-“ADA Bus Shelter on N. 12th Avenue and Stubbs St., Edinburg, Texas”** on the lower left hand corner of sealed envelope/and or packet. **OVERNIGHT MAIL MUST ALSO BE PROPERLY LABELED ON THE OUTSIDE OF EXPRESS ENVELOPE OR PACKAGE.**

The sealed bid must contain one (1) original, one (1) copy, and two (2) CD/USB in PDF format of bid and must be clearly identified and addressed for delivery to:

**Martha L. Salazar, CPPB, Hidalgo County Purchasing Agent
Hidalgo County Purchasing Department**

US Postal Mail/Courier Address

Hidalgo County New Administration Building
2812 S. Business Hwy 281
Edinburg, Texas 78539

Physical Location:

Hidalgo County New Administration Building
2802 S. Business Hwy. 281
(Southeast of Canton Rd & Business 281)
Edinburg, Texas 78539

BIDS ACCEPTANCE: Sealed bids will be accepted until 9:30 a.m. on Wednesday, April 15, 2020 at which time they will be opened in the Hidalgo County Purchasing Department Conference Room at **Physical Location: 2802 S. Business Hwy 281, Hidalgo County New Administration Building, Edinburg, Texas 78539.** NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY BID RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED.

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

BIDS MAY BE HELD by the County of Hidalgo for a period not to exceed ninety (90) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of bidders, prior to awarding of the contract.

THE COUNTY reserves the right to refuse and reject any/all bids and to waive any/all formalities or technicalities, or accept the bids considered the best and most advantageous to the County.

Typed-written bidding RFI’s shall be faxed to 956-318-2629 or emailed to Rocio Villarreal at rocio.villarreal@co.hidalgo.tx.us. Please call 956-318-2629 to confirm receipt of faxed RFI. RFI’s **will not be answered by phone.** NO HAND WRITTEN RFI’S will be processed/answered. All inquiries shall be forwarded by 5:00 pm local time on April 8, 2020. Inquiries beyond this date will not be responded. Contact the Purchasing Department office for copies of Addenda.

BY ORDER OF THE COMMISSIONERS COURT OF HIDALGO COUNTY, TEXAS on this the 24th day of March, 2020.

**MARTHA L. SALAZAR, CPPB
HIDALGO COUNTY PURCHASING AGENT**

REPORT ROAD HAZARDS@1-866-HCR-SAFE OR 1-866-427-7233



2802 S. Bus. Hwy 281
Edinburg, Texas 78539
Phone: (956) 318-2626
Fax: (956) 318-2629
www.co.hidalgo.tx.us/purchasing

March 30, 2020

Noble Texas Builders, LLC.

Participant's name

108 South Main Street

Address

La Feria

City

Texas, 78559

State, Zip Code

Re: **HIDALGO COUNTY**

Request for Bids- **"ADA BUS SHELTER ON N. 12TH AVENUE AND STUBBS ST., EDINBURG, TEXAS"**

RFB No: 2019-280-04-15-RFV

Dear Respondents:

Enclosed please find a Request for Bid (RFB) packet for your consideration. Modifications and new requirements have been added and implemented. Carefully read and review all instructions, requirements and specifications.

Hidalgo County Purchasing Department welcomes and appreciates your participation in the Request for Bids process.

If any further assistance is required, please do not hesitate to call the Purchasing Department at 956-318-2626 ext. 4868.

Sincerely,

A handwritten signature in black ink that reads 'Martha L. Salazar' with a stylized flourish at the end.

Martha L. Salazar, CPPB

Hidalgo County Purchasing Agent

MLS/rfv

Enclosures

HIDALGO COUNTY TABLE OF CONTENTS

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(Including all funding sources, programs, and entities)

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The above-mentioned items shall be found in the Request for Bids (RFB) packet that is attached herewith. Should you find that any of the items are not attached in its entirety please contact Purchasing by calling (956) 318-2626, advise of missing documentation, and Purchasing will forward information either through facsimile or by U.S. Mail. Thank you.

1. Bids will be received for “**Hidalgo County** (Including all funding sources, programs, and entities) “**ADA Bus Shelter on N. 12th Avenue and Stubbs St., Edinburg, Texas**”, *in* accordance with the requirements attached hereto as Exhibit "A". The bid should address all requirements set forth. Bidders (may also be referred to as respondent, contractor or vendor) may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"), however, a strong rationale must be presented for any deviation from the requirements. Hidalgo County reserves the right to reject the deviation and its effect on the overall bid.
2. **One (1) original** (pages *one-sided* – clearly marked **ORIGINAL**), **one (1) copy** of all bids and two (2) **CD/USB in PDF** format are required with the bidder’s name and 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, **RFB: 2019-280-04-15-RFV Hidalgo County** (Including all funding sources, programs, and entities) “**ADA Bus Shelter on N. 12th Avenue and Stubbs St., Edinburg, Texas**”, and in County's Purchasing Department, Physical Location: 2802 S. Business Hwy. 281 Postal/ Mailing: 2812 S. Business Hwy. 281 Administration Building, Edinburg, Texas, **ON OR BEFORE 9:30 A.M., WEDNESDAY, April 15, 2020.**

NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY BID 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 AND/OR PACKAGE IN REFERENCE TO SEALED BID.

Hidalgo County reserves the right to refuse and reject any/all bids and to waive any/all formalities or technicalities or to accept the bid considered the best and most advantageous to Hidalgo County.

Additionally, all forms listed below must be properly executed and included with your RFB:

1. Legal Notice Acknowledgement (See **page 15**);
 2. Insurance pages with Acknowledgment Forms (See **Exhibit “C”**);
 3. Form CIQ-Conflict of Interest Questionnaire (See **Exhibit “D”**);
 4. Vendor Bidder Application, W-9, & HUB/DBE (See **Exhibit “E”**);
 5. Certification Regarding Debarment (See **Exhibit “F”**);
 6. (*If applicable*) - Required Contract Clauses for Contracts Under Federal Award – 2 CFR 200, Appendix II & FEMA (See **Exhibit “H”**);
 7. Proposer’s Affidavit (See **Exhibit “J”**); and
 8. SAMS.gov Registration Acknowledgement (See **Number 18** below).
3. Hidalgo County reserves the right to separate and accept or eliminate any item(s) listed under this bid that it deems necessary to accommodate budgetary and/or operational requirements. Hidalgo County also reserves the right to reject any or all bids submitted. Receipt of any bid shall under no circumstances obligate County to accept the lowest dollar bid. The award of this contract shall be made to the responsible bidder whose bid is determined to be the best bid, taking into consideration the relative importance of price and other factors as herein set forth.
 4. The Bidder shall not substitute items named in the bid without the express written consent of Hidalgo County. Failure of the delivered item 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 an event, County may elect to award the contract to the next lowest responsible bidder or to reject all sealed bids and re-advertise.

5. Bidder is responsible for obtaining any information needed in order to respond to the RFB. For work to be performed at a County owned or operated location, each respondent shall, in its sole discretion, visit the job site before preparing the bid and thoroughly familiarize himself/herself with existing conditions. Respondent should take field dimensions and note all circumstances which affect the dollar amount.
6. Bidder should provide any and all relevant information necessary to establish Bids. 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, respondents are required to include illustrations, specifications, explanation of warranties, and service data with their response including catalog numbers and any necessary references.
7. No bid may be withdrawn within thirty (30) days from the scheduled time to open bids.
8. Submitted Bid prices are to remain firm for a minimum of ninety (90) days after the RFB opening.
9. Any interpretations, amendments, corrections or changes to this RFB 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. Respondents shall acknowledge receipt of all addenda as a part of their Bids submittal.
10. County reserves the right to accept or reject any or all Bids.
11. Respondent is responsible for all costs of submitting its response to the RFB.
12. The county is exempt from Federal Excise Tax, State Tax, and Local Tax. Do Not include tax in cost figure(s). If it is determined that tax was included in the cost figure(s) 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. **POST-AWARD DELIVERY INSTRUCTIONS (if applicable):**
 - Costs are to be net F.O.B., County Prepaid.
 - No deliveries accepted after 3:00 P.M., Monday-Friday (if applicable).
 - At least seventy-two (72) hours prior notice of delivery must (if applicable) be given to Martha L. Salazar, CPPB, Hidalgo County Purchasing Agent before delivery will be accepted.
 - If you need additional information call the office listed below:

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

16. **POST-AWARD PROJECT-SPECIFIC BILLING AND PAYMENT INSTRUCTIONS:**

- Invoices must include:
 - a) Name and address of successful respondent;
 - b) Name and address of receiving department or official;
 - c) Purchase Order Number and Contract number (if any) for the project-specific award;
 - d) Notation – **Hidalgo County- RFB: 2019-280-14-15-RFV “ADA Bus Shelter On 12th Avenue and Stubbs St., Edinburg” and**
 - e) Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.

- Discount payments will be considered when offered (if applicable).

- Contact person for Billing and Payment questions:

HIDALGO COUNTY AUDITOR’S OFFICE
 Postal/Mailing 2808 S. Business Hwy. 281
 Edinburg, Texas 78539
 956-318-2511

SCHEDULE OF EVENTS:

RFB Opening, 9:30 A.M.	<u>April 15, 2020</u>
Award of Contract:	<u>2020</u>
Commence Work or Deliver Products:	<u>2020</u>

17. **HIDALGO COUNTY HOLIDAYS:**

2020 YEAR	
New Year’s Day	01/01/20
Martin Luther King Day	01/20/20
President’s Day	02/17/20
Good Friday	04/10/20
Memorial Day	05/25/20
Independence Day	07/03/20
Labor Day	09/07/20
Columbus Day	10/12/20
Veteran’s Day	11/11/20
Thanksgiving Day	11/26/20-11/27/20
Christmas Day	12/24/20-12/25/20
New Year’s Eve	12/31/20

18. **BID, PAYMENT, OR PERFORMANCE BOND AND DEBARMENT CERTIFICATION; PAYMENT UNDER CONTRACT:**

The County may, and if mandated by statute, shall require a bid bond, a performance bond and/or a payment bond. Any such bond must be executed with a surety company authorized to do business Texas and shall meet any other requirements established by law or by County pursuant to applicable law.

- If the contract proposed is for the construction of public works or is for a contract for goods & services exceeding \$100,000, all respondents shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price.
- In the event the contract exceeds Fifty Thousand Dollars (\$50,000.00), the respondent shall furnish a payment bond and a performance bond to the County for the full amount of the contract within thirty (30) days after the date of signing of the contract or issuance of a Purchase Order following the acceptance of a bid or proposal, but in any event prior to the commencement of actual work.
- 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 performance bond for a contract in excess of One Hundred Thousand Dollars (\$100,000.00) and *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.
- All participants 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 45 CFR Part 76. Register at SAMS System for Award Management.

19. **TITLE VI NOTICE/ NONDISCRIMINATION:**

- a) By submitting a bid, the respondent certifies that it will comply with the following nondiscrimination statutes and their implementing regulations. Title VI of the Civil Rights Act of 1964, as amended (78 Stat.252, 42 U.S.C. §§2000d to 2000d-4) provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance. Title VI has been broadened by related statutes, regulations and executive orders as found in Appendices “A” through “E” as delineated in the USDOT Standard Title VI/Non-Discrimination Assurances-Specific Assurances to prohibit discrimination on other grounds including, but not limited to, religion, sex, age, and disability. (Title VI-Appendices “A” through “E” are hereby attached as **Exhibit “G”**. The County’s entire Title VI policy may be found at <https://www.hidalgocounty.us/2071/Title-VINondiscrimination-Plan> and is hereby incorporated by reference.

- b) The following required statement and the applicable provisions of the Title VI Appendices “A” through “E” expanding these protections to the categories described herein are hereby incorporated by reference as applicable.
 - “The County of Hidalgo, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat.252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit Bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award”.
- c) The respondent will attach all applicable notices, including those referenced in Title VI – Appendices “A” through “E”, to which it is obligated to provide or submit as part of the RFB.
 - If applicable, Form FHWA 1273 – “*Required Contract Provisions Federal-Aid Construction Contracts*”, must be physically attached to certain Federal-aid construction contracts. A contractor (or subcontractor) is required to insert Form FHWA 1273 in each subcontract and all lower-tier subcontracts. Form FHWA 1273 is attached as **Exhibit “F”**, and, if applicable, its provisions are incorporated in and made part of the contract entered into between the County and the successful respondent related to the present procurement.

20. 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.
- Contracts awarded hereunder shall be in compliance with Tex. Loc. Govt. Code Chapter 171: Regulation of Conflicts of Interest of Officers of Municipalities, Counties and Certain Other Local Governments.
- **NOTICE:**
All communications by a vendor to the county, its officials, and department heads regarding this procurement shall be done through the Hidalgo County Purchasing Department.

No vendor, its’ representative, agent, or employee shall engage in private communication with a member of the Hidalgo County Commissioners Court or county department heads regarding any procurement of goods or services by the County from the date that the RFB, RFP, or RFB is released. No private communication regarding the purchase shall be permitted until the procurement process is complete and a purchase order is granted or a contract is entered into “Private Communication” means communication

with any vendor outside of a posted meeting of the governing body, a regular meeting of a standing or appointed committee, or negotiation with a vendor which has been specifically authorized by the governing body.

21. DISCLOSURE OF CONFLICT OF INTEREST:

Effective January 1, 2016, 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 the statement to be filed. The disclosure requirement applies to a person or business that 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 respondent fails to comply with the 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 details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

If applicable, completed Form CIQ must be submitted to the Hidalgo County Clerk’s Office located at 100 N. Clossner, Edinburg, Texas 78539 - Hidalgo County Courthouse.

COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE RESPONDENT. QUESTIONS REGARDING COMPLIANCE SHOULD BE DIRECTED TO YOUR LEGAL COUNSEL.

22. CERTIFICATE OF INTERESTED PARTIES (FORM HB1295):

As of January 1, 2016, to comply with Texas Government Code Section §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Section 46.1, 46.3 and 46.5 of the Texas Administrative Code, we have updated and revised our RFB packet. In accordance with these requirements, a business must submit a completed Certificate of Interested Parties Form 1295 to the County before the County may enter into a contract with the business entity. In box 3 of Form 1295, you will provide the **RFB No. 2019-280-04-15-RFV**, as shown on the packet. Once completed and filed with the Texas Ethics Commission, Form 1295 must be printed, signed, and submitted to our office either by facsimile transmission to (956) 292-7612 or via email to **rocio.villarreal@co.hidalgo.tx.us**. Hidalgo County cannot enter into a contract until Form 1295 is submitted. Therefore, failure to timely submit signed Form 1295 may result in a delay of the award. Full instructions for completion and submittal of Form 1295 may be found on the Texas Ethics Commission website:

<https://www.ethics.state.tx.us/tec/1295-Info.htm>

THE AWARDED VENDOR WILL HAVE THIRTY (30) DAYS FROM THE DATE THE HIDALGO COUNTY COMMISSIONERS’ COURT APPROVES THIS AGREEMENT TO SUBMIT THE SIGNED FORM 1295. HIDALGO COUNTY CANNOT ENTER INTO A CONTRACT UNTIL FORM 1295 IS SUBMITTED.

23. 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.

24. Bids and all goods and services provided hereunder shall comply with all federal, state and local laws

concerning this type(s) of goods and/or services.

25. Minimum Standards for Responsible Prospective Respondents: A prospective respondent must affirmatively demonstrate the respondent's responsibility. A prospective respondent, by submitting an RFB, represents to County that it meets the following requirements:
- Possess or is able to obtain adequate financial resources as required to perform under this RFB;
 - 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; and
 - Be otherwise qualified and eligible to receive an award.
26. 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.
27. Any contract awarded to the successful bidder will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, (c) terminated by County with thirty (30) days written notice prior to cancellation with or without cause.
28. Any supplemental project-specific contract award to a successful respondent 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 (30) days written notice prior to cancellation with or without cause.
29. 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. County reserves the right to terminate the contract immediately in the event of breach or default by a successful respondent, or in the event, a successful respondent fails to:
- A. Meet schedules;
 - B. Pay any required fees or taxes; or
 - C. Otherwise, perform in accordance with the requirements.
30. **INDEMNIFICATION: Successful respondent 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 respondent, or of any agent, employee, subcontractor or supplier 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 respondent 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 respondent'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 respondent.**
31. The successful respondent shall warrant that all items/services shall conform to 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 approval. Items found to be defective or not meeting specifications shall be replaced by the successful respondent within two (2) business days at no expense to County. Items that are 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 items' nonconformity.

32. 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.
33. The successful respondent 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.
34. Respondents shall provide with the Bids response, a list of at least three (3) references where like services have been supplied by their firm. Include the name of the business or government, address, telephone number and the name of the representative or contact person.

35. **CONTRACTS SUBJECT TO FEDERAL AWARD:**

- The procurement standards of 2 CFR, Part 200, including, but not limited to 2 CFR 200.317-200.326, and applicable Hidalgo County Purchasing Policy (found at <https://www.hidalgocounty.us/805/County-Administrative-Policies>) address the County's requirements, as a non-Federal entity, in regards to contracts it enters into that are subject to federal award. Pursuant to 2 CFR 200.236, the County, as a non-Federal entity, is required to include into contracts subject to federal award, the applicable provisions and contract clauses described in Appendix II to 2 CFR 200, (Contract Provisions for non-Federal Entity Contracts Under Federal Awards). As such, **if applicable**, the provisions of the Hidalgo County Purchasing Policy, the procurement standards found in 2 CFR, Part 200, and the provisions of Appendix II to 2 CFR 200, and the required contract clauses found in **Exhibit "H"** are incorporated by reference, whether specified explicitly or not, as part of this procurement packet and any resulting agreement.
- In addition, should the County's contracts under Federal award be subject to assistance from the Federal Emergency Management Agency (FEMA), FEMA requires the inclusion of contract terms in addition to those under Appendix II to 2 CFR 200. **If applicable**, the additional contract clauses required by FEMA are found in **Exhibit "H"** and incorporated by reference, whether specified explicitly or not, as part of this procurement packet and any resulting agreement. Should the contract be subject to assistance from FEMA, it is the County's intention to comply with FEMA requirements; therefore, any conflict in terms should be resolved as such.
- **If applicable**, in accordance with 2 CFR 200.319, Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. (See 2 CFR 200.219). Additionally, Hidalgo County policy provides that for federal road projects, engineers, engineering firms, and/or a subsidiary, affiliate, or a consultant of the engineer or engineering firm who has received compensation from the County, that assist in the development of, or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals, will be excluded from competing for such procurements (i.e...subsequent construction engineering/management and/or inspection/testing) for all other phases of the project. (See Hidalgo County Policy) "*Procedures for Selection and Contracting of Professional Service Providers for Federal Road Projects*" found at <https://www.hidalgocounty.us/805/County-Administrative-Policies>, which, if applicable, is incorporated by reference, whether specified explicitly or not, as part of this

procurement packet and any resulting agreement for all purposes.

36. HISTORICALLY UNDERUTILIZED BUSINESS/DISADVANTAGED BUSINESS ENTERPRISES:

The County is committed to ensuring that Historically Underutilized Businesses (HUB) and Disadvantaged Business Enterprises (DBE) such as small business enterprises (SBE), minority and women-owned business enterprises (MWBE) receive a fair and equal opportunity for participation in the County's procurement process. The County encourages the use of these enterprises both as prime and subcontractors. (See **Exhibit "E"** for requirements).

When federal funds are expended by the County, the County will take affirmative steps set forth in 2 CFR 200.321 to assure that small, minority, women-owned businesses and labor surplus area owned firms are used when possible. Pursuant to 2 CFR 321, the County requires that a prime contractor who uses sub-contractors take affirmative steps set forth in 2 CFR 200.321, including:

- a) Placing qualified small and minority business and women's business enterprises on solicitation lists;
- b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Nothing in this section is to be construed to require the County to award a contract other than as required by law and Hidalgo County policies and procedures.

37. BOYCOTT ISRAEL VERIFICATION: In accordance with the Texas Government Code Chapter 2270, the County may not enter into a contract for goods or services with a vendor unless the contract contains a written verification from the vendor that it does not boycott Israel and will not boycott Israel during the term of the contract. *Pursuant to Sections 2270.001, 2270.002, 808.001, Texas Government Code:*

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *"Company" has the meaning assigned by Section 808.001, except that the term does not include a sole proprietorship.*
3. *Section only applies to a contract that is between a governmental entity and a company with 10 or more full-time employees; and has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.*

By signing the acknowledgement form to this legal notice, Vendor understands that it is providing written verification and certification as indicated above. Any Vendor claiming an exception or otherwise unable to make this certification, shall submit an explanation on separate sheet(s). Failure to comply or providing false information may result in rejection of Vendor's submission. **Vendor shall indemnify and hold harmless the County, its elected officials, employees and agents for relying on this verification.**

38. TEX. GOVT. CODE CH. 2252- ATTESTATION-TERRORIST ORGANIZATIONS: By submitting a response to this procurement request and/or accepting this Contract, Company attests that it is not identified on a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization as designated by the U.S. Secretary of State. County will search a database maintained by the Texas State Comptroller. A contract may not be entered into with an entity that is identified therein. Search results shall be incorporated for all purposes as part of any resulting agreement entered into by the parties.
39. Respondents must provide all applicable documentation requested with this RFB in their response. Failure to provide this information may result in rejection of the Bids as non-conforming.
40. Awarded bidder shall assign a project superintendent who is directly employed by the Bidder, that superintendent will be required to be on the job on a daily basis. No subcontractors will be allowed to act as project superintendents at any point during the construction of said project.

Bidder shall have a significant business presence with the Rio Grande Valley Area, the business must be headquartered in either Hidalgo, Cameron, or Starr County or a local office must be located in either of the three counties (Hidalgo, Cameron, Starr) with at least thirty percent (30%) of the total company workforce employed at the local office. County reserves the right to request payrolls and any necessary documentation to confirm that the local office meets these requirements.

Bidders shall carefully examine the plans, specifications and other documents, visit the site of the work, and fully inform themselves as to all conditions and matters which can affect the work or cost thereof. Should the bidder find discrepancies in, or omissions from the plans, specifications or other documents, or should he/she be in doubt as their meaning, he/she should at once notify the Architect/Engineer and obtain clarification by addendum prior to submitting any bid.

Bidder certifies that it will carry liability coverage and workers compensation insurance coverage that meets the requirements set forth in this Request for Bids/Proposals when performing work on this project for Hidalgo County.

Furthermore, bidder certifies that any subcontractor on the project shall provide it with a certificate relating that all employees of the subcontractor also are provided with workers' compensation insurance coverage. Bidder will provide copies of all of these certificates to Hidalgo County during the course of the project for all subcontractors working on the project.

When applicable, in accordance with Chapter 2258 of the Texas Government Code and any other applicable laws, all contractors and subcontractors must comply with federally determined prevailing Davis-Bacon and Related Acts wage rates or the rates adopted by the County of Hidalgo.

Hidalgo County encourages the hiring of minority women subcontractors and/or suppliers whenever and wherever feasible.

REQUEST FOR BIDS
For
HIDALGO COUNTY
“ADA BUS SHELTER ON N. 12TH AVENUE AND STUBBS ST., EDINBURG, TEXAS”
RFB No.: 2019-280-04-15-RFV

To: Martha L. Salazar, CPPB, Purchasing Agent
 Hidalgo County Purchasing Department
 Physical Address: 2802 S. Business Hwy. 281 Administration Building
 Mailing/Postal Address: 2812 S. Business Hwy. 281
 Edinburg, Texas 78539

Bidder acknowledges that it has examined this Request for Bids and specifications and is familiar with the conditions to be met. In accordance with the Specifications, and subject to all laws and regulations of the United States and state and local laws, the undersigned respondent 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 Bids, 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 Request for Bids Checklist presented in connection with this procurement. Bidder understands that Hidalgo County reserves the right to reject any or all RFB's and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best qualification.


Bidder acknowledges that by signature below, it is providing the required certifications, attestations, verifications and/or acknowledgments as referenced within this Request for Bids. Bidder acknowledges that any and all specifications, provisions, and attachments of this Request for Bids are incorporated into and made a part of any resulting agreement.

Bidder agrees that this RFB 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. An individual authorized to bind the company must sign the following section. Failure to execute this section may result in Bid rejection.

Respectfully submitted,

Firm: Noble Texas Builders, LLC.

Address: 108 South Main Street, La Feria, TX, 78559

By: 

Printed Name: Alfredo Garcia Jr.

Title: Vice-President / Director of Operations



Hidalgo County

CONTRACT # C-18-142-05-08

ADA Bus Shelters Edinburg, Texas



Half Associates, Inc.
TBPE Firm # F-312

SECTION 01 56 00 - CONSTRUCTION TRAFFIC CONTROL

PART 1 - GENERAL

1.1 GENERAL DESCRIPTION OF WORK

- A. This item shall consist of the construction, manipulation, maintenance and removal, if required, of detours of the length and to the lines, grades and typical sections indicated and providing for installing, moving, replacing, maintaining, cleaning and removing upon completion of the work, as required, all detour markers, signs, barricades and other devices used in traffic control and handling at the construction site as indicated or as directed by the Engineer.
- B. This item shall also consist of providing installing, moving, replacing, maintaining, cleaning and removing temporary or permanent street closure barricades, signs or other devices required to handle the traffic in conformance with the current edition of the Texas Manual of Uniform traffic Control Devices of Street and Highways and as indicated or directed by the Engineer.

1.2 SUBMITTAL

- A. Conform to requirements of Section 01 33 00, SUBMITTALS.
- B. Submit proposed traffic routing plan, in accordance with the Texas Manual on Uniform Traffic Control Devices (TxMUTCD), latest edition.

PART 2 - PRODUCTS

2.1 CONSTRUCTION TRAFFIC CONTROL SIGNS

- A. Construction traffic control signs shall be constructed by plywood.
 - 1. Construction traffic control signs used herein shall be fabricated using sheeting conforming to the requirements of the manufacturer.
 - 2. The substrate for construction signs need only be sufficiently durable to last the life of the project and sufficiently rigid to hold the sheeting in a flat plan.

2.2 SIGN SUPPORTS

- A. Supports for construction traffic control signs shall be grade #2 fir or yellow pine, pressure treated with pentachlorophenol.
- B. Supports shall have a minimum nominal size of 4-inches x 4-inches and conform to the details shown on the plans.

2.3 PORTABLE SIGN SUPPORT

- A. Materials for portable sign supports shall comply with the details shown on the plans. Portable sign supports other than those shown on the plans shall be submitted to the Project Manager for approval prior to use.

2.4 BARRICADES

- A. Barricades shall be classified as Type I, Type II or Type III and shall comply with the details shown on the plans and the TxMUTCD.

1. Barricade rails shall be fabricated using S4S Grade #2 fir or yellow pine and reflectorized sheeting conforming to the requirements.

2.5 VERTICAL PANELS

- A. Materials for vertical panels shall conform to the details shown on the plans. Vertical panels shall be reflectorized with orange and white reflective sheeting or tape in accordance with the requirements.

2.6 ABBREVIATED PAVEMENT MARKINGS FOR CONSTRUCTION

- A. The pavement-marking material shall consist of an adhesive-back reflective tape which can get applied to the pavement. Markings shall be of good appearance, have straight, unbroken edges and have a color that complies with all federal regulations.

1. Color

- a. The markings, as well as retro reflected light from the markings, shall be white or yellow as indicated.

2. Visibility

- a. The pavement markings (during daylight hours) shall be distinctively visible of a minimum of 300 feet unless sight distance is restricted by geometric roadway features.
- b. The pavement markings (when illuminated by automobile low beam headlights at night) shall be distinctively visible for a minimum of 160 feet unless sight distance is restricted by geometric features.
- c. The above day and night visibility requirements shall be met when viewed from an automobile traveling on the roadway.

2.7 CHANNELIZATION DEVICES

A. Barrels

1. Barrels shall be of metal or nonmetal composition approved by the Engineer and of 30 to 55-gallon capacity. Only one size may be used on the project. The barrels shall be reflectorized with orange and white reflective sheeting or tape in accordance with the requirements of TxMUTCD. The markings on the barrels shall be horizontal, circumferential, orange wide. There shall be a minimum of 55 alternating orange and white stripes on each barrel. Barrels shall also conform to the details shown on the plans.
2. Type "B" barrels shall be equipped with either Type "A" low intensity or Type "C" steady-burn warning lights complying with the provisions to TMUTCD and the ITE standard for flashing and steady-burn lights. The use warning light shall be as directed by the Engineer.

B. Traffic Cones

1. Traffic cones shall conform to the details shown on the plans.

C. Tubular Traffic Markers

1. Post

- a. The post shall be of a thermoplastic or pliable elastomer composition meeting the manufacturer's requirements.
- b. Dimensions:

Outside Diameter	2.23 inches to 4 inches
Wall Thickness	0.125 inch minimum
Length	18 to 36 inches
Color	Orange

2. Base

- a. The base shall be of thermoplastic or pliable elastomer composition meeting the manufacturer's requirements.
- b. Dimensions:

Height	1.2 to 2 inches
Outside Diameter	7 to 12 inches
Color	black or same color as post

3. Assembly Units

- a. Assembly units which are inherent with the particular marker shall be as per manufacturer's recommendations.

4. Adhesives

- a. Adhesive shall be epoxy type (permanent installation) or butyl type (temporary installation) as per manufacturer's recommendations.

5. Reflectorization

- a. If used at night, tubular traffic markers shall have two 3-inch, circumferential reflective bands, no more than 2-inches from the top with no more than 6-inches separating the bands. Reflective material shall be SIA-250 or higher sheeting conforming to the provisions of this Section. The color of reflective material shall be as shown in the plans.

2.8 SEQUENTIAL ARROW DISPLAYS

- A. Sequential arrow displays shall be sequentially lighted, and roof or trailer mounted. The minimum panel size shall be 30 inches high and 54-inches wide. The display shall have 22 hooded sealed beam amber lamps rated at a maximum intensity of 8800 candlepower.
- B. Light intensity shall be adjustable by dimmer switch. The operating modes shall be as follows:
 - 1. Pass Left. 3 chevrons of 5 lamps each sequence in right to left pattern 40 to 50 times per minute.
 - 2. Pass Right. 3 chevrons of 5 lamps each sequence in left to right pattern 40 to 50 times per minute.
 - 3. Pass Either Side. The two outermost chevrons on each end of the panel pointing like arrowheads and flashing 40 to 50 times per minute with crossing row of lamps burning continuously.
 - 4. Warning. 4 lamps, one at each corner of the panel, flashing 40 to 50 times per minute.

PART 3 - EXECUTION

3.1 CONSTRUCTION TRAFFIC CONTROL SIGNS AND SIGN SUPPORTS

- A. Construction traffic control signs and sign supports shall be installed at locations noted on the

plans in conformance with the TMUTCD or as directed by the Engineer.

3.2 PORTABLE SIGN SUPPORTS

- A. Portable sign supports for traffic control devices for detours shall be furnished by the Contractor, shall be installed at the locations shown on the plans, unless otherwise shown on the plans, and shall remain the property of the Contractor.
- B. Unless otherwise specified, portable sign supports shall be of the dimensions shown on the plans.

3.3 BARRICADES

- A. Barricades shall be installed in conformity with the details noted on the plans or as directed by the Engineer.

3.4 VERTICAL PANELS

- A. Vertical panels shall be installed in conformity with the details noted on the plans or as directed by the Engineer.

3.5 ABBREVIATED PAVEMENT MARKINGS FOR CONSTRUCTION

- A. Abbreviated markings meeting all specification requirements shall be in place on all roadways on which traffic is allowed and where suitable standard pavement marking is not in place. The transverse location of the line(s) formed by the markings shall be as determined by the Engineer.
- B. Unless otherwise indicated, the abbreviated markings shall be placed as follows:

<u>Condition</u>	<u>Spacing</u>	<u>Length of Stripe</u>
Straight	40 feet approximately	48-inch
Curve greater than 2 degrees	20 feet maximum	48-inch
Curve less than or equal 2 degrees	40 feet maximum	48-inch

- C. Pavement markings shall be a minimum of 3 7/8 inches wide. Length and spacings will be in accordance with these specifications.
- D. The spacing of stripes may be modified by the Engineer. However, the maximum spacing specified above shall not be exceeded in any case.
- E. The Contractor will be responsible for maintaining the abbreviated pavement markings until standard pavement markings are in place.
- F. Abbreviated pavement markings shall be removed after all permanent markings have been in place.

3.6 CHANNELIZATION DEVICES

- A. Type "A" Barrels
 - 1. Type "A" barrels shall be used during daylight hours only and shall not be equipped with warning lights of any type.
- B. Type "B" Barrels

1. Type "B" barrels shall be equipped with warning lights. Type "B" barrels shall be used during nighttime hours only, unless otherwise shown on the plans or directed by the Project Manager.
2. The term "daylight hours" refers to those hours between dawn and dusk. The term "nighttime hours" refers to those hours between dusk and dawn.

C. Traffic Cones

1. Traffic cones shall be installed in conformity with the plans and the TMUTCD or as directed by the Engineer.

D. Tubular Traffic Markers

1. The metal, concrete or bituminous surface where the tubular traffic markers are to be placed shall be thoroughly cleaned.
2. Metal and concrete surfaces shall be sandblasted, or wire brushed. Bituminous surfaces shall be cleaned in accordance with manufacturer's recommendations.
3. All loose sand, dust and other deleterious debris from cleaned mounting surfaces shall be removed.
4. Tubular traffic markers shall be installed in conformity with details and at locations shown on the plans or as directed by the Engineer and in accordance with the manufacturer's recommendation.
5. In the event that removal of an installation (temporary or permanent) is affected and the metal, concrete, or bituminous surface is damaged the Contractor shall repair and otherwise restore said surface to its original condition at no additional cost to the Owner.
6. All defective post(s), base(s), assembly unit(s), adhesive(s) or reflective sheeting contributing to the detriment of the intended function of the tubular traffic markers shall be replaced by the Contractor at no addition cost to the Owner.
7. Channelization devices shall be and installed in accordance with the details shown on the plans, except that barrels shall be as noted herein.

3.7 SEQUENTIAL ARROW DISPLAY

- A. Sequential arrow displays shall be used according to the requirements shown on the plans and shown in TMUTCD.

3.8 CONSTRUCTION DETOURS

- A. The detours shall be constructed at the locations and to the lines and grades indicated and it shall be the entire responsibility of the Contractor to provide for the passage of traffic in comfort and safety without creating a dust problem.

3.9 CONSTRUCTION METHODS

- A. Prior to commencing construction, suitable "Construction Traffic Control" devices shall be installed to protect the workers and the public.
- B. The Contractor shall be responsible for installing all markers, signs and barricades conforming to the Texas Manual on Uniform Traffic Control Devices and/or as indicated. If, in the opinion of the

Engineer, additional markers, signs or barricades are needed in the interest of safety, the Contractor will install such as are required or as directed by the Engineer.

END OF SECTION 01 56 00

SECTION 02 42 00 - DEMOLITION OF EXISTING CIVIL SITE IMPROVEMENTS

PART 1 - GENERAL

1.1 DESCRIPTION OF WORK

- A. This specification shall provide for the removal and disposal of old structures or portions of old structures, as noted on the plans, and shall include all excavation and backfilling necessary to complete the removal. The work shall be done in accordance with the provisions of these specifications.

PART 2 - EXECUTION

2.1 METHOD OF REMOVAL

- A. Culverts or Sewers: Pipe shall be removed by careful excavation of all dirt on top and the sides in such manner that the pipe will not be damaged. Removal of sewer appurtenances shall be included for removal with the pipe. Those pipes which are deemed unsatisfactory for reuse by the Engineer may be removed in any manner the Contractor may select.
- B. Concrete Structures: Concrete structures or concrete portions of structures shall be removed by blasting and/or sledging the concrete into sizes not larger than one cubic foot. Portions of the old structure shall be removed to the lines and dimensions shown on the plans, and these materials shall be disposed of as shown on the plans or as directed by the Engineer. Any portion of the existing structure, outside of the limits designated for removal, damaged during the operations of the Contractor shall be restored to its original condition at his entire expense. Explosives shall not be used in the removal of portions of the existing structure unless approved by the Engineer, in writing.
- C. Concrete portions of structures below the permanent ground line, which will not interfere in any manner with the proposed construction, may be left in place, but removal shall be carried at least 2 feet below the permanent ground line and neatly squared off. Reinforcement shall be cut off close to the concrete.
- D. Steel Structures: Steel structures or steel portions of structures shall be dismantled in sections as determined by the Engineer. The sections shall be stored. Rivets and bolts connecting steel railing members, steel beams of beam spans and steel stringers of truss spans shall be removed by butting the heads with a "cold cut" and punching or drilling from the hole, or by such other method as will not injure the members for re-use and will meet the approval of the Engineer. The removal of rivets and bolts from connections of truss members, bracing members, and other similar members in the structure will not be required unless specifically called for on the plans or special provisions and the Contractor shall have the option of dismantling these members by flame-cutting the members immediately adjacent to the connections. Flame-Cutting will not be permitted, however, when plans or special provisions call for the structure unit to be salvaged in such manner as to permit re-erection. In such case, all members shall be carefully matchmarked with paint in accordance with diagram furnished by the Engineer prior to dismantling, and all rivets and bolts shall be removed from the connections in the manner specified in the first portion of this paragraph.
- E. Timber Structures:
 - 1. Timber structures or timber portions of structures shall be removed in such manner as to damage the timber for further use as little as possible. All bolts and nails shall be removed from such lumber as deemed salvable by the Engineer.

2. Unless otherwise specified on the plans, timber piles shall be either pulled or cut off at the point not less than 2 feet below ground line, with the choice between these two methods resting with the Contractor, unless otherwise specified.

F. Brick or Stone Structures:

1. Brick or stone structures or stone portions of structures shall be removed by blasting and/or sledging the masonry into sizes not larger than one cubic foot.
2. Portions of such structures below the permanent ground line, which will not in any manner interfere with the proposed construction, may be left in place, but removal shall be carried at least 2 feet below the permanent ground line and neatly squared off.

G. Salvage:

1. All material such as pipe, timbers, railings, etc., which the Engineer deems as salvageable for reuse and all structural steel shall be in the property of City unless otherwise specified and delivered to a designated storage area.
2. All mechanical and electrical lift station material, which the Engineer deems as salvageable for reuse, including pumps and control panels shall be in the property of the City unless otherwise specified and delivered to a designated storage area.
3. The I-beams, stringers, etc., which are specified to be dismantled without damage for reuse, and all steel members when matchmarked and dismantled for reuse, shall be blocked off the ground in an upright position to protect the members against further damage.
4. Materials, other than structural steel, which are not deemed salvable by the Engineer, shall become the property of the Contractor and shall be removed to suitable disposal sites off of the right-of-way arranged for by the Contractor, or otherwise disposed of in a manner satisfactory to the Engineer.
5. Where temporary structures are necessary for a detour adjacent to the present structure, the Contractor will be permitted to use the material in the old structure for the detour structure, but he shall dismantle and stack or dispose of the material as required above as soon as the new structure is opened for traffic.

H. Backfill:

1. All excavation made in connection with this specification and all openings below the natural ground line caused by the removal of old structures or portions thereof shall be backfilled to the level of the original ground line, unless otherwise provided on the plans.
2. That portion of the backfill which will support any portion of the roadbed or embankment shall be placed in layers of the same depth as those required for placing embankment. Material in each layer shall be wetted uniformly, if required, and shall be compacted to the density required in the adjoining embankment. In places inaccessible to blading and rolling equipment, mechanical or hand tamps, or rammers shall be used to obtain the required compaction.
3. That portion of the backfill which will not support any portion of the roadbed or embankment shall be placed as directed by the Engineer in such manner and to such state of compaction as will preclude objectionable amount of settlement.

END OF SECTION 02 42 00

SECTION 31 11 00 – CLEARING AND GRUBBING

PART 1 – GENERAL

1.1 GENERAL DESCRIPTION OF WORK

- A. Cleaning and grubbing on project site of trees, stumps, brush, roots, vegetation, logs rubbish and other objectionable matter within limits described in specifications or as shown on plans.
- B. Cleaning and grubbing shall be in advance of grading operation except that in cuts over 3 feet in depth, grubbing may be done simultaneously with excavation, provided objectionable matter is removed as specified.
- C. Dispose of all debris resulting from clearing and grubbing work.

1.2 PROTECTION OF ADJACENT WORK:

- A. Protect all areas outside indicated construction areas.
- B. Protect existing improvements, adjacent property, utilities and other facilities, and trees and plants not to be removed from injury or damage.

PART 2 - PRODUCTS

2.1 MATERIALS:

- A. Provide materials required to perform work as specified.

PART 3 - EXECUTION

3.1 CLEARING:

- A. Clear all areas covered by dikes, roads, structures and embankments within project limits unless otherwise shown in plans.
- B. Remove all saplings, brush, down-timber and debris unless shown or directed otherwise.
- C. Use tree wound paint to treat scars, gashes or limbs stubs on trees not removed.

3.2 GRUBBING:

- A. Trees, stumps, root systems, rocks and other obstructions shall be removed to the depths shown when they fall within the construction templates for the following items:

- | | |
|--|------------------------------------|
| 1. Footings | 18-inches below bottom of footing. |
| 2. Sidewalks (or other types of walks) | 12-inches below bottom of walk. |
| 3. Roadways or Streets | 18-inches below bottom of subgrade |
| 4. Parking Areas | 18-inches below bottom of subgrade |
| 5. Grassed Areas | 18-inches below top soil |
| 6. Fills | 24-inches below bottom of fill |

B. Blasting not permitted.

3.3 REMOVAL OF DEBRIS AND CLEANUP

A. Burning is not permitted.

B. Dispose of all waste materials not burned by removal from site.

C. Materials cleared and grubbed shall be the property of the Contractor and shall be his responsibility for disposal.

END OF SECTION 31 11 00

SECTION 31 21 00 – EXCAVATION, BACKFILL AND GRADING FOR SITE WORK OUTSIDE OF BUILDING

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Grading and earthwork which occurs in areas other than under structures, under paving, or trenching for utilities.
- B. Earthwork consists of operations required for the excavation of materials on site; excavation of borrow material from designated areas; compaction of natural or improved sub-grades; finish grading; disposal of excess or unsuitable materials; and other required operations. Earthwork shall conform with dimensions and typical sections shown, and within lines and grades established on Drawings.

1.2 RELATED SECTIONS

- A. Trench Excavation, Backfill and Compaction- Section 31 50 00.

1.3 REFERENCES

- A. ASTM D698 - Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 lbf/ft³).
- B. ASTM D4972 - pH of Soil.
- C. ASTM G57 - Field Measurement of Soil Resistivity Using the Wenner Four Electrode Method.
- D. ASTM D4318 - Liquid Limit, Plastic Limit and Plasticity Index of Soils.

1.4 EXISTING UTILITIES

- A. Where pipes, ducts and structures are encountered in the excavation but are not shown on the Drawings, immediately notify the ENGINEER.

1.5 DEFINITIONS

- A. Classification: Earthwork materials are classified in accordance with definitions in this Article.
- B. Topsoil: Top 8 inches of natural surface soil possessing the characteristics of representative soils on the site that produce growths of grass or other vegetation. Topsoil includes roots and other vegetation.
- C. General Site Fill: Suitable, clean material excavated on-site or off-site may be used as fill material. Suitable material shall consist of clay soils classified as CH according to the unified soil classification system. Clay soil used as fill shall have a liquid limit of less than 55 and a Plasticity Index comparable with on-site soils.
- D. Select Fill: Select fill material, as required for construction, defined in the Geotechnical Report, shall consist of inorganic silty or sandy clay.

- E. Subgrade: Consists of that portion of the surface on which a compacted fill, backfill or topsoil is placed.
- F. Borrow: Material taken from on-site designated areas or approved off-site sources to make up any deficit of excavated material. Obtain from area that is normally dry and well drained. Borrow does not include top soil.
- G. Finish Grading: Operations required for smoothing disturbed areas that are not overlaid with pavement.
- H. Excavation: Excavation of every description and of whatever substances encountered within the limits of the project to the lines and grades indicated on the Drawings.
- I. Compaction: Compaction of soil materials shall be measured as a percent of Standard Proctor density as determined by the ASTM D698.

PART 2 - PRODUCTS

2.1 SELECT FILL

- A. Source: Obtain select fill material from required excavation, or if excavated material is not adequate, from borrow areas approved by the Geotechnical ENGINEER. Material from source shall be tested for compliance with project requirements and approved by the Owner and Testing Laboratory.
- B. Suitability: Use the best material available from excavation or borrow, suitability of select fill is subject to the ENGINEER'S approval.
- C. Quality: Select fill material must be free of rock and clay lumps or excessive silts. Do not use soil containing brush, roots, sod or similar organic materials.
- D. Characteristics: Select fill material shall consist of inorganic silty or sandy clay. Additional select fill requirements are described in Geotechnical Report.

2.2 FILL AND BACKFILL UNDER TOPSOIL

- A. Source: Obtain site fill from required excavation or, if excavated material is not sufficient, from borrow areas approved by the ENGINEER.
- B. Suitability: Use the best material available from excavation or borrow. Suitability of fill material is subject to the Testing Laboratory\Engineer's approval.
- C. Quality: Fill material shall be free of excessive silts. Do not use soil containing brush, roots, sod or similar organic materials.
- D. Characteristics: Fill material shall have a plasticity index between 6 and 25, inclusive, and shall generally be of similar character to that of existing soil at the site.

PART 3 - EXECUTION

3.1 STRIP AND STOCKPILE

- A. Remove topsoil at all non-paved areas where excavation of topsoil is required or where fill material will be added for site grading. Remove top 6 inches of topsoil where necessary and stockpile on the property as directed by the Owner. Protect stockpiled topsoil from other excavated materials, dumping of unwanted material, dumping by the public, and erosion.

Upon completion of rough grading, replace topsoil in 4-inch minimum layer to finish grade elevations as shown on the grading plan.

3.2 ECAVATION

- A. Objective: As shown on the Drawings, excavate to lines, grades and elevations required for subsequent construction. All excavation shall be made in such manner as to permit all surfaces to be brought to final line and grade within plus or minus 0.1 foot. Over excavation shall be restored by the Contractor at his own expense. Finished grades consistently high or low will not be acceptable and shall be corrected by the Contractor at his expense and no additional cost to the Owner.
- B. Drainage: During excavation, maintain grades as required to provide positive drainage away from structures; or, as directed by the Engineer, install temporary drains or drainage ditches to intercept or divert surface water and prevent interference or delay of the work.
- C. Stockpiling: If at time of excavation it is not possible to place material in the proper section of permanent construction, stockpile the material in Owner or Architect approved areas for later use.
- D. Stone or Rock: Stone or rock fragments greater than 6" will not be allowed in fills or embankments. Stones or rock fragments larger than 2 inches in their greatest dimension will not be permitted in top 6 inches of subgrade.
- E. Dressing: Uniformly dress cut and fill slopes to slope, cross section and alignment, as shown.

3.3 TREATMENT OF SUBGRADES

- A. All topsoil and vegetation shall be stripped from the ground surface and stockpiled, exposing sound undisturbed subgrade soils.
- B. After stripping the topsoil in areas to receive fill or cut areas, the exposed ground surface shall be scarified to a depth of 6 inches, the moisture adjusted, and then recompact to a density of 95 to MIN. percent of the maximum density as obtained in the Standard Proctor Compaction Test (ASTM D698), at a moisture content between minus 1 to plus 3 percent of optimum. Any soft or compressible areas detected during the recompaction process shall be undercut such that sound subgrade soils are exposed and recompacted. Site excavated or select fill shall then be used to bring all areas to grade. Allow for placement of minimum 4-inch layer of top soil in areas not covered by building or pavement.
- C. Finished subgrade shall be inspected by Testing Laboratory for determination that subgrade meets requirements of Contract Documents.

3.4 PLACING FILL AND BACKFILL

- A. Examination of Subgrade: Do not place fill on any part of the subgrade until the subgrade preparation has been accepted by the Engineer.
- B. Removing Debris: During the dumping and spreading process, remove all roots, stones and debris that are uncovered in the fill material.
- C. Spreading Fill and Backfill: After dumping, spread the material in horizontal layers over the entire fill area. The thickness of each layer before compaction shall not exceed 8 inches unless otherwise directed by the Engineer. Maintain positive drainage throughout construction. The combined excavation and fill placing operation shall be such that the

material when compacted in the fill will be blended sufficiently to secure the best practicable degree of compaction. The suitability of the materials shall be subject to testing by the Testing Laboratory and approval of the Engineer. After each layer of fill has been spread to the proper depth, it shall be thoroughly manipulated with a disc plow or other suitable and approved equipment until the material is uniformly mixed, pulverized and brought to a uniform approved moisture content.

D. Attaining Proper Bond: If, in the opinion of the Testing Laboratory, the compacted surface of a layer is too smooth to bond with succeeding layers, loosen the surface by harrowing or other approved method before continuing the work.

E. Place materials to proper elevation allowing for depth of topsoil furnished under this Contract.

3.5 MOISTURE CONTROL

A. Intent: Developing the maximum density obtainable with the natural moisture of the material is preferred. However, the moisture content shall not vary from the optimum, as determined by ASTM D698, by more than minus 1 to plus 3 percent of optimum.

B. Adjustment: If the moisture content is too high, adjust to within the specified limits by spreading the material and permitting it to dry. Assist the drying process by discing or harrowing if necessary. When the material is too dry, sprinkle each layer with water. Work the moisture into the soil by harrowing or other Engineer approved method.

3.6 COMPACTION

A. Rough Grade: Compact each layer of fill material with suitable equipment as necessary to secure 95% to 98% Standard Proctor Density (ASTM D698) within the specified range of the moisture content.

B. Finish Grade: Place and lightly compact topsoil to achieve finish grades.

3.7 DISTRIBUTION OF TOPSOIL

A. Perform rough grading and topsoil/finish grading work.

B. Preparation:

1. Prior to placing topsoil, scarify the subgrade to a depth of 2 inches to provide effective bonding of the topsoil with the subgrade.
2. Shape all areas designated for grading, including cut and fill areas, to receive a minimum of 4 inches of topsoil

C. Placement:

1. Do not haul or place wet topsoil. Also prohibited is placement of topsoil on a subgrade that is excessively wet, extremely dry, or in a condition otherwise detrimental to proper grading or proposed planting.
2. Distribute topsoil uniformly and spread evenly. Correct irregularities in the surface to prevent formation of depressions where water could stand.
3. Perform the spreading operation so that planting can proceed with little additional tillage or soil preparation. Leave the area smooth and suitable for lawn planting.

4. Lightly compact topsoil to obtain proper bond with previously placed or prepared material.
- D. Maintenance: Where any portion of the surface becomes eroded or otherwise damaged, repair the affected area to establish the condition and grade prior to topsoil placement; then replace topsoil.

3.8 MATERIAL DISPOSAL

- A. Excess Excavation Material (soil material free of trees, stumps, logs, brush, roots, rubbish and other objectionable matter which has been accepted by the Geotechnical Engineer): Remove excess excavated material from the construction site or place on the property as directed by the ENGINEER.
- B. Waste Material (soil material including trees, stumps, logs, brush, roots, rubbish and other objectionable matter which has not been accepted by the Geotechnical Engineer): Remove waste material from the project site before Final Inspection. Legally dispose of material at a licensed site or with written and notarized permission from the property owner for a private disposal site. All costs associated with waste material removal and disposal shall be paid for by the Contractor.

PART 4 - TESTING

4.1 PROCEDURE

- A. The testing laboratory will make tests of in-place density in accordance with ASTM Standards. Backfill operations will be monitored continuously by the testing laboratory at structures. It will be the responsibility of the CONTRACTOR to notify the testing laboratory before backfilling operations begin.

END OF SECTION 31 21 00

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SECTION 31 25 00 - EROSION AND SEDIMENT CONTROL DURING CONSTRUCTION

PART 1-GENERAL

1.1 WORK INCLUDED

- A. Furnish labor, materials, equipment and incidentals necessary to provide erosion and sediment control for the duration of the construction period including furnishing, installing and maintaining erosion and sediment control structures and procedures and the proper removal when no longer required.
- B. The intent of this specification is to provide guidelines for the Contractor to adhere to all State, Federal, and Local environmental regulations. It is also the intent to provide preventive measures to keep sediment from entering any storm water system, including open channels. It is the Contractor's responsibility to adhere to all State, Federal and Local requirements. While the Owner may require the Contractor to install erosion control devices during construction, this will in no way relieve the Contractor of his responsibility.

1.2 QUALITY ASSURANCE

- A. Comply with applicable requirements of all governing authorities having jurisdiction. The Specifications and the Plans are not represented as being comprehensive, but rather to convey the intent to provide complete slope protection and erosion control for both the Owner's and adjacent property.
- B. Erosion control measures shall be established at the beginning of construction and maintained during the entire length of construction. On-site areas which are subject to severe erosion and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation are to be identified and receive additional erosion control measures as directed by the Owner or the Engineer.
- C. All land-disturbing activities shall be planned and conducted to minimize the size of the area to be exposed at any one time and to minimize the time of exposure.
- D. Surface water runoff originating upgrate of exposed area shall be controlled to reduce erosion and sediment loss during the period of exposure.
- E. When the increase in the peak rates and velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving ditch or stream, the Contractor shall install measures to control both the velocity and rate of release so as to minimize accelerated erosion and increased sedimentation of the stream as directed by the Owner or the Engineer.
- F. All land-disturbing activities shall be planned and conducted to minimize off-site sedimentation damage.
- G. The Contractor shall be responsible for periodically cleaning out and disposing of all sediment once the storage capacity of the drainage feature or structure receiving the sediment is reduced by one-half. The Contractor shall also be responsible for cleaning out and disposing of all sediment at the time of completion of the Work.

1.3 SUBMITTALS

- A. Submittals shall be in accordance with Section 01 33 00, SUBMITTALS, and shall include:
 - 1. Manufacturer's Literature: Descriptive data of installation methods and procedures.

2. Certificates: Manufacturer's certification that materials meet specification requirements.

1.4 JOB CONDITIONS; CODES AND ORDINANCES

- A. Comply with the local codes and ordinances. If local codes and ordinances require more stringent or additional erosion and sediment control measures during construction, Contractor shall provide such measures.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. STRAW BALES: Straw bales shall weigh a minimum of fifty (50) pounds and shall be at least 30" in length. Bales shall be composed entirely of vegetable matter and be free of seeds. Binding shall be either wire or nylon string, jute or cotton binding is unacceptable. Bales shall be used for not more than three months before being replaced. However, if weather conditions cause biological degradation of the straw bales, they shall be replaced sooner than the three-month time period to prevent a loss of structural integrity of the dike.

- B. SILT FENCE: Silt fence fabric shall be a nylon reinforced polypropylene fabric which has a built-in cord running the entire length of the top edge of the fabric. The fabric must meet the following minimum criteria:

Tensile Strength, ASTM D4632	90 lbs.,
Puncture Rating, ASTM D4833	60 lbs.,
Mullen Burst Rating, ASTM D3786	200 psi,
Apparent Opening Size, U.S. Sieve No.	40

Silt fence shall be "Enviro Fence" preassembled silt fence, AMXCO Silt Stop prefabricated silt fence, AMOCO Style 2155 preassembled silt fence or approved equal.

- C. SILT FENCE POSTS: A minimum 2" x 2" (nominal) x 54" pressure treated wood posts of Number 2 Grade southern yellow pine or approved equal.

- D. SAND BAG: Sand bag material shall be polypropylene, polyethylene, polyamide or cotton burlap woven fabric, minimum unit weight four (4) ounces per square yard, mullen burst strength exceeding 300 psi and ultraviolet stability exceeding 70%. Length shall be 24 to 30 inches, width shall be 16 to 18 inches and thickness shall be six (6) to eight (8) inches and having an approximate weight of 40 pounds. Sand bags shall be filled with coarse grade sand, free from deleterious material. All sand shall pass through a No. 10 sieve.

- E. P.V.C. PIPE: Pipe shall be SDR-35 polyvinyl chloride having a minimum nominal internal diameter of 4". Pipes shall be sized for anticipated flows.

- F. SOIL RETENTION BLANKET: Soil retention blankets shall consist of a geocomposite of excelsior or fiber blanket with an extruded plastic net attached to the tope side. The plastic net shall be photodegradable, and the excelsior or fiber blanket shall be made smolder resistant without the use of chemicals. Soil retention blankets shall be high velocity type to resist severe runoff. The soil retention blanket shall be one (1) of the following classes and types:

1. Class 1. "Slope Protection"
 - (a) Type A. Slopes of 3:1 or flatter - Clay soils
 - (b) Type B. Slopes of 3:1 or flatter - Sandy soils
 - (c) Type C. Slopes steeper than 3:1 - Clay soils
 - (d) Type D. Slopes steeper than 3:1 - Sandy soils

2. Class 2. "Flexible Channel Liner"
 - (a) Type E. Short-term duration (Up to 2 Years)
Shear Stress (t_d) < 1.0 lb./sq. ft.
 - (b) Type F. Short-term duration (Up to 2 Years)
Shear Stress (t_d) 1.0 to 2.0 lb./sq. ft.
 - (c) Type G. Long-term duration (Longer than 2 Years)
Shear Stress (t_d) > 2.0 to < 5.0 lb./sq. ft.
 - (d) Type H. Long-term duration (Longer than 2 Years)
Shear Stress (t_d) greater than 0 Equal to 5.0 lb./sq. ft.

The Contractor has the option of selecting an approved soil retention blanket provided that selection conforms to the following list of approved soil retention blankets for slope protection applications:

CLASS I. SLOPE PROTECTION

TYPE A: Slopes of 3:1 or Flatter-Clay Soils

Airtrol® ANTI-WASH®/GEOJUTE® (Regular)
 Contech Standards®
 Contech Standards Plus®
 Green Triangle Regular®
 Green Triangle Superior®
 GREENSTREAK® PEC MAT
 Curlex®
 North American Green® S150
 North American Green® S75
 North American Green® SC150
 POLYJUTE® 407/GT
 SOIL SAVER®
 TerraJute®
 Verdyol® ERO-MAT®
 Xcel Regular®
 Xcel Superior®

TYPE B: Slopes of 3:1 or Flatter-Sandy Soils

Contech Standards®
 Contech Standards Plus®
 GEOCOIR®/DEKOWE® 700
 Green Triangle Superior®
 Green Triangle Regular®
 North American Green® S75
 North American Green® SC150
 North American Green® S150
 POLYJUTE® 407/GT
 TerraJute®
 Verdyol® ERO-MAT®
 Xcel Superior®
 Xcel Regular®

TYPE C: Slopes Steeper than 3:1-Clay Soils

Airtrol®

ANTI-WASH®/GEOJUTE® (Regular)
Contech Standards Plus®
Curlex®
Green Triangle Superior®
GREENSTREAK® PEC-MAT
North American Green® SC150
North American Green® S150
POLYJUTE® 407/GT
SOIL SAVER®
TerraJute®
Xcel Superior®

TYPE D: Slopes Steeper than 3:1-Sandy Soils

Contech Standards Plus®
GEOCOIR®/DEKOWE® 700
Green Triangle Superior®
North American Green® S150
North American Green® SC150
POLYJUTE® 407GT
TerraJute®
Xcel Superior®

CLASS II: FLEXIBLE CHANNEL LINER PROTECTION

PART 3 - EXECUTION

3.1 INSTALLATION

A. TEMPORARY STRAW BALE DIKE

1. Straw bales shall be embedded a minimum of 4" and securely anchored using 2" x 2" wood stakes driven through the bales into the ground a minimum of 6". Straw bales are to be placed directly adjacent to one another leaving no gap between them.
2. Bales shall be placed in a single row, lengthwise on proposed line, with ends of adjacent bales tightly abutting one another. In swales and ditches, the barrier shall extend to such a length that the bottoms of the end bales are higher in elevation than the top of the lowest middle bale. Additional bales shall be placed behind the first row where the bales abut each other. The additional bale is used to prevent unfiltered runoff from escaping between the bales.
3. The excavated soil shall be backfilled against the barrier. Backfill shall conform to ground level on the downhill side and shall be built up to 4" above ground level on the uphill side. Loose straw shall be scattered over the area immediately uphill from a straw barrier.

B. SILT FENCE

The purpose of a silt fence is to intercept and detain water-borne sediment from unprotected areas to a limited extent. The Contractor shall excavate a 6" by 6" trench for site fence bedding along the lower perimeters of the site where necessary to prevent sediment from entering any drainage system. The Contractor shall install the silt fence in accordance with the manufacturer's recommendations and instructions. Silt fence is used during the period of construction near the perimeter of a disturbed area to intercept sediment while allowing water to percolate through. This fence shall remain in place until the disturbed area is permanently stabilized. Silt fence should not be used where there is a concentration of water in a channel or drainage way or where soil

conditions prevent a minimum toe-in depth of 6" or installation of support post to depth of 12". Fabric shall overlap at abutting ends a minimum of 3' and shall be jointed such that no leakage or bypass occurs. If concentrated flow occurs after installation, corrective action must be taken such as placing rock berm in the areas of concentrated flow.

C. SAND BAG BERM

1. The purpose of a sandbag berm is to intercept sediment-laden water from disturbed areas such as construction in stream beds, create a retention pond, detain sediment and release water in sheet flow.
2. A temporary sand bag berm shall be installed across a channel or right of way in a developing or disturbed area and should be used when the contributing drainage area is greater than 5 acres. The berm shall be a minimum height of 18", measured from the top of the existing ground at the upslope toe to the top of the berm. The berm shall be sized to have a minimum width of 48" measured at the bottom of the berm and 18" measured at the top of the berm.
3. The sand bag berm shall be inspected after each rain. The sand bags shall be reshaped or replaced as needed during inspection. Additional inspections shall be made daily by the responsible party and when the silt reaches 6", the accumulated silt shall be removed and disposed of at an approved site in a manner that will not contribute to additional siltation. The sand bag berm shall be left in place until all upstream areas are stabilized and accumulated silt removed; removal must be done by hand.

D. SOIL RETENTION BLANKETS

1. A soil retention blanket (SRB) is a geotextile or biodegradable fabric placed over disturbed areas to limit the effects of erosion due to rainfall impact and runoff across barren soil. Soil retention blankets are manufactured by a wide variety of vendors addressing a wide variety of conditions such as vegetation establishment and high velocity flow. Blankets are used in areas which are difficult to stabilize such as steep slopes, drainage swales or high pedestrian traffic areas.
2. The soil retention blanket, whether installed as slope protection or as flexible channel liner, shall be placed within 24 hours after seeding or sodding operations have been completed, or as approved by the Engineer. Prior to placing the blanket, the area to be covered shall be relatively free of all rocks or clods over 1-1/2" in maximum dimension and all sticks or other foreign material which will prevent the close contact of the blanket with the soil. The area shall be smooth and free of ruts and other depressions. If as a result of rain, the prepared bed becomes crusted or eroded or if any eroded places, ruts or depressions exist for any reason, the Contractor shall be required to rework the soil until it is smooth and to reseed or resod the area at the Contractor's expense. Installation and anchorage of the soil retention blanket shall be in accordance with the manufacturer's recommendations.

E. PROTECTION OF BARE AREAS

1. Apply seeding and soil retention blanket to bare areas including new embankment areas, fills, stripped areas, graded areas or otherwise disturbed areas, which have a grade greater than 5% or which will be exposed for more than 30 days.
2. Bare working areas on which it is not practical or desirable to install seeding and soil retention blankets, as determined by the Engineer, such as areas under proposed building slabs, shall be temporarily sloped to drain at a minimum of 0.2% and a maximum of 5% grade. These areas shall then be "trackwalked" with a crawler dozer traveling up and down the slope to

form the effect of small "terraces" with the tracks of the dozer. Apply a minimum of three (3) coverages to each area with the dozer tracks.

3. Route runoff from the areas through the appropriate silt fence system.
4. Protect earth spoil areas by "trackwalking" and silt fences.

F. INTERCEPTOR SWALE

1. Interceptor swales may have a V-shape or be trapezoidal with a flat bottom and side slopes of 3:1 or flatter. These are used to shorten the length of exposed slope by intercepting runoff and can also serve as perimeter swales preventing off-site runoff from entering the disturbed area or prevent sediment-laden runoff from leaving the construction site or disturbed area. The outflow from a swale must be directed to a stabilized outlet or sediment trapping device. The swales should remain in place until the disturbed area is permanently stabilized.
2. Stone Stabilization shall be used when grades exceed 2% or velocities exceed 6' per second and shall consist of a layer of crushed stone 3" thick, or flexible channel liner soil retention blankets. Stabilization shall extend across the bottom of the swale and up both sides of the channel to minimum height of 3" above the design water surface elevation based on a two-year storm.
3. Interceptor swale shall be installed across exposed slopes during construction and should intercept no more than five (5) acres of runoff. Swales shall have a minimum bottom width of 2'-0" and a maximum depth of 1'-6" with side slopes of 3:1 or flatter. Swale must have ~~po~~ drainage for its entire length to an outlet. When the slope exceeds 3%, or velocities exceed 4' per second (regardless of slope), stone stabilization is required. Check dams are also recommended to reduce velocities in the swales possibly reducing the amount of stabilization necessary. Swales should be inspected on a weekly basis during wet weather and repairs should be made promptly to maintain a consistent cross section.
4. All trees, brush, stumps, obstructions and other material shall be removed and disposed of so as not to interfere with the proper functioning of the swale.
5. The swale shall be excavated or shaped to line, grade, and cross-section as required to meet criteria specified herein and be free of bank projections or other irregularities which will impede normal flow.
6. All earth removed and not needed in construction shall be disposed of in an approved spoils site so that it will be conveyed to a sediment trapping device.
7. Diverted runoff from a disturbed or exposed upland area shall be conveyed to a sediment trapping device.
8. The on-site location may need to be adjusted to meet field conditions in order to utilize the most suitable outlet.
9. Minimum compaction for the swale shall be 90% standard proctor.

G. LOCATION OF EROSION AND SEDIMENT CONTROL STRUCTURES

1. Locate erosion and sediment control structures as required to prevent erosion and removal of sediment from the project site. Silt fences shall be required for disturbed areas and soil stockpiles/spoil areas. Each silt fence installation shall have a minimum net length (exclusive of embedments into diversion dikes or other ineffective areas) of 25'. The runoff from a

maximum of one (1) acre of disturbed area or soil stockpile/ spoil area shall be routed through any individual silt fence installation.

2. Install diversion dikes to divert runoff to the silt fence installation.
3. Install silt traps at the inlet (upstream) end of the drainage structures, including open channels, through which runoff from disturbed areas or soil stockpiles/spoil areas may drain.
4. Provide an overall erosion and sediment control system which protects disturbed areas and soil stockpiles/spoil areas. The system shall be modified by the Contractor from time to time to effectively control erosion and sediment during construction.

3.2 MAINTENANCE

- A. Maintain erosion and sediment control structures and procedures in full working order at all times during construction. This shall include any necessary repair or replacement of items which have become damaged or ineffective. Remove sediment on a regular basis which accumulates in sediment control devices and place the material in approved earth spoil areas or return the material to the area from which it eroded.
- B. Upon completion of construction, properly remove the temporary erosion and sediment control structures and complete the area as indicated.
- C. Soil retention blankets will not require removal if installed on a finished graded area specified to receive seeding.

3.3 FIELD QUALITY CONTROL

- A. In the event of conflict between the requirements and storm water pollution control laws, rules or regulations or other Federal, State or Local agencies, the more restrictive laws, rules or regulations shall apply.

END OF SECTION 31 25 00

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SECTION 32 13 13 – CONCRETE PAVEMENT

PART 1 – GENERAL

1.1 GENERAL DESCRIPTION OF WORK COVERED

- A. The General Conditions, Special Provisions and applicable requirements of Division 1 – General Requirements are hereby made a part of this section.

1.2 SCOPE

- A. This work consists of street pavement, sidewalk, curb and gutter or rip rap slope pavement composed of Portland Cement Concrete with or without reinforcement, constructed on subgrade or base courses prepared in accordance with these specifications and to the lines, grades, thicknesses and typical cross-sections shown on the plans. Reinforcement, when required, will be subsidiary to the specified Concrete Pavement.

1.3 SUBMITTALS

- A. Submittals shall be in accordance with Section 01 33 00, SUBMITTALS, and shall include:
 - 1. Manufacturer's Literature: Descriptive data of insulation methods and procedures.
 - 2. Certificates: Manufacturer's certification that materials meet specification requirements.

PART 2 - PRODUCTS

2.1 CEMENT

- A. Portland cement concrete shall conform to the requirements of this section for each type and strength indicated in the plans.

2.2 JOINT FILLER AND SEALER

- A. Joint sealants and expansion joint filler materials shall conform to "Item #433, JOINT SEALANTS & FILLERS" in the 1993 edition of TXDOT Standard Specifications for Construction of Highways, Streets and Bridges.

2.3 DOWELS AND TIE BARS

- A. Dowels and tie bars shall conform to the requirements of AASHTO M31 or M53, Grade 60 or Grade 40, as specified on the plans. Tie bars shall be deformed meeting the requirements of AASHTO M31 or M53. Dowel and tie bars may conform to the requirements of AASHTO M 42, except that rail steel shall not be used for tie bars that are to be bent or restraightened during construction. Dowel bars shall be plain round bars of the size specified and the ends shall be sawed. Before delivery to the construction site, a minimum of two-thirds of the length of each dowel bar shall be painted with one coat of lead or tar paint. Prior to placement of concrete, the dowels shall be coated with grease if specified on the plans.

2.4 WATER

- A. Water used in mixing or curing shall be as clean and free of oil, salt, acid, alkali, sugar, vegetable, or other substances injurious to the finished product as possible. Water will be tested in accordance with the requirements of AASHTO Method T26. Water known to be of potable quality may be used without testing.

2.5 COVER MATERIALS FOR CURING

- A. Curing materials shall conform to one of the following specifications:
 - 1. "Sheet Materials for Curing Concrete" shall conform to AASHTO M171.
 - 2. "Burlap Cloth Made from Jute or Kenaf" shall conform to AASHTO M182, Class 3.
 - 3. "Liquid Membrane Forming Compounds for Curing Concrete" shall conform to ASHTOM148, Type 2 (all resin base), or Federal Specification TT C 800, Type 2. Liquid Membrane shall be delivered and stored in bulk. Bulk storage shall be equipped with an agitator. All membranes shall be pigmented to allow visible inspection of coverage.

PART 3 - EXECUTION

3.1 EQUIPMENT

- A. Equipment and tools necessary for handling materials and performing all parts of the work shall be approved by the Engineer as to design, capacity, and mechanical condition. The equipment shall be at the job site before the start of construction operations for examination and approval.

B. BATCHING PLANT AND EQUIPMENT

- 1. General:
 - a. The batching plant shall include bins, weighing hoppers, and scales for the fine aggregate and coarse aggregate. If bulk cement is used, a bin, hopper, and a separate scale for cement shall be included. The weighing hoppers shall be properly sealed and vented to preclude dusting during operation.
- 2. Bins and Hopper:
 - a. Bins with adequate separate compartments for fine aggregate and coarse aggregate shall be provided in the batching plant. Each compartment shall discharge efficiently and freely into the weighing hopper. Means of control shall be provided so that, as the quantity desired in the weighing hopper is approached, the material may be added slowly and shut off with precision. A port or other opening for removing an overload of any one of the several materials from the hopper shall be provided. Weighing hoppers shall be constructed to eliminate accumulations of materials and to discharge fully.

- 3. Scales:

- a. The scales for weighing aggregates and cement shall be of either the beam or the springless dial type. They shall be accurate within 0.5 percent throughout their range of use. When beam-type scales are used, provisions such as a "telltale" dial shall be made for indicating to the operator that the required load in the weighing hopper is being approached. A device on the weighing beams shall clearly indicate critical position. Poises shall be designed to be locked in any position and to prevent unauthorized change. The weight beam and "telltale" device shall be in full view of the operator while charging the hopper, and the operator shall have convenient access to all controls.
- b. Scales shall be inspected and sealed as often as the Engineer may deem necessary to assure their continued accuracy. The Contractor shall have on hand not less than ten 50-pound (23 kg) weights for testing of all scales when directed by the Engineer.

C. MIXERS

1. General:

- a. Concrete may be mixed at a central plant, or wholly or in part in truck mixers. Each mixer shall have attached in a prominent place a manufacturer's nameplate showing the capacity of the drum in terms of volume of mixed concrete and the speed of rotation of the mixing drum or blades.
- b. A device accurate within 3 percent and satisfactory to the Engineer shall be provided at the mixer for determining the amount of air-entraining agent or other admixture to be added to each batch requiring such admixtures.
- c. Mixers shall be examined daily for the accumulation of hard concrete or mortar and the wear of blades.

2. Central Plant Mixer:

- a. Mixing shall be in an approved mixer capable of combining the aggregates, cement, and water into a thoroughly mixed and uniform mass within the specified mixing period, and of discharging the mixture without segregation. Central plant mixers shall be equipped with an acceptable timing device that will not permit the batch to be discharged until the specified mixing time has elapsed. The water system for a central mixer shall be either a calibrated measuring tank or a meter and shall not necessarily be an integral part of the mixer.
- b. The mixers shall be examined daily for changes in condition due to accumulation of hard concrete or mortar or wear of blades. The pickup and throwover blades shall be replaced when they have worn down 3/4-inch (19 mm) or more. The Contractor shall have a copy of the manufacturer's design on hand showing dimensions and arrangement of blades in reference to original height and depth.

3. Truck Mixers and Truck Agitators:

- a. Truck mixers used for mixing and hauling concrete and truck agitators used for hauling central-mixed concrete shall conform to the requirements of ASTM C94.

3.2 FINISHING EQUIPMENT

A. FINISHING MACHINE

1. The finishing machine shall be equipped with one or more oscillating-type transverse screeds.

B. VIBRATORS

1. For side-form construction:
 - a. Vibrators may be either the surface pan type for pavements less than 8 inches (20 cm) thick or the internal type with either immersed tube or multiple spuds, for the full width of the concrete slab. They may be attached to the spreader or the finishing machine, or they may be mounted on a separate carriage. They shall not come in contact with the joint, load-transfer devices, subgrade, or side forms. The frequency of the surface vibrators shall not be less than 3,500 vibrations per minute, and the frequency of the internal type shall not be less than 7,000 vibrations per minute for spud vibrators. When spud-type internal vibrators are used adjacent to the side forms, they shall have a frequency of not less than 3,500 vibrations per minute. Hand vibrators should be used to consolidate the concrete along forms and other isolated areas.
2. For slip-form construction:
 - a. The paver shall vibrate the concrete for the full width and depth of the strip of pavement being placed. Vibration shall be accomplished by internal vibrators with a frequency range variable between 7,000 and 12,000 vibrations per minute. The amplitude of vibration shall be between 0.025 (0.6 mm) and 0.06 (1.5 mm) inches. The number, spacing, frequency, and eccentric weights shall be provided as necessary to achieve an acceptable concrete density and finishing quality. Adequate power to operate all vibrators at the weight and frequency required for a satisfactory finish shall be available on the paver. The internal vibrators may be supplemented by vibrating screeds operating on the surface of the concrete. The frequency of surface vibrators shall not be less than 3,500 vibrations per minute.
 - b. The Contractor shall furnish a tachometer or other suitable device for measuring the frequency of the vibrators. The vibrators and tamping elements shall be automatically controlled so that they shall be stopped as forward motion ceases. Any override switch shall be of the spring loaded, momentary contact type.
3. For hand placed pavement:
 - a. The contractor shall consolidate concrete with the use of a hand-held vibrator regardless of the type of strike off machinery used.
 - b. Vibration shall be done to sufficiently remove air voids and consolidate concrete around reinforcing steel and side forms. VIBRATORS SHALL NOT BE USED TO DISTRIBUTE CONCRETE.
 - c. The contractor shall limit disturbances of consolidated concrete during strike-off and finishing by using adequately sized floats and straight edges as approved by the Engineer. Vibrators, floats, and finishing tools to be on job site at all times during concrete placement.

C. CONCRETE SAW

1. When sawing of joints is specified, the Contractor shall provide sawing equipment adequate in number of units and power to complete the sawing to the required dimensions and at the required rate.
2. The Contractor shall provide at least one standby saw in good working order. An ample supply of saw blades shall be maintained at the site of the work at all times during sawing operations.
3. The Contractor shall provide adequate artificial lighting facilities for night sawing. All of this equipment shall be on the job both before and at all times during concrete placement.

D. FORMS

1. Straight side forms shall be made of steel having a thickness of not less than 7/32 inch (6 mm) and shall be furnished in sections not less than 10 feet (3 m) in length.
2. Forms shall have a depth equal to the prescribed edge thickness of the concrete without horizontal joint, and a base width equal to the depth of the forms.
3. Flexible or curved forms of proper radius shall be used for curves of 100-foot (31 m) radius or less. Flexible or curved forms shall be of a design acceptable to the Engineer.
4. Forms shall be provided with adequate devices for secure settings so that when in place they will withstand, without visible spring or settlement, the impact and vibration of the consolidating and finishing equipment.
5. Flange braces shall extend outward on the base not less than two-thirds the height of the form. Forms with battered top surfaces and bent, twisted, or broken forms shall be removed from the work. Repaired forms shall not be used until inspected and approved. Built-up forms shall not be used, except as approved by the Engineer.
6. The top face of the form shall not vary from a true plane more than 1/8 inch (3 mm) in 10 feet (3 m), and the upstanding leg shall not vary more than 1/4-inch (6 mm).
7. The forms shall contain provisions for locking the ends of abutting sections together tightly for secure setting.

E. SLIP-FORM PAVERS

1. The paver shall be fully energized, self-propelled, and designed for the specific purpose of placing, consolidating, and finishing the concrete pavement, true to grade, tolerances, and cross section. It shall be of sufficient weight and power to construct the maximum specified concrete paving lane width as shown in the plans, at adequate forward speed, without transverse, longitudinal or vertical instability or without displacement. The paver shall be equipped with electronic or hydraulic horizontal and vertical control devices.

3.3 FORM SETTING

- A. Forms shall be set sufficiently in advance of the concrete placement to insure continuous paving operation. After the forms have been set to correct grade, the grade shall be thoroughly tamped, either mechanically or by hand, at both the inside and outside edges of

the base of the forms. Forms shall be staked into place with not less than 3 pins for each 10-foot (3 m) section. A pin shall be placed at each side of every joint.

- B. Form sections shall be tightly locked and shall be free from play or movement in any direction. The forms shall not deviate from true line by more than 1/4-inch (6 mm) at any joint. Forms shall be so set that they will withstand, without visible spring or settlement, the impact and vibration of the consolidating and finishing equipment. Forms shall be cleaned and oiled prior to the placing of concrete.
- C. The alignment and grade elevations of the forms shall be checked, and corrections made by the Contractor immediately before placing the concrete. When any form has been disturbed or any grade has become unstable, the form shall be reset and rechecked.

3.4 CONDITIONING OF UNDERLYING COURSE AND REINFORCING

- A. The prepared grade shall be well moistened with water, without saturating, immediately ahead of concrete placement to prevent rapid loss of moisture from the concrete. Ruts or depressions in the subgrade or subbase caused by hauling or usage of other equipment shall be filled as they develop with suitable material (not with concrete or concrete aggregates) and thoroughly compacted by rolling. If damage occurs to a stabilized subbase, it shall be corrected full depth by the Contractor, or the damaged areas filled with concrete integral with the pavement. All excess material shall be removed. Low areas may be filled and compacted to a condition similar to that of the surrounding grade or filled with concrete integral with the pavement. In cold weather, the underlying subbase shall be protected so that it will be entirely free from frost when the concrete is placed. The use of chemicals to eliminate frost in the underlying material will not be permitted. The work described under the foregoing paragraphs does not constitute a regular subgrading operation, but rather a final accurate check of the underlying course.
- B. Reinforcing steel, at the time concrete is placed, shall be free of mud, oil, or other organic matter that may adversely affect or reduce bond. Reinforcing steel with rust, mill scale, or a combination of both will be considered satisfactory, provided the minimum dimensions, weight, and tensile properties of a hand wire-brushed test specimen are not less than the applicable ASTM specification requirements and provided the rust or scale is not loose. Reinforcing bars shall be securely wired together at all intersections and splices and shall be securely wired to each dowel and load transmission unit intersected. All bars shall be installed in their required position as shown on the plans.

3.5 MIXING CONCRETE

- A. The concrete may be mixed at the work site, in a central mix plant or in truck mixers. The mixer shall be of an approved type and capacity. Mixing time shall be measured from the time all materials, except water, are emptied into the drum. Ready-mixed concrete shall be mixed and delivered in accordance with the requirements of ASTM C94, except that the minimum required revolutions of the mixing speed for transit mixed concrete may be reduced to not less than that recommended by the mixer manufacturer. The number of revolutions recommended by the mixer manufacturer shall be indicated on the manufacturer's serial plate attached to the mixer.
- B. When mixed at the work site or in a central mixing plant, the mixing time shall not be less than 50 seconds nor more than 90 seconds. Mixing time ends when the discharge chute

opens. Transfer time in multiple drum mixers is included in mixing time. The contents of an individual mixer drum shall be removed before a succeeding batch is emptied therein.

- C. The mixer shall be operated at the drum speed as shown on the manufacturer's nameplate on the approved mixer. Any concrete mixed less than the specified time shall be discarded at the Contractor's expense. The volume of concrete mixed per batch shall not exceed the mixer's nominal capacity in cubic feet (cubic meters), as shown on the manufacturer's standard rating plate on the mixer. An overload up to 10 percent above the mixer's nominal capacity may be permitted provided concrete test data for segregation and uniform consistency are satisfactory and provided no spillage of concrete takes place. The batch shall be charged into the drum so that a portion of the mixing water shall enter in advance of the cement and aggregates. The flow of water shall be uniform, and all water shall be in the drum by the end of the first 15 seconds of the mixing period. The throat of the drum shall be kept free of such accumulations as may restrict the free flow of materials into the drum.
- D. Mixed concrete from the central mixing plant shall be transported in truck mixers, truck agitators, or nonagitating trucks. The time elapsing from the time water is added to the mix until the concrete is deposited in place at the work site shall not exceed 30 minutes when the concrete is hauled in nonagitating trucks, nor 60 minutes when the concrete is hauled in truck mixers or truck agitators. Retempering concrete by adding water or by other means will not be permitted, except when concrete is delivered in transit mixers. With transit mixers additional water may be added to the batch materials and additional mixing performed to increase the slump to meet the specified requirements, if permitted by the Engineer. All these operations must be performed within 45 minutes after the initial mixing operations and the water-cement ratio must not be exceeded. Admixtures for increasing the workability or for accelerating the set will be permitted only when specified for in the contract.

3.6 LIMITATIONS OF MIXING

- A. No concrete shall be mixed, placed, or finished when the natural light is insufficient, unless an adequate and approved artificial lighting system is operated.
- B. Unless authorized in writing by the Engineer, mixing and concreting operations shall be discontinued when a descending air temperature in the shade and away from artificial heat reaches 40 degrees F (4 degrees C) and shall not be resumed until an ascending air temperature in the shade and away from artificial heat reaches 35 degrees F (2 degrees C).
- C. When concreting is authorized during cold weather, the aggregates may be heated by either steam or dry heat prior to being placed in the mixer. The apparatus used shall heat the mass uniformly and shall be arranged to preclude the possible occurrence of overheated areas which might be detrimental to the materials. Unless otherwise authorized, the temperature of the mixed concrete shall not be less than 50 degrees F (10 degrees C) at the time of placement in the forms.
- D. If the air temperature is 35 degrees F (2 degrees C) or less at the time of placing concrete, the Engineer may require the water and/or the aggregates to be heated to not less than 70 degrees F (21 degrees C) nor more than 150 degrees F (66 degrees C). Concrete shall not be placed on frozen subgrade nor shall frozen aggregates be used in the concrete.
- E. During periods of warm weather when the maximum daily air temperature exceeds 85 degrees F (30 degrees C), the following precautions should be taken. The forms and/or the underlying material shall be sprinkled with water immediately before placing the concrete.

The concrete shall be placed at the coolest temperature practicable, and in no case shall the temperature of the concrete when placed exceed 90 degrees F (32 degrees C). The aggregate and/or mixing water shall be cooled as necessary to maintain the concrete temperature at or not more than the specified maximum.

3.7 PLACING CONCRETE

A. SIDE-FORM METHOD

1. For the side-form method, the concrete shall be deposited on the moistened grade to require as little rehandling as possible. Unless truck mixers, truck agitators, or nonagitating hauling equipment are equipped with means for discharge of concrete without segregation of the materials, the concrete shall be unloaded into an approved spreading device and mechanically spread on the grade to prevent segregation of the materials. Placing shall be continuous between transverse joints without the use of intermediate bulkheads. Necessary hand spreading shall be done with shovels -- NOT RAKES. Workmen shall not be allowed to walk in the freshly mixed concrete with boots or shoes coated with earth or foreign substances.
2. Concrete for side-form construction shall be placed on cement treated base. No concrete shall be placed before the cement treated base has obtained a compressive strength specified at 7 days. When concrete is to be placed adjoining a previously constructed lane of pavement and when mechanical equipment will be operated upon the existing lane of pavement, the concrete shall be at least 7 days old and at a flexural strength approved by the Engineer. If only finishing equipment is carried on the existing lane, paving in adjoining lanes may be permitted after 3 days, if approved by the Engineer.
3. Concrete shall be thoroughly consolidated against and along the faces of all forms and along the full length and on both sides of all joint assemblies by means of vibrators inserted in the concrete. Vibrators shall not be permitted to come in contact with a joint assembly, the grade, or a side form. In no case shall the vibrator be operated longer than 15 seconds in any one location, nor shall the vibrators be used to move the concrete. Concrete shall be deposited as near to expansion and contraction joints as possible without disturbing them but shall not be dumped from the discharge bucket or hopper onto a joint assembly unless the hopper is well centered on the joint assembly. Should any concrete materials fall on or be worked into the surface of a completed slab, they shall be removed immediately by approved methods.

B. SLIP FORM METHOD

1. For the slip-form method, the concrete shall be placed with an approved crawler-mounted, slip-form paver designed to spread, consolidate, and shape the freshly placed concrete in one complete pass of the machine so that a minimum of hand finishing will be necessary to provide a dense and homogeneous pavement in conformance with requirements of the plans and specifications. The concrete should be placed directly on top of the joint assemblies to prevent them from moving when the paver moves over them. Side forms and finishing screeds shall be adjustable to the extent required to produce the specified pavement edge and surface tolerance. The side forms shall be of dimensions, shape, and strength to support the concrete laterally for a sufficient length of time so that no appreciable edge slumping will occur. Final finishing shall be accomplished while the concrete is still in the plastic state.

2. Concrete for slip form construction shall be placed on cement treated base or lime stabilized subgrade. No concrete shall be placed before the cement treated base has obtained the compressive strength specified at 7 days. The Contractor shall set grade stakes and stringline for each lane placement. The stringline shall be supported at intervals of not more than 25 feet. Additional supports shall be installed to prevent sag of the stringline. The horizontal alignment of the stringline shall be within plus or minus 1/4 inch in 10 feet of true alignment. The Contractor shall provide a suitable method of securing the stringline to maintain proper grade where vertical curves are to be constructed.

C. HAND PLACEMENT METHOD

1. When the hand method of striking off and consolidating is permitted, the concrete, as soon as placed, shall be approximately leveled and then truck off and screeded to such elevation above grade that, when consolidated and finished, the surface of the pavement shall be at the grade elevation shown on the plans. The entire surface shall then be tamped, and the concrete consolidated so as to insure maximum compaction and a minimum of voids. For the strike off and consolidation, both a strike template and tamping template shall be provided on the work. In operation the strike template shall be moved forward with a combined longitudinal and transverse motion and so manipulated that neither end of the template is raised from the forms during the striking-off process. A slight excess of material shall be kept in front of the cutting edge at all times. The straight edging, surfacing and joint finishing shall be as described herein.

3.8 STRIKE-OFF OF CONCRETE

- A. Following the placing of the concrete, it shall be struck off to conform to the cross section shown on the plans and to an elevation such that when the concrete is properly consolidated and finished, the surface of the pavement shall be at the elevation shown on the plans. All reinforcement shall be positioned in advance of concrete placement. All reinforcing bars and bar mats shall be installed in the slab at the required depth below the finished surface and supported by chairs installed on 4-foot centers. After the reinforcing steel is securely installed above the subgrade, as specifically required by plans and as herein prescribed, there shall be no loading imposed upon (or walking upon) the bar mats or individual bars that will cause deformation of reinforcing before or during the placing or finishing of the concrete.

3.9 JOINTS

A. LONGITUDINAL AND TRAVERSE JOINTS

1. Longitudinal and transverse joints shall be constructed as indicated on the plans and in accordance with these requirements. All joints shall be constructed true to line with their faces perpendicular to the surface of the pavement.
2. Joints shall not vary more than 1/2-inch (13 mm) from a true line or from their designated position. The vertical surface of the pavement adjacent to all expansion joints shall be finished to a true plane and edged to a radius of 1/4-inch (6 mm) or as shown on the plans. The surface across the joints shall be tested with a 10-foot (3 m) straightedge as the joints are finished and any irregularities in excess of 1/4-inch (6 mm) shall be corrected before the concrete has hardened.

3. Longitudinal construction joints that do not meet these requirements or which show significant cracking or planes of weakness shall be sawed-off full depth at the Contractor's expense using the minimum practical width at locations designated by the Engineer. When required, keyways shall be accurately formed with a template of metal or wood. The gauge or thickness of the material in the template shall be such that the full keyway, as specified, is formed and is in the correct location.
4. Transverse joints shall be right angles to the centerline of the pavement and shall extend the full width of the slab. All joints shall be so prepared, finished, or cut to provide a groove of the width and depth shown on the plans.
 - a. Tie Bars:
 - (1) Tie bars shall consist of deformed bars installed principally in longitudinal joints as shown on the plans or the bars shall be extensions of the distributed reinforcing steel across the joints. Tie bars shall be placed at right angles to the centerline of the concrete slab. They shall be held in position parallel to the surface and midway between the surfaces of the slab. These bars shall not be painted, greased, or enclosed in sleeves. At all locations where tie bars are specified and where pavement is in place, the tie bars shall be inserted by drilling and grouting with approved epoxy material. Tie bars in longitudinal construction joints may be installed by bending the bars flush with a keyed joint.
 - b. Dowel Bars:
 - (1) If used, dowel bars or other load-transfer units of an approved type shall be placed across transverse or other joints in the manner as specified on the plans. They shall be of the dimensions and spacings as shown and held rigidly in the middle of the slab depth in the proper horizontal and vertical alignment by an approved assembly device to be left permanently in place. The dowel or load-transfer and joint devices shall be rigid enough to permit complete assembly as a unit ready to be lifted and placed into position. A metal, or other type, dowel expansion cap or sleeve shall be furnished for each dowel bar used with expansion joints. These caps shall be substantial enough to prevent collapse and shall be placed on the ends of the dowels as shown on the plans. The caps or sleeves shall fit the dowel bar tightly and the closed end shall be watertight.

5. Installation

- a. Joints in concrete pavements shall be cut as shown on the plans. Equipment shall be as described in Paragraph 3.1. The circular cutter shall be capable of cutting a groove in a straight line and shall produce a slot at least 1/8-inch (3 mm) wide and to the depth shown on the plans. When shown on the plans or required by the specifications, the top portion of the slot or groove shall be widened by means of a second shallower cut or by suitable and approved beveling to provide adequate space for joint sealers. Sawing of the joints shall commence as soon as the concrete has hardened sufficiently to permit cutting without chipping, spalling, or tearing. Sawing shall be carried on both during the day and night as required. The joints shall be sawed at the required spacing consecutively in sequence of the concrete placement, unless otherwise approved by the Engineer.

B. LONGITUDINAL JOINTS

1. Construction: Longitudinal construction joints shall be formed against suitable side forms (usually made of steel) with or without keyways. Wooden forms may be used under

special conditions, when approved by the Engineer. Where butt-type joints with dowels are designated, the dowels for this type shall be painted and greased. The edges of the joint shall be finished with a grooving tool or edging tool, and a space or slot shall be formed along the joint of the dimensions, as indicated, to receive the joint sealing material. Longitudinal construction joints shall be sawed to provide a groove at the top conforming to the details and dimensions indicated on the plans. Provisions shall be made for the installation of tie bars as noted on the plans.

2. Contraction or Weakened-plane type: The longitudinal groove sawed in the top of the slab shall be installed where indicated on the drawings. The groove shall be sawed with approved equipment in the hardened concrete to the dimensions required. The sawed groove shall be straight and of uniform width and depth. The groove shall be clean cut so that spalling will be avoided at intersections with transverse joints. Tie bars or distributed reinforcing steel shall be installed across these joints were indicated on the plans.
3. Expansion: Longitudinal expansion joints shall be installed as indicated on the plans. The premolded filler, of the thickness as shown on the plans, shall extend for the full depth and width of the slab at the joint, except for space for sealant at the top of the slab. The filler shall be securely staked or fastened into position perpendicular to the proposed finished surface. A cap shall be provided to protect the top edge of the filler and to permit the concrete to be placed and finished. After the concrete has been placed and struck off, the cap shall be carefully withdrawn leaving the space over the premolded filler. The edges of the joint shall be finished and tooled while the concrete is still plastic.

C. TRAVERSE JOINTS

1. Construction: Transverse construction joints shall be installed at the end of each day's placing operations and at any other points within a paving lane when concrete placement is interrupted for more than 30 minutes or it appears that the concrete will obtain its initial set before fresh concrete arrives. When the installation of the joint can be planned in advance, it shall be located at a contraction or expansion joint. The joint shall not be allowed within 8 feet (2.4 m) of a regular spaced transverse joint. If the pouring of the concrete has been stopped, causing a joint to fall within this limit, it shall not be installed, and the fresh placed concrete shall be removed back to the 8-foot (2.4 m) limit.
2. Contraction: Transverse contraction joints, weakened-plane joints, or both, shall be installed at the locations and spacing as shown on the plans. These joints will be installed by sawing a groove into the concrete surface after the concrete has hardened in the same manner as specified in Paragraph 3.8(c)(2). Dowel bar assemblies shall be installed, when required, as shown on the plans.
3. Expansion: Transverse expansion joints shall be installed at the locations and spacing as shown on the plans. The joints shall be installed at right angles to the centerline and perpendicular to the surface of the pavement. The joints shall be installed and finished to insure complete separation of the slabs. Expansion joints shall be of a premolded type conforming to these specifications and with the plans and shall be the full width of the pavement strip.
 - a. All concrete shall be cleaned from the top of the joint material. Before the pavement is opened to traffic, this space shall be swept clean and filled with approved joint sealing material.

- b. All devices used for the installation of expansion joints shall be approved by the Engineer. They shall be easily removable without disturbing the concrete and held in proper transverse and vertical alignment. Immediately after forms are removed, any concrete bridging the joint space at the ends shall be removed for the full width and depth of the joint.
- c. When specified, expansion joints shall be equipped with dowels of the dimensions and at the spacing and location indicated on the plans. The dowels shall be firmly supported in place and accurately aligned parallel to the subgrade and the centerline of the pavement by means of a dowel assembly which will remain in the pavement and will ensure that the dowels are not displaced during construction.
- d. Other types of load-transfer devices may be used, when approved by the Engineer.

3.10 FINAL STRIKE-OFF, CONSOLIDATION, AND FINISHING

- A. Sequence: The sequence of operations shall be the strike-off and consolidation, floating and removal of laitance, straightedging, and final surface finish. The addition of superficial water to the surface of the concrete to assist in finishing operations generally will not be permitted. If the application of water to the surface is permitted, it shall be applied as a fog spray by means of approved spray equipment.
- B. Finishing at Joints: The concrete adjacent to joints shall be compacted or firmly placed without voids or segregation against the joint material; it shall be firmly placed without voids or segregation under and around all load-transfer devices, joint assembly units, and other features designed to extend into the pavement. Concrete adjacent to joints shall be mechanically vibrated. After the concrete has been placed and vibrated adjacent to the joints, the finishing machine shall be operated in a manner to avoid damage or misalignment of joints. If uninterrupted operations of the finishing machine, to, over, and beyond the joints, cause segregation of concrete, damage to, or misalignment of the joints, the finishing machine shall be stopped when the screed is approximately 8 inches (20 cm) from the joint. Segregated concrete shall be removed from the front of and off the joint; the screed shall be lifted and set directly on top of the joint, and the forward motion of the finishing machine shall be resumed. Thereafter, the finishing machine may run over the joint without lifting the screed, provided there is no segregated concrete immediately between the joint and the screed or on top of the joint.
- C. Machine Finishing: The concrete shall be spread as soon as it is placed, and it shall be struck off and screeded by an approved finishing machine. The machine shall go over each area as many times and at such intervals as necessary to give the proper consolidation and to leave a surface of uniform texture. Excessive operation over a given area shall be avoided. When side forms are used, the tops of the forms shall be kept clean by an effective device attached to the machine, and the travel of the machine on the forms shall be maintained true without lift, wobbling, or other variation tending to affect the precision finish. During the first pass of the finishing machine, a uniform ridge of concrete shall be maintained ahead of the front screed for its entire length. When in operation, the screed shall be moved forward with a combined longitudinal and transverse shearing motion, always moving in the direction in which the work is progressing, and so manipulated that neither end is raised from the side forms during the striking-off process. If necessary, this shall be repeated until the surface is of uniform texture, true to grade and cross section, and free from porous areas.
- D. Hand Finishing: Hand finishing methods will not be permitted, except under the following conditions:

1. In the event of breakdown of the mechanical equipment, hand methods may be used to finish the concrete already deposited on the grade; in areas of narrow widths or of irregular dimensions where operation of the mechanical equipment is impractical. Concrete, as soon as placed, shall be struck off and screeded. An approved portable screed shall be used. The screed for the surface shall be at least 2 feet (0.6 m) longer than the maximum width of the slab to be struck off. It shall be of approved design, sufficiently rigid to retain its shape, and shall be constructed either of metal or of other suitable material covered with metal. Wood will not be permitted. Consolidation shall be attained by the use of a suitable vibrator.
- E. Floating: After the concrete has been struck off and consolidated, it shall be further smoothed, trued, and consolidated by means of a longitudinal float, using one of the following methods:
1. Hand Method: The hand-operated longitudinal float shall not be less than 12 feet (3.6 m) in length and 6 inches (15 cm) in width, properly stiffened to prevent flexibility and warping. The longitudinal float, operated from foot bridges resting on the side forms and spanning but not touching the concrete, shall be worked with a sawing motion, while held in a floating position parallel to the slab centerline and passing gradually from one side of the slab to the other. Forward movement along the centerline of the slab shall be in successive advances of not more than one-half the length of the float. Any excess water or soup material shall be wasted over the slab edge on each pass.
 2. Mechanical Method: The Contractor may use a machine composed of a cutting and smoothing float(s), suspended from and guided by a rigid frame. The frame shall be carried by four or more visible wheels riding on, and constantly in contact with, the side forms or pavement subgrade. If necessary, long-handled floats having blades not less than 5 feet (1.5 m) in length and 6 inches (15 cm) in width may be used to smooth and fill in open-textured areas in the slab. Long-handled floats shall not be used to float the entire surface of the slab in lieu of mechanical methods. After floating, any excess water and laitance shall be removed from the surface of the slab by a straightedge 10 feet (3 m) or more in length. Successive drags shall be lapped one-half the length of the blade.
- F. Straight-edge Testing and Surface Correction: After the pavement has been struck off and consolidated and while the concrete is still plastic, it shall be tested for trueness with a 16-foot (4.8 m) straightedge. For this purpose, the Contractor shall furnish and use an accurate 16-foot (4.8 m) straightedge swung from handles 3 feet (0.9 m) longer than one-half the width of the slab. The straightedge shall be held in contact with the surface in successive positions parallel to the centerline and the whole area gone over from one side of the slab to the other, as necessary. Advancing shall be in successive stages of not more than one-half the length of the straightedge. Any excess water and laitance shall be removed from the surface of the pavement. Any depressions shall be immediately filled with freshly mixed concrete, struck off, consolidated, and refinished. High areas shall be cut down and refinished. Special attention shall be given to assure that the surface across joints meets the requirements for smoothness. Straightedge testing and surface corrections shall continue until the entire surface is found to be free from observable departures from the straightedge and until the slab conforms to the required grade and cross section. The use of long-handled wood floats shall be confined to a minimum; they may be used only in emergencies and in areas not accessible to finishing equipment.

3.11 SURFACE TEXTURE

- A. A light broom drag shall be used for slab concrete pavements. The direction of the texture device shall be as directed by the Engineer. Contractor to match existing pavement finishes.

3.12 SURFACE TEST

- A. As soon as the concrete has hardened sufficiently, the pavement surface shall be tested with a 16-foot (5 m) straightedge or other specified device to determine its compliance with design grades. Where the departure from correct cross section exceeds $\frac{1}{2}$ inch (13 mm), the pavement shall be ground down with an approved grinding machine to within $\frac{1}{4}$ inch of tolerance or removed and replaced at the expense of the Contractor when so directed by the Engineer. Cracked or damaged slabs shall be removed and replaced at the expense of the Contractor when so directed by the Engineer.
- B. Any area or section so removed shall not be less than 20 feet (6 m) in length nor less than the full width of the lane involved. When it is necessary to remove and replace a section of pavement, and remaining portion of a slab adjacent to the joints that is less than 10 feet (3 m) in length shall also be removed and replaced.

3.13 CURING

- A. Immediately after the finishing operations have been completed and marring of the concrete will not occur, the entire surface of the newly placed concrete shall be cured in accordance with one of the methods below. In all cases in which curing requires the use of water, the curing shall have prior right to all water supply or supplies. Failure to provide sufficient cover material of whatever kind the Contractor may elect to use, or lack of water to adequately take care of both curing and other requirements, shall be cause for immediate suspension of concreting operations. The concrete shall not be left exposed for more than $\frac{1}{2}$ hour during the curing period. The following are alternate approved methods for curing concrete pavements:
 - 1. Impervious Membrane Method: The entire surface of the pavement shall be sprayed uniformly with white pigmented curing compound immediately after the finishing of the surface and before the set of the concrete has taken place. The curing compound shall not be applied during rainfall. Curing compound shall be applied by mechanical sprayers under pressure at the rate of 1 gallon (4 liters) to not more than 150 square feet (14 square meters). The spraying equipment shall be of the fully atomizing type equipped with a tank agitator. At the time of use, the compound shall be in a thoroughly mixed condition with the pigment uniformly dispersed throughout the vehicle. During application the compound shall be stirred continuously by effective mechanical means. Hand spraying of odd widths or shapes and concrete surfaces exposed by the removal of forms will be permitted. Curing compound shall not be applied to the inside faces of joints to be sealed, but approved means shall be used to insure proper curing for 72 hours. The curing compound shall be of such character that the film will harden within 30 minutes after application. Should the film become damaged from any cause within the required curing period, the damaged portions shall be repaired immediately with additional compound. Upon removal of the side forms, the sides of the exposed slabs shall be protected immediately to provide a curing treatment equal to that provided for the surface. For the Impervious Membrane Method, the Contractor is encouraged to include Polyethylene Film dispensing equipment in the Paving Train to provide protection to the finished work in case of rainfall.

2. Polyethylene Films. The top surface and sides of the pavement shall be entirely covered with polyethylene sheeting. The units shall be lapped at least 18 inches (457 mm). The sheeting shall be placed and weighted to cause it to remain in contact with the surface covered. The sheeting shall have dimensions that will extend at least twice the thickness of the pavement beyond the edges of the pavement. Unless otherwise specified, the sheeting shall be maintained in place for 72 hours after the concrete has been placed.
3. Waterproof Paper: The top surface and sides of the pavement shall be entirely covered with waterproofed paper. The units shall be lapped at least 18 inches (457 mm). The paper shall be placed and weighted to cause it to remain in contact with the surface covered. The paper shall have dimensions that will extend at least twice the thickness of the pavement beyond the edges of the slab. The surface of the pavement shall be thoroughly wetted prior to placing of the paper. Unless otherwise specified, the paper shall be maintained in place for 72 hours after the concrete has been placed.
4. White Burlap-Polyethylene Sheets: The surface of the pavement shall be entirely covered with sheeting. The sheeting used shall be such length (or width) that it will extend at least twice the thickness of the pavement beyond the edges of the slab. The sheeting shall be placed so that the entire surface and both edges of the slab are completely covered. The sheeting shall be placed and weighted to remain in contact with the surface covered, and the covering shall be maintained fully wetted and in position for 72 hours after the concrete has been placed.
5. Curing in Cold Weather: When the average daily temperature is below 40 degrees F (4 degrees C), curing shall consist of covering the newly laid pavement with not less than 12 inches (30 cm) of loose, dry hay or straw, or equivalent protective curing authorized by the Engineer, which shall be retained in place for 10 days. The hay or straw shall be secured to avoid being blown away. Admixture for curing or temperature control may be used only when authorized by the Engineer. When concrete is being placed and the air temperature may be expected to drop below 35 degrees F (2 degrees C), a sufficient supply of straw, hay, grass, or other suitable blanketing material such as burlap or polyethylene shall be provided along the work.

Any time the temperature may be expected to reach the freezing point during the day or night, the material so provided shall be spread over the pavement to a sufficient depth to prevent freezing of the concrete. The period of time such protection shall be maintained shall not be less than 10 days. A minimum of 3 days is required when high, early strength concrete is used. The Contractor shall be responsible for the quality and strength of the concrete placed during cold weather, and any concrete injured by frost action shall be removed and replaced at the Contractor's expense.

3.14 REMOVING FORMS

- A. Unless otherwise specified, forms shall not be removed from freshly placed concrete until it has set for at least 12 hours, except where auxiliary forms are used temporarily in widened areas. Forms shall be removed carefully to avoid damage to the pavement. After the forms have been removed, the sides of the slab shall be cured as outlined in one of the methods indicated in Paragraph 3.17. Major honeycombed areas shall be considered as defective work and shall be removed and replaced. Any area or section so removed shall not be less than 20 feet (6 m) in length nor less than the full width of the lane involved. When it is necessary to remove and replace a section of pavement, any remaining portion of the slab

adjacent to the joints that is less than 10 feet (3 m) in length shall also be removed and replaced.

3.15 SEALING JOINTS

- A. The joints in the pavement shall be prepared and sealed in strict accordance with the sealant manufacturer's printed recommendations.

3.16 PROTECTION OF PAVEMENT

- A. The Contractor shall protect the pavement and its appurtenances against both public traffic and traffic caused by the Contractor's employees and agents. This shall include watchmen to direct traffic and the erection and maintenance of warning signs, lights, pavement bridges, or crossovers, etc. The plans or special provisions will indicate the location and type of device or facility required to protect the work and provide adequately for traffic. Any damage to the pavement occurring prior to final acceptance shall be repaired or the pavement replaced at the Contractor's expense. In order that the concrete, be properly protected against the effects of rain before the concrete is sufficiently hardened, the Contractor is encouraged to have available at all times materials for the protection of edges and surface of the unhardened concrete.

Such protective materials shall consist of rolled polyethylene sheeting at least 4 mils (0.1 mm) thick of sufficient length and width to cover the plastic concrete slab and any edges. The sheeting may be mounted on either the paver or a separate movable bridge from which it can be unrolled without dragging over the plastic concrete surface. When rain appears imminent, all paving operations shall stop, and all available personnel should begin covering the surface of the unhardened concrete with the protective covering.

3.17 OPENING TO TRAFFIC

- A. The Engineer shall decide when the pavement shall be opened to traffic. The pavement will not be opened to traffic until test specimens molded and cured in accordance with ASTM C31 have attained a flexural strength of 550 pounds per square inch (3792 kPa) when tested in accordance with ASTM C78. If such tests are not conducted, the pavement shall not be opened to traffic until 14 days after the concrete was placed. Prior to opening to traffic, the pavement shall be thoroughly cleaned.

3.18 SURFACE AND THICKNESS TOLERANCES

- A. Extreme care must be exercised in all phases of the operation to assure the pavement will pass the specified tolerances. The following tolerances are applicable:
 1. Lateral deviation from established alignment of the pavement edge shall not exceed plus or minus 0.10 foot (30 mm) in any lane.
 2. Vertical deviation from established grade shall not exceed plus or minus 0.04 foot (12 mm) at any point.
 3. Surface smoothness deviations shall not exceed 3/8-inch (6 mm) from a 16-foot (5 m) straightedge placed in any direction, including placement along and spanning any pavement joint or edge.

4. No additional payment over the contract unit price shall be made for any pavement of a thickness exceeding that required by plans.

3.19 INTEGRAL CURBS

- A. Where shown on the drawings, integral curbs shall be installed to the dimension shown using identical concrete to the paving mix. Expansion and contraction joints shall extend through curb section. Reinforcing for integral curb, when shown on the plans, shall be supported from the ground with driven stakes or as directed by the Engineer. Once the forms are removed, all voided areas shall be rubbed and filled with non-shrink grout within 24 hours. If the forms are removed within 2 days of placement, the curb shall be treated with a specified curing membrane.

3.20 CONCRETE CURB AND GUTTER

- A. Concrete curb and gutter shall be constructed using concrete of the type and strength specified in the plans. The placement, strike-off consolidation and finishing shall be made using applicable portions of this specification as determined by the Engineer. Contraction joints shall be placed at 20-foot centers with the use of a 1/2" deep grooving tool. Expansion joints shall be placed at a maximum spacing of 400 feet and at all radius points, curb returns and junctions with structures. For curves of 100 feet radius or less, contraction joints shall be tooled at 10-foot centers and expansion joints constructed at 50-foot centers. Expansion joints shall contain a minimum of two smooth dowels a minimum of one bar size larger than the longitudinal reinforcing and 3/4-inch thick expansion joint material of the type specified in the plans. Expansion joints shall be sealed in accordance with the plan details.

3.21 SIDEWALKS AND SLOPE PAVING

- A. Concrete sidewalks and slope paving shall be constructed to use concrete of the type and strength specified in the plans. The placement, strike-off, consolidation and finishing shall be made using applicable portions of this specification as determined by the Engineer. Contraction joints shall be tooled at a depth of 1/2" at a spacing equal to the width of the sidewalk not to exceed six feet. For walks wider than six feet, longitudinal joints shall be tooled at equal spacing, not less than three feet. Edges shall be tooled with a 1/4-inch radius and finish slightly higher than adjacent curbs to ensure proper drainage if some settlement occurs. Expansion joints shall be placed at 100-foot intervals or at intersecting walk locations. Expansion joints shall be 3/4-inch in thickness and contain smooth dowels at not less than 12" spacing. The size of the dowels will be equal to the thickness of the sidewalk in inches. Scoring and tooling for barrier free ramps shall be made in accordance with governing City standards or as directed by the Engineer.

3.22 FIELD TEST SPECIMENS

- A. Concrete samples shall be furnished by the Contractor and shall be taken in the field to determine the consistency, air content, and strength of the concrete. Compressive test cylinders shall be made each day that the concrete is placed. However, at the start of paving operations and when the aggregate source, aggregate characteristics, or mix design is changed, additional groups of test cylinders may be required until the Engineer is satisfied that the concrete mixture being used complies with the strength requirements of these specifications. Test ages will be 7 days and 28 days.

- B. Test cylinders for compressive strength tests shall be taken and cured in accordance with ASTM C-31 and tested in accordance with ASTM C-39. At least four cylinders (a set) shall be made for each 1,000 cubic yards or fraction thereof placed and tested at 7 days and 28 days. No extra compensation will be allowed for materials and work involved in fulfilling these requirements. Concrete will be accepted on the basis of tests conducted on a "lot" of concrete. A lot will consist of 160 cubic yards and will be divided into four equal sublots. One set of tests will be made for each subplot. Random samples will be taken from the plastic concrete at the site in accordance with accepted statistical procedures.
- C. The concrete shall be sampled in accordance with ASTM C172.
- D. The lot will be accepted without adjustment in payment if the average 28-day compressive strength, based on four acceptance tests, indicates a strength deficiency of not less than 100 psi. The pay factor for 28-day compressive strengths showing a deficiency greater than 100 psi are listed in the table below:

PAY FACTOR SCHEDULE FOR COMPRESSIVE STRENGTH
AT THE SPECIFIED INTERVAL

Strength Deficiency (Based on an Average of 4 Cylinders) psi	Pay Factor (Percent of Contract Unit Price) psi
0 - 100	100
100 - 150	85
151 - 200	75
201 - 250	70
251 - 300	60
301 - 375	55
375 - 500	50
>500	Reject

END OF SECTION 32 13 13

SECTION 33 13 13 – CONCRETE REINFORCEMENT

PART 1 - GENERAL

1.1 RELATED WORK SPECIFIED ELSEWHERE

- A. Section 32 13 13, "CONCRETE PAVEMENT"

1.2 QUALITY ASSURANCE

A. Reference Standards:

1. ACI 315, Manual of Standard Practice for Detailing Reinforced Concrete Structures.
2. ASTM A615, Specification for Deformed Billet Steel Bars for concrete.
3. ASTM A185, Specifications for Welded Steel Wire Fabric for Concrete Reinforcement.
4. Concrete Reinforcing Steel Institute, Manual of Standard Practice.

B. Allowable Tolerances:

1. Fabricating: (per ACI 117-90)
 - a. Saw cut length to: Plus or minus 1". (Remove all burrs).
 - b. Stirrups and ties: Plus or minus 1/2".
 - c. All other bends: Plus or minus 1".
2. Placing:
 - a. Concrete cover to formed surfaces: Plus or minus 1/4".
 - b. Minimum spacing between bars: Plus or minus 1/4".
 - c. Top bars in slabs and beams:
 - (1) Members 8" deep or less: Plus or minus 1/4".
 - (2) Members more than 8" but not over 2'-0" deep: Plus or minus 1/2".
 - (3) Members more than 2'-0" deep: Plus or minus 1".
 - (4) Crosswise of members: Space evenly within 2" of stated separation.
 - (5) Lengthwise of members: Plus or minus 2".
3. bar relocation to avoid interference with other reinforcing steel, conduits, or another embedded item: 1 bar diameter.

1.3 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Deliver reinforcement to project site in bundles marked with tags indicating bar size, length and mark.
- B. Unload reinforcing carefully to prevent damage. Store above ground in dry, well drained area; protect from mud, dirt and corrosion.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Reinforcing Bars: ASTM A615, deformed billet steel bars, domestic manufacture, Grades 40 and/or 60 as indicated on structural drawings.

- B. Welded Wire Fabric Reinforcing: ASTM A185, steel wire spot welded at intersections and of size indicated.
- C. Metal Accessories: Include spacers, chairs, bolsters, ties and other devices necessary for properly placing, spacing, supporting and fastening reinforcement in place, conforming to requirements to CRSI "Manual of Standard practice for Detailing Reinforced Concrete Structures." Metal accessories shall be galvanized or plastic coated where legs will be exposed in finished concrete surfaces.
- D. Tie Wire: FS QQ-W-461, black annealed steel, 16 ga. min.

2.2 FABRICATION

- A. In accordance with CRSI "Manual of Standard Practice."

PART 3 - EXECUTION

3.1 PREPARATION

- A. Cleaning: Before placing in work, thoroughly clean reinforcement of loose rust, mill, scale, dirt, oil, and other coating which might tend to reduce bonding. Reinspect reinforcing left protruding for future bonding, or following delay in work, and reclean if necessary.

3.2 INSTALLATION

- A. Bar Placement: In accordance with CRSI "Recommended Practice for Placing Reinforcing Bars" and "Recommended Practice for Placing Bar Supports."
 - 1. Bending: Bend bars cold; do not heat reinforcing or bend by make-shift methods. Discard bent, kinked or otherwise damaged bars.
 - 2. Splices: In accordance with ACI 315.
 - 3. Placing: Accurately position reinforcement; securely saddle tie at intersections.
 - 4. Supports: In accordance with ACI 315 for number, type, spacing and placing.

END OF SECTION 01 42 00

SECTION 321723 - PAVEMENT MARKINGS

PART 1 - GENERAL

1.1 GENERAL INFORMATION

- A. The following information has been provided as a general guideline for the use and disposal of traffic marking paints. It is also very beneficial to run a small test in a non-critical area in order to ensure the surface preparation; weather conditions, equipment and product are suitable and working properly.

PART 2 – PRODUCTS

DESCRIPTION:	22W-E008 WHITE HI-PERFORMANCE ACRYLIC ZONE MARKING PAINT, OR APPROVED EQUAL.
COLOR:	WHITE – FED. STD: 595B 37925
APPLICABLE SPECIFICATION:	VARIOUS
TYPICAL USE:	PARKING LOTS and AUXILLIARY MARKINGS
DRY TIME:	MAXIMUM 15 MINUTES @ 77°F
COVERAGE:	APPROX. 320 LINEAR FEET OF 4" LINE @ 15 MILS

PART 3 – EXECUTION

3.1 SURFACE PREPARATION

- A. Care should be taken to ensure that the surface is clean, dry and free of loose material. A simple leaf blower is typically sufficient to remove gravel and dust in most instances. When applying over previously coated areas, however, take special care to remove any loose or peeling paint. Other surface conditions, such as areas with large amounts of engine oil buildup or existing epoxy coatings, may require a power-washing procedure or abrading the surface before application of the paint. New concrete and asphalt should be aged for a minimum of 30 days prior to painting. Use caution when striping over a freshly sealed surface. Sealers can affect the adhesion and cure of traffic marking paints. For more information on the surface, please consult with the supplier or applicator of the surface.

3.2 WEATHER CONDITIONS AND APPLICATION

- A. Air temperature, surface temperature, humidity and the weather conditions following application are extremely important factors in the success of the products. Aexcel formulates these coatings to be applied without further reduction. They can also be used in conjunction with the application of glass beads to improve reflectivity without sacrificing other properties. Protect fresh lines from traffic until thoroughly dry. These, as well as all solvent-borne coatings, should not be applied at temperatures below 50°F

and/or less than 6 hours before any expected precipitation. Evening and night applications should be avoided whenever possible due to the cooler temperatures. At lower temperatures or when humidity is extremely high, a significant amount of extra time will be needed for the paints to dry.

3.3 EQUIPMENT

- A. Tip size, fluid pressure, atomizing air pressure, paint viscosity and paint temperature are all critical to the appearance, consistency and performance of the paint. The equipment must be matched to the paint being applied in order to achieve the proper film thickness and coverage. Typical tip sizes for "airless" machines are .019"-.021", while "air-atomized" machines use .086"-.11" at 60 lbs. pressure. For more information, please consult with the equipment manufacturer.

3.4 PAINT SELECTION AND SAFETY

- A. These coatings, as are all solvent-based products, are extremely flammable. Do not smoke or weld while working with these paints. Empty containers that held these products will also contain residual vapors and should be handled in the same manner as those that are full. Use only paint recommended or specified for each application. Shelter the containers when possible and avoid prolonged outside storage. Agitation of the paints by stirring or shaking should be performed in order to ensure uniform consistency, application and performance. When storing partially filled containers, a small amount of solvent may be added and allowed to stand on top in order to avoid "skinning". Always be sure the containers are sealed tightly during transporting or storing in order to avoid spillage, risk of fire and solvent evaporation. Keep paints away from heat and flame. Consult the MSDS and/or labels for further safety, personal protection, first aid, and spill or leak procedures.

3.5 WASTE DISPOSAL

- A. Comply with all regulations regarding handling, storage and disposal of all hazardous materials and waste. Consult local agencies or disposal companies for individual instructions and requirements. Improper disposal of paint and their related materials is illegal and may result in large fines. Please comply with all regulations and minimize waste whenever possible.

NAME: HI-PERFORMANCE ACRYLIC ZONE MARKING PAINT

COLOR:	WHITE
CODE:	22W-E008
VISCOSITY @ 77°F, Kres Units (KU):	70-80
WEIGHT PER GALLON @ 77°F, Lbs.:	10.41 +/- .2
PIGMENT, % By Weight:	35-40%
TOTAL SOLIDS, % By Weight:	60-65%

DRY TIME TO NO PICKUP, Minutes:	15 Maximum
REFLECTANCE, %:	85.0 Minimum
OPACITY, 10 Mil.:	0.99 Minimum
V.O.C. (420 g/l max.):	3.48 Lb./Gal. (417g/Liter)
CLEAN-UP SOLVENTS:	Acetone, Toluene, Methyl Ethyl Ketone or Equivalent

END OF SECTION 321723

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GENERAL CONSTRUCTION NOTES:

- 1) ALL IMPROVEMENTS TO BE IN ACCORDANCE WITH CITY OF EDMBURG CODES.
- 2) CONTRACTOR TO VERIFY LOCATION AND ELEVATION OF EXISTING FACILITIES PRIOR TO CONSTRUCTION.
- 3) CONTRACTOR TO PLAN AND PERFORM HIS WORK IN A MANNER THAT WILL PERMIT SAFE PUBLIC TRAFFIC MOVEMENT ON ALL STREETS.
- 4) TEMPORARY TRAFFIC CONTROL DURING CONSTRUCTION TO BE IN ACCORDANCE WITH SPECIFICATIONS.
- 5) CONTRACTOR TO COORDINATE W/ COUNTY TO PROVIDE PROTECTIVE DEVICES SUCH AS SIGNS, LIGHTS, AND SIGNALS AS REQUIRED BY THE CITY OF EDMBURG AND THE TEXAS DEPARTMENT OF TRANSPORTATION (NO SEPARATE PAY, FOR THE SAFETY OF THE PUBLIC AND WORKERS).
- 6) CONTRACTOR TO BE RESPONSIBLE FOR PROTECTION AND/OR SAFETY OF THE WORK SITE, WORKERS, SUBCONTRACTORS, MATERIALS AND/OR EQUIPMENT.
- 7) CONSTRUCTION STAKING SHALL BE PROVIDED BY THE CONTRACTOR AND AT CONTRACTOR'S EXPENSE. ALL DIMENSIONS ARE TO FACE UNLESS SHOWN OTHERWISE.
- 8) MATERIAL TESTING SHALL BE PROVIDED BY THE OWNER, RE-TEST TO BE AT CONTRACTOR'S EXPENSE.
- 9) CONTRACTOR SHALL SUBMIT A TRAFFIC CONTROL PLAN IF REQUIRED, FOR APPROVAL BY THE CITY ENGINEERING OFFICE/TxDOT AREA OFFICE PRIOR TO CONSTRUCTION.
- 10) CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS REQUIRED AND AT CONTRACTOR'S EXPENSE.
- 11) ANY DAMAGE TO EXISTING PAVEMENT, DRAINAGE OR EXISTING STRUCTURES SHALL BE REPAIRED TO PRE-CONSTRUCTION CONDITION AT CONTRACTOR'S EXPENSE.
- 12) THESE PLANS PREPARED BY HALFF ASSOCIATES, INC. DO NOT EXTEND TO OR INCLUDE DESIGN OR SYSTEMS PERTAINING TO THE SAFETY OF THE CONSTRUCTION CONTRACTOR OR ITS EMPLOYEES, AGENTS OR REPRESENTATIVES IN THE PERFORMANCE OF THE WORK. THE SEAL OF HALFF ASSOCIATES, INC. REGISTERED PROFESSIONAL ENGINEER (S) HEREON DOES NOT EXTEND TO ANY SUCH SAFETY SYSTEMS THAT MAY NOW OR HEREAFTER BE INCORPORATED IN THESE PLANS. THE CONSTRUCTION CONTRACTOR SHALL PREPARE OR OBTAIN THE APPROPRIATE SAFETY SYSTEMS, INCLUDING THE PLANS AND SPECIFICATIONS REQUIRED BY THE HOUSE BILLS 662 AND 660 ENACTED BY THE TEXAS LEGISLATURE IN THE 70TH LEGISLATIVE REGULAR SESSION.
- 13) CONTRACTOR SHALL GIVE NOTICE TO ALL AUTHORIZED INSPECTORS, SUPERINTENDENTS, OR PERSONS IN CHARGE OF PRIVATE AND PUBLIC UTILITIES AFFECTED BY HIS OPERATIONS PRIOR TO COMMENCEMENT OF WORK. NOTIFY TEXAS ONE CALL FOR UTILITY LOCATIONS PRIOR TO ANY & ALL EXCAVATIONS.
- 14) CONTRACTOR TO COORDINATE WITH THE CITY OF EDMBURG ON WORK SCHEDULES, TESTING, GENERAL INSPECTION AND EXISTING LINES.
- 15) CONTRACTOR TO EXERCISE CAUTION WHEN WORKING NEAR EXISTING FACILITIES AND/OR UTILITIES. ALL DAMAGE TO BE REPAIRED AT CONTRACTOR'S EXPENSE. ALL COSTS FOR INTERRUPTION OF GAS, ELECTRICAL, COMMUNICATIONS AND/OR WATER SERVICE DUE TO CONTRACTOR'S WORK SHALL BE BORNE BY THE CONTRACTOR.
- 16) INFORMATION ON EXISTING UTILITIES IS FROM BEST AVAILABLE INFORMATION OF RECORDS AND SPOT FIELD LOCATIONS. CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFICATION AND LOCATION OF THESE UTILITIES PRIOR TO CONSTRUCTION. ASSISTANCE AND OPERATION OF VALVES AS REQUIRED, CONTRACTOR TO COORDINATE WITH OTHER UTILITIES COMPANIES, ELECTRICAL UTILITIES, GAS UTILITIES AND TELEPHONE UTILITIES.
- 17) ALL SPILL MATERIAL AND DEBRIS SHALL BE DISPOSED OFFSITE BY CONTRACTOR IN A LEGAL MANNER. FURNISHING AND TRANSPORTATION OF ALL SPILL MATERIAL TO BE AT CONTRACTOR'S EXPENSE.
- 18) UPON COMPLETION OF CONSTRUCTION CONTRACTOR SHALL RETURN THE SITE TO ORIGINAL CONTOURS UNLESS DIFFERENT FINISHED ELEVATIONS ARE SHOWN ON PLANS. CONTRACTOR TO INSURE NO AREAS OF PONDING ARE PRESENT.
- 19) CONCRETE NOTES:
 a) ALL CONCRETE WORK TO BE FORMED, UNLESS OTHERWISE APPROVED.
 b) ALL CONCRETE TO BE 3000-PSI MINIMUM AT 28 DAYS, UNLESS OTHERWISE SHOWN. STRENGTH TO BE DETERMINED BY CYLINDRIC BEAM TEST.
 c) ALL REINFORCING STEEL TO BE ASTM #4 BARS, GRADE 60, UNLESS OTHERWISE SHOWN.
 d) ALL EXPOSED CONCRETE WORK TO BE CHAMFERED.
- 20) CONTRACTOR TO INSURE SAME DAY ACCESS TO ALL RESIDENCES AND BUSINESSES ADJACENT TO CONSTRUCTION.
- 21) DEMOLITION, REMOVAL & DISPOSAL OF ALL EXCESS CONCRETE, CURBS, RUBBLE, ETC. TO BE DONE IN A LEGAL MANNER AT CONTRACTOR'S EXPENSE.
- 22) ALL TRAFFIC CONTROL / TRAFFIC SAFETY SHALL BE IN ACCORDANCE WITH THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) CRITERIA.
- 23) ANY ITEMS TO BE RE-STORAGE SHALL BE COORDINATED WITH THE OWNER AND STORED AT LOCATION INDICATED IN PLANS.

UTILITY GENERAL NOTES:

- 1) CONTRACTOR TO CONTACT ALL UTILITY COMPANIES IN THE AREA FOR FIELD VERIFICATION OF EXISTING FACILITIES. UTILITY COMPANIES TO INCLUDE BUT NOT LIMITED TO THE FOLLOWING:

CITY OF EDMBURG	78561 292-2000
TEXAS ONE CALL	8000 345-2626
TEXAS GAS SERVICE	8000 500-2525
TEXAS WATER CABLE	8000 393-5232
AT&T TEXAS	8000 388-2222
AT&T TEXAS	8000 344-8377
 - 2) CONTRACTOR TO EXPOSE ANY EXISTING UTILITY THAT MAY BE IN CONFLICT PRIOR TO START OF EXCAVATION.
 - 3) ALL EXISTING UTILITIES SHOWN ARE FROM BEST INFORMATION AVAILABLE. NEITHER THE ENGINEER NOR THE CITY IS IN ANY WAY RESPONSIBLE FOR ACCURACY OF LOCATION.
 - 4) CONTRACTOR SHALL AT ALL TIMES ALLOW ACCESS TO EXISTING DRIVEWAY OR PROVIDE/MAINTAIN ALTERNATIVE ALL-WEATHER ROUTES.
 - 5) ALL TRAFFIC CONTROL DEVICES SHALL BE IN CONFORMANCE WITH TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD). EXISTING TRENCHES OR EXCAVATIONS MAY NOT BE LEFT OPEN OVERNIGHT.
 - 6) ANY DAMAGES TO FENCES, WALKS, OR PRIVATE PROPERTY SHALL BE REPAIRED BY THE CONTRACTOR AT HIS EXPENSE.
 - 7) ALL CONSTRUCTION MATERIALS TESTING WILL BE COORDINATED THROUGH THE OWNER.
 - 8) WORK REQUIRED TO BE INSPECTED BY THE CITY SHALL OCCUR DURING REGULAR WORKING HOURS, MONDAY THROUGH FRIDAY, NO WORK TO BE DONE DURING CITY HOLIDAYS, NON-WORKING HOURS, MONDAY THROUGH FRIDAY, AND WEEKENDS UNLESS APPROVED BY THE CITY ENGINEER. INSPECTION OVERTIME COSTS TO BE BORNE BY CONTRACTOR.
 - 9) USE CLASS 'B' EMBLEMMENT FOR UTILITY TRENCHES UNDER PAVEMENT.
- STRIPING NOTES:**
- 1) ALL PAVEMENT STRIPING SHALL BE COORDINATED WITH HIDALGO COUNTY.
 - 2) CONTRACTOR TO SWEET/ HIGH PRESSURE AIR CLEAN THE PAVING AREA, RESULTING IN A SURFACE FREE OF LOOSE PARTICLE MATERIALS.
 - 3) CONTRACTOR TO FILL CRACKS WITH A SUITABLE PRODUCT FOR THIS PURPOSE.
 - 4) THE PAVEMENT SURFACE SHALL BE MADE FREE OF DEFECTUOUS MATERIAL PRIOR TO APPLICATION OF PERMANENT STRIPING.
 - 5) ALL PROPOSED PERMANENT STRIPING SHALL BE ACCEPT WHITE 40-PERFORMANCE ACRYLIC ZONE MARKING PAINT, PRODUCE NUMBER 50808 OR APPROVED EQUAL. CONTRACTOR SHALL APPLY ALL STRIPING PER MANUFACTURER'S RECOMMENDATION.

TRAFFIC CONTROL NOTES:

- MAINTENANCE OF WORK ZONE TRAFFIC CONTROL DEVICES.
- 1) THOSE PORTIONS OF THE PROJECT WHICH REQUIRE CONSTRUCTION UNDER TRAFFIC WILL BE SUBSIDIARY TO THE VARIOUS BOYD ITEMS.
 - 2) AT ANYTIME DURING THE PROTECTION OF THE PROJECTS, THE CONTRACTOR SHALL MAINTAIN THE TRAFFIC CONTROL DEVICES AVAILABLE AT ALL TIMES TO REPLACE THOSE DAMAGED.
 - 3) THE CONTRACTOR SHALL TAKE CARE TO ASSURE THAT ALL TRAFFIC CONTROL DEVICES AND SIGNAGE ARE MAINTAINED AS NEARLY AS POSSIBLE TO THE ORIGINAL CONDITION. TRAFFIC CONTROL DEVICES AVAILABLE AT ALL TIMES TO REPLACE THOSE DAMAGED.
- SIGNING:**
- 1) THE CONTRACTOR SHALL COVER OR TEMPORARILY REMOVE EXISTING SIGNS THAT COMPLY WITH THE SUGGESTED TRAFFIC CONTROL PLAN ON THE INTER-THROUWAY.
 - 2) EXISTING SIGNS THAT DO NOT COMPLY WITH THE SUGGESTED TRAFFIC CONTROL PLAN SHALL BE REPLACED WITH THE SUGGESTED TRAFFIC CONTROL PLAN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COSTS OF REPLACING AND MAINTAINING THE TRAFFIC CONTROL DEVICES. THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 3) FOR PROVISIONAL SAFETY, THE CONTRACTOR SHALL INSTALL TRAFFIC CLASS 'B' EQUIPMENT TO ALL PAVEMENT SURFACES PRIOR TO THE START OF CONSTRUCTION. THE EQUIPMENT SHALL BE MAINTAINED THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 4) THESE MEASURES FOR PUBLIC ACCESS AND PEDESTRIAN SAFETY WILL NOT BE PAID FOR DIRECTLY, BUT SHALL BE CONSIDERED SUBSIDIARY TO BO.
- PUBLIC ACCESS AND PEDESTRIAN SAFETY:**
- 1) ANY PORTIONS OF THE PROJECT THAT COMPLY WITH EXISTING PUBLIC ROADS AND/OR PRIVATE ROADS SHALL BE KEPT OPEN TO TRAFFIC AT ALL TIMES UNLESS OTHERWISE DIRECTED OR APPROVED BY THE HIDALGO COUNTY.
 - 2) THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 3) FOR PROVISIONAL SAFETY, THE CONTRACTOR SHALL INSTALL TRAFFIC CLASS 'B' EQUIPMENT TO ALL PAVEMENT SURFACES PRIOR TO THE START OF CONSTRUCTION. THE EQUIPMENT SHALL BE MAINTAINED THROUGHOUT THE PROJECT. THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 4) THESE MEASURES FOR PUBLIC ACCESS AND PEDESTRIAN SAFETY WILL NOT BE PAID FOR DIRECTLY, BUT SHALL BE CONSIDERED SUBSIDIARY TO BO.
- GENERAL:**
- 1) INSTALLATION AND MAINTENANCE OF ALL WORK ZONE SIGNS, BARRICADES AND PAVEMENT MARKINGS SHALL BE IN ACCORDANCE WITH THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) AND THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
 - 2) CONSTRUCTION IN ANY AREA THAT IS ADVERSELY AFFECTING TRAFFIC FLOW AND SAFETY, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COSTS OF REPLACING AND MAINTAINING THE TRAFFIC CONTROL DEVICES. THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 3) THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 4) FLASHING WARNING LIGHTS AND/OR FLASCS SHALL BE USED TO CALL ATTENTION TO THE STOP STATION, BURN ITTY C WARNING LIGHTS SHALL BE USED TO MARK CHANNELIZING DEVICES AT NIGHT AS NEEDED.
 - 5) ADDITIONAL SIGNS, BARRICADES AND/OR OTHER CHANNELIZING DEVICES MAY BE REQUIRED AND/OR ADVISED AS DIRECTED BY THE CITY ENGINEER.
 - 6) WHEN CONSTRUCTION OPERATIONS BECOME A HAZARD TO THE PUBLIC, THE CONTRACTOR SHALL MAINTAIN TWO-WAY TRAFFIC ON ALL PUBLIC ROADSWAYS AT ALL TIMES UNLESS OTHERWISE NOTED ON THE PLANS.
 - 7) FOR POSTED SPEEDS EXCEEDING 30 MPH, ADVISORY SPEED SIGNS WITH APPROPRIATE WARNING SIGNS SHALL BE POSTED IN THE ADVISORY SPEED ZONE PRIOR TO THE PROJECT LIMITS, UNLESS OTHERWISE DIRECTED BY THE CITY ENGINEER.
 - 8) ALL WORK SHALL BE DONE EXCEPT DURING NIGHTTIME WORKS, OR AS DIRECTED BY THE CITY ENGINEER, THROUGHOUT THE WORK AREA WILL BE REQUIRED AS DIRECTED BY THE CITY ENGINEER. REFER TO STANDARD TRAFFIC CONTROL SHEETS FOR OTHER PERTINENT INFORMATION NOT SHOWN.

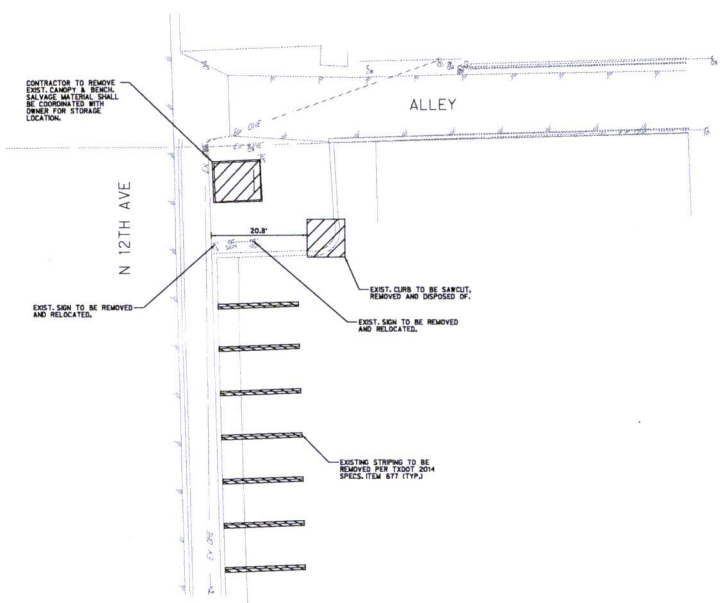
ADA BUS SHELTERS
 HIDALGO COUNTY CONTRACT
 # C-18-142-05-08 W A No. 3
 HIDALGO COUNTY, TEXAS



Checked by:	
Drawn by:	
Checked by:	
Scale:	1" = 12'
Sheet Title:	GENERAL NOTES
Project No.:	34862.004
Issue:	10/22/19
Drawn By:	SK
Checked By:	MS
Scale:	1" = 12'
Sheet Title:	GENERAL NOTES
Project No.:	34862.004
Issue:	10/22/19
Drawn By:	SK
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Scale:	1" = 12'
Sheet Title:	GENERAL NOTES
Project No.:	34862.004
Issue:	10/22/19
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Sheet Title:	GENERAL NOTES

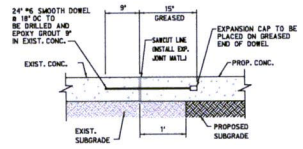
Project No. 34862.004
 Issue: 10/22/19
 Drawn By: SK
 Checked By: MS
 Scale: 1" = 12'
 Sheet Title: GENERAL NOTES
 C0.02
 Sheet Number:

PROPOSED SHELTER
LOCATION "A3"
N 12TH AVE & E STUBBS ST
EDINBURG, TEXAS



LEGEND

PROPOSED	EXISTING	INLET
FLAMBO	FLAMBO	FLAM POLE
WVO	WVO	GATE VALVE & BOX
SM	SM	GAS METER
FWL	FWL	FIRE HYDRANT
UB	UB	UTILITY BOX
LPO	LPO	LIGHT POLE
EB	EB	ELECTRIC BOX
PP	PP	POWER POLE
TR	TR	TELEPHONE RISER
FD	FD	FENCE
TS	TS	TRAFFIC SIGN
EX-OE	EX-OE	OVERHEAD ELECTRIC
EX-UG	EX-UG	UNDERGROUND ELECTRIC
EX-G	EX-G	GAS LINE
EX-F	EX-F	FIBER OPTIC LINE
EX-T	EX-T	TELEPHONE LINE
AS	AS	ASPHALT PAVEMENT
ST	ST	STORM SEWER
CON	CON	CONCRETE
TSB	TSB	TRAFFIC SHIELD BOLL
TOP	TOP	TOP OF PAVEMENT
CR	CR	TOP OF CURB
BT	BT	BUTTER
TP	TP	TOP OF BOLL
FS	FS	FINISHED GRADE
PRO	PRO	PROPOSED PAVEMENT
CON	CON	CONCRETE

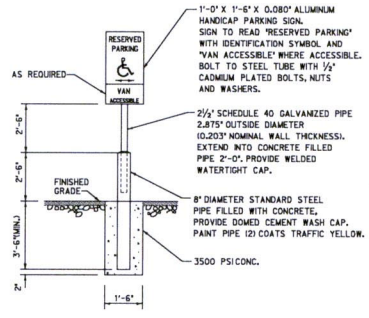


CONCRETE SAWCUT DETAIL
NTS

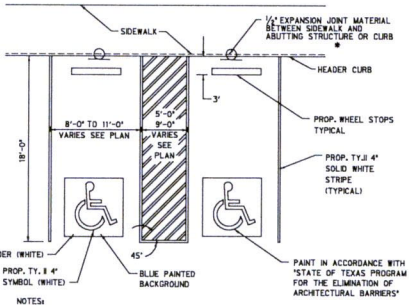
NOTES:
1. THE PAVEMENT SURFACE SHOULD BE MADE FREE OF DELETERIOUS MATERIAL PRIOR TO APPLICATION OF PERMANENT MARKINGS.

THE "O" SET ON TOP OF PAVEMENT IS THE NORTH EAST CORNER OF THE INTERSECTION OF S. 12TH AVE AND E. STUBBS ST.
ELEVATION = 84.91'
NORTH ARROW
E=1095097.5234

Project No.	24882-2014
Issue No.	10/23/2018
Drawn By	SM
Checked By	SM
Scale	1" = 12'
Sheet Title	DEMO PLAN A3
Sheet Number	C3.00

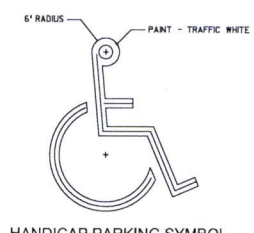


HANDICAP SIGN & SUPPORT
 NTS

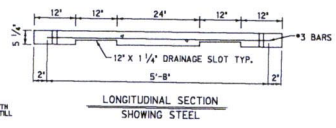
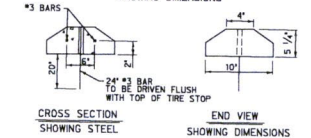
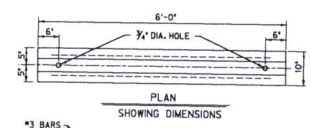


- NOTES:**
1. ALL STRIPING SHALL BE A HI-PERFORMANCE ZONE MARKING PAINT AND SHALL BE PLACED PER MANUFACTURE RECOMMENDATIONS. GORILLA PAINT BY AEGEE, OR APPROVE EQUAL.
 2. ALL SIGNS AND MARKINGS SHALL BE PLACED BY THE CONTRACTOR IN ACCORDANCE WITH THE TEXAS MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES, UNLESS OTHERWISE SHOWN OR DIRECTED.
 3. INSTALL HEADER CURB WHEN SIDEWALK IS ADJACENT TO ASPHALT PAVEMENT.

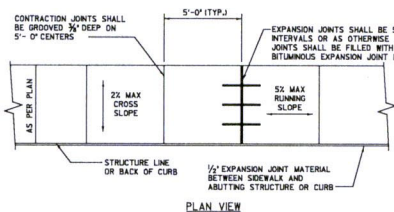
TYPICAL HANDICAP PARKING SPACE DETAIL
 NTS



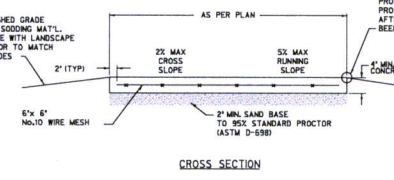
HANDICAP PARKING SYMBOL
 NTS



CONCRETE WHEEL STOP WITH DRAINAGE SLOTS DETAIL
 NTS

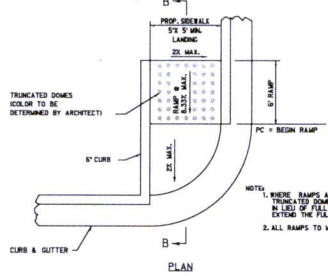


PLAN VIEW

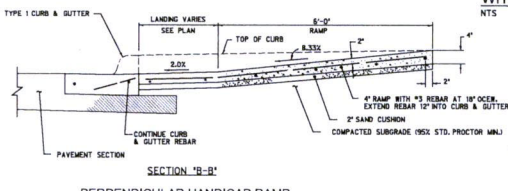


CROSS SECTION

CONCRETE SIDEWALK/ CONCRETE PAD DETAIL
 NTS



PLAN



SECTION 'B-B'

PERPENDICULAR HANDICAP RAMP
 NTS

SECTION 00 41 00 BID FORM

Commence work within seven days after written Notice to Proceed of this bid.

- C. If this bid is accepted within the time stated, and we fail to commence the Work or we fail to provide the required Bond(s), the security deposit shall be forfeited as damages to County of Hidalgo by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this bid and the bid upon which a Contract is signed.
- D. In the event our bid is not accepted within the time stated above, the required security deposit shall be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

1.07 CONTRACT TIME

- A. If the Bid is accepted, project will be substantially complete as follows: Complete the Work in thirty (30) calendar days from Notice to Proceed.
- B. Liquidated Damages: County of Hidalgo has the right under contract to assess liquidated damages for each calendar day beyond the date for substantial completion set out in the contract in which the Work fails to be substantially complete due to unexcused delay. In the event the Contractor fails to achieve Substantial Completion of the work within the time indicated in the Bid Form, or as mutually agreed upon, or as such date may be extended or shortened by approved Change Order, the Owner shall be entitled to liquidated damages in the amount of \$250.00 per day for each day that the work is not substantially complete - the date on the Certificate of Substantial Completion.
- C. In the event the Contractor fails to achieve Final Completion of the Work within ten (10) days of Substantial Completion or as mutually agreed upon, or as such date may be extended or shortened by approved Change Order, the Owner shall be entitled to liquidated damages in the amount of \$250.00 per day that passes within the first seven days past the scheduled Final Completion date in which the Work is not completed; \$500.00 per day for each day that passes within the second seven days past the scheduled Final Completion date in which the Work is not completed; and \$1,000.00 per day for each day that passes within the third seven days past the scheduled Final Completion date in which the Work is not completed, until the work is finally completed.
- D. Back Charges: County of Hidalgo has the right under contract to back charge amounts that are spent to complete a portion of the work not completed by the contractor based on schedule and repairs of damage caused by work associated with the construction that requires quick response due to County of Hidalgo operations and contractor has failed to respond. This will be deducted from contractor's contract amount and written as a change order to the contract.
- E. Rain/Off Days: Rain Days must be submitted within 3 days of event or with each pay application (weekly report) failure to provide notification with proper proof within the time period will not be accepted. Any additional days after rain days that the contractor fails to work will be charged as work days unless authorized in writing by both the contractor and Owner, refer to 1.07 Contract Time, A.
- F. Completion of Work
If this Bid is accepted, we will:
Complete the Work in 30 calendar days from Notice to Proceed.

1.08 CHANGES TO THE WORK

- A. All approved change orders must be signed by the Owner and Engineer. Engineer will issue a Proposal Request (PR) to the Contractor; Contractor will prepare detail cost and time information including sub-

SECTION 00 41 00 BID FORM

contractor breakdown (Change Proposal) and submit to Engineer for review, within 10 days of receipt of the Proposed Change; Engineer will submit proposal and all information to Owner for review and approval.

- B. Allowances shall be handled in a similar manner as a change order, refer to 1.08, B. Contractor shall prepare detail cost and time information and submit to Engineer for review; Engineer will submit proposal and all information to Owner for review and approval.

1.09 ADDENDA

A. The following Addenda have been received. The modifications to the Proposal Documents noted below have been considered and all costs are included in the Proposal Sum.

- X Addendum # 1 Dated 04/13/2020
- Addendum # 2 Dated
- Addendum # 3 Dated
- Addendum # 4 Dated
- Addendum # 5 Dated

1.10 BID FORM SIGNATURE(S)

A. The Corporate Seal of Noble Texas Builders, LLC.

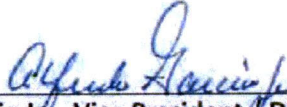
B. (Bidder - print the full name of your firm)

C. was hereunto affixed in the presence of:

D. 
Adrian Varela, Project Administrator

E. (Authorized signing officer, Title)

F. (Seal)

G. 
Alfredo Garcia Jr., Vice President / Director of Operations

H. (Authorized signing officer, Title)

1.11 If the Bid is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above.

END OF BID FORM

BID SHEET

BID SHEET

ADA BUS SHELTER ON N. 12TH AVENUE AND STUBBS ST.
EDINBURG, TEXAS

LOCATION "A3" - N 12TH AVE & E STUBBS ST

PROPOSED SHELTER

		Quantity	Unit	Unit Cost	Cost
PAVING IMPROVEMENTS					
1	9' x 16' PROP.' CONCRETE PAD	1	LS	\$ 2,143 -	\$ 2,143 -
2	4'-INCH SOLID STRIPE, YELLOW	1	LS	\$ 268 -	\$ 268 -
3	4'-INCH SOLID STRIPE, WHITE	1	LS	\$ 106 -	\$ 106 -
4	ACCESSIBLE PARKING STALL (INCLUDES WHEELSTOP, PAVEMENT MARKINGS, AND STRIPING)	6	EA	\$ 226.16	\$ 1,357 -
5	INSTALL HANDICAP SIGN	6	EA	\$ 303.67-	\$ 1,822 -
6	5' CONCRETE SIDEWALK	1	LS	\$ 1,072 -	\$ 1,072 -
7	HANDICAP RAMP	1	EA	\$ 714 -	\$ 714 -
Sub - Total =					\$ 7,482 -

		Quantity	Unit	Unit Cost	Cost
MISCELLANEUS IMPROVEMENTS					
8	REMOVE AND DISPOSE EXISTING CANOPY AND BENCH, COMPLETE IN PLACE	1	LS	\$ 2,401 -	\$ 2,401 -
9	REMOVE AND RELOCATE EXISTING SIGN	1	EA	\$ 670 -	\$ 670 -
10	SAWCUT, REMOVE AND DISPOSE EXISTING CURB	1	LS	\$ 2,143 -	\$ 2,143 -
11	REMOVE EXITING STRIPING	1	LS	\$ 804 -	\$ 804 -
Sub - Total =					\$ 6,018 -

Total =	\$ 13,500 -
----------------	--------------------

NOTE:

- 1 ALL ITEMS ARE TO BE PRICED TO BE COMPLETE IN PLACE AND FULLY FUNCTIONAL WITH ALL ASSOCIATED LABOR INCLUD
- 2 ALL MOBILIZATION, EXPECTED FEES AND PERMITS ARE TO PRICED UNDER VARIES BID ITEMS.
- 3 ALL ITEMS ON PLANS AND SPECIFICATIONS SHALL BE PRICED WITHIN THIS BID FORM.

STANDARD
GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

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The Associated General Contractors of America

Construction Specifications Institute

EJCDC No. 1910-8 (1996 Edition)

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American Consulting Engineers Council
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the

Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--The individual or entity named as such in the Agreement.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 *Terminology*

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other

specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

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

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times com-

mence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into

component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

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

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

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

3.02 *Reference Standards*

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

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 *Reuse of Documents*

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or

restrictions not of general application but specifically related to use of the Site with which CONTRACTOR must comply in performing the Work. OWNER will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If CONTRACTOR and OWNER are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in OWNER's furnishing the Site, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, includ-

ing, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or

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

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents; then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the

necessity of OWNER's obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be

made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or

performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price of Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

4.05 *Reference Points*

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

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings*: Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized*: CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition;

(ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05.

OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or

Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Compa-

nies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to

perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER'S Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

5.05 *OWNER's Liability Insurance*

A. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.04, OWNER, at OWNER's option, may purchase and maintain at OWNER's expense OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property

insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with

30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the Site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

5.07 Waiver of Rights

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other

individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused.

None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

B. OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of, or resulting from fire or other peril whether or not insured by OWNER; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to

paragraph 14.05, after Substantial Completion pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against CONTRACTOR, Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A.* Any insured loss under the policies of insurance required by paragraph 5.06 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.08.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

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

A.* If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the

certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with

the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of

construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the

Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly

run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below.

1. *"Or-Equal" Items:* If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be

considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items*

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify

that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. Substitute Construction Methods or Procedures:

If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.05.A.2.

C. Engineer's Evaluation: ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.05.A and 6.05.B. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until ENGINEER's review is complete, which will be evidenced by either a Change Order for a

substitute or an approved Shop Drawing for an "or equal." ENGINEER will advise CONTRACTOR in writing of any negative determination.

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

E. ENGINEER's Cost Reimbursement: ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

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

6.06 Concerning Subcontractors, Suppliers, and Others

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement

for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRAC-

TOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 *Patent Fees and Royalties*

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for

the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.09 *Laws and Regulations*

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations,

and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures*: CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

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

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 Shop Drawings and Samples

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit six (6) Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or

Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. ENGINEER's Review

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals

will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *Resubmittal Procedures*

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;
2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;
4. use or occupancy of the Work or any part thereof by OWNER;
5. any acceptance by OWNER or any failure to do so;
6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and

2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and

other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

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

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to CONTRACTOR prior to starting any such other work; and

2. if OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in paragraph 10.05.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of

such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
2. the specific matters to be covered by such authority and responsibility will be itemized; and
3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer to whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

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

8.04 *Pay Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Insurance*

A. OWNER's responsibilities, if any, in respect of purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. OWNER is obligated to execute Change Orders as indicated in paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.09 *Limitations on OWNER's Responsibilities*

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER'S Representative*

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 *Visits to Site*

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and

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

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee,

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

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents.

ments. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

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

9.07 *Shop Drawings, Change Orders and Payments*

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 *Determinations for Unit Price Work*

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

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

A. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

A. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such

authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by ENGINEER shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

C. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants. See Article 18.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the

applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

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

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or
2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days

after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work

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

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of

CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not

limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of

Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
2. there is no corresponding adjustment with respect any other item of Work; and
3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE;
CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or
2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or
3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee*: The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;

b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones)

will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

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

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility

owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

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

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in

question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice

to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments*

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties

that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Written Amendment or Change Orders;
- c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or
- d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. *Reduction in Payment*

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:

a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;

c. there are other items entitling OWNER to a set-off against the amount recommended; or

d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld. OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 *CONTRACTOR's Warranty of Title*

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

14.04 *Substantial Completion*

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion,

ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other

indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

B. *Review of Application and Acceptance*

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due*

1. Thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR.

14.08 *Final Completion Delayed*

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not

fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

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

1. a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER May Suspend Work

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);

2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;

3. CONTRACTOR's disregard of the authority of ENGINEER; or

4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon

seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to

exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

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

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

SUPPLEMENTAL GENERAL CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) and other provisions of the Contract Documents as indicated below. All provisions, which are not so amended or supplemental, remain in full force and effect.

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

SC-6.10 Delete paragraph 6.10 in its entirety and insert the following in its place:

The owner qualifies for the state and local tax exemption in the purchase of certain materials and equipment. Other exemptions as per 34 TAC §3.287 and related law may apply.

SC-11.01 Delete paragraph 11.01 in its entirety.

SC-11.02 Delete paragraph 11.02 in its entirety.

SC-12.01B.2 & B.3. Delete paragraph 12.01B.2 & B.3 in its entirety.

SC-12.01.C.2 Delete paragraph 12.01.C.2 in its entirety.

SC Article 14.02 C.1 Replace “**Ten days**” with “**Thirty days**” to read as follows: Thirty days after presentation of the Application for Payment to OWNER with ENGINEER’S recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER TO CONTRACTOR.

SC Article 16 Add the following language at the end of the paragraph of Article 16:

There are no dispute resolution methods and procedures set forth in the Supplemental Conditions:

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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 and any extension hereof:

1. **Comprehensive General Liability insurance** policy with limits of not less than Five Hundred Thousand Dollar (\$500,000.00) providing additional coverage to all underlying liabilities of County. Policy shall cover, but not be limited to, Bidder's activities in providing the Services for County; all persons, vehicles, equipment connected with providing Services; and theft or loss of Bidder's property.
 2. **Automobile liability insurance** policy, covering all owned, non-owned or hired/leased automobiles, 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 auto liability limits set forth immediately above;
 4. **Workers Compensation Insurance:** 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. Workers Compensation policies must include other States Endorsement to include TEXAS if the business is domiciled outside the State of Texas.
- *Bidder shall obtain and maintain any and all other insurances which may be necessary in providing the good/service applicable to this procurement or are otherwise required by law.*
 - *Any and all insurance policies shall be in amounts prescribed by law or otherwise specified by the County, but in no event less than the minimum amounts prescribed by law.*

Additional Insurance Requirements:

- a. Bidder shall furnish to County certificate(s) of insurance, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect.
- b. Certificates of insurance shall be submitted to County for approval prior to any services being performed by Bidder.
- c. **Hidalgo County will only accept certificates of insurance on an Acord form (as attached hereto).**

Page 2 of 2: Continuation of Exhibit “C”: Insurance Requirements Applicable to the Acquisition of Goods and/or Services (Other than Professional Services)

- d. For each policy, except Workers’ Compensation, Bidder shall name the County as an additional insured.
- e. 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.
- f. 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 of 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.
- g. All insurance policies will be endorsed to provide a waiver of subrogation in favor of the County.
- h. County reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Bidder.
- i. Insurance policies shall be obtained at Bidder’s sole expense. County does not maintain and will not obtain insurance of any type to protect Bidder against loss, damage or injury that may in any way result from Bidders performance of the services.
- j. In no event shall the County be liable for any loss, damage to or destruction of any property belonging to the Bidder.
- k. Bidder is responsible for ensuring all required insurance policies are valid for the duration of the contract.
- l. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County.
- m. Bidder shall make any other insurance documentation available to County upon request.

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.	
INSURED		INSURERS AFFORDING COVERAGE	
		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				GENERAL AGGREGATE \$
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$
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 EA ACC \$
					AUTO ONLY 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 STATU- <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 Requirements 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. Bond (if applicable) _____.

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 (if applicable), certificates, permits, etc. which are required must be presented as part of the bid packet in order to expedite the bid evaluation process.

Authorized Signature

Date

Company

Address

City, State, Zip

THIS FORM MUST ACCOMPANY BID PACKET

EXHIBIT “D”

CIQ

Conflict of Interest

Questionnaire

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

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.
 This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).
 By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.
 A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

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

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

 Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

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

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

 Signature of vendor doing business with the governmental entity _____
 Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

(2) the vendor:

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

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

or

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

Exhibit "E"

Vendor/Bidder Application W9 HUB/DBE

HIDALGO COUNTY PURCHASING DEPARTMENT Bidder/Vendor Application

Complete in print or type. Please return this application to the Hidalgo County Purchasing Department
thru Facsimile: (956) 318-2629 or (956) 292-7612
in person or regular mail to: 2812 S. Business Hwy. 281 , Edinburg, Texas 78539
or email: vendor.application@co.hidalgo.tx.us

Company Name: Noble Texas Builders, LLC.		Telephone No. (956) 2,770,708
dba Name: N/A		
Legal Name: Noble Texas Builders		
Mailing Address : 108 South Main Street		Fax No. (956) 2770705
Physical Address: 108 South Main Street		
City, State, Zip Weslaco, TX, 78559		Tax I.D. No. 32056316667
Remit to Address : 108 South Main Street		City, State, Zip Weslaco, TX, 78559
E-Mail Address: alfredo.garica@nobletx.net		
Representative(s) Name(s) & Title(s) Alfredo Garcia Jr., Vice-president / Director of Operations		
Type of Organization (check one): <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Non-Profit <input checked="" type="checkbox"/> LLC <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Other, Specify		
State Identification No. <u>47-3035911</u> (Please attached completed W-9 form with this application) Federal Identification No. or (if individual) SS No.		
State of Incorporation: <u>Texas</u> Date: _____ Other: _____		
Type of Business (check one): <input type="checkbox"/> Manufacturer <input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Broker <input type="checkbox"/> Distributor <input checked="" type="checkbox"/> Service Organization <input type="checkbox"/> Other, Specify		
Name & Title of Person(s) Authorized to Sign Bids, Proposals, and/or Contracts:		
Small and/or Disadvantaged Business Information (check application criteria)		
Small Business: _____ Disadvantaged Business (At Least 51% Ownership)		
<input type="checkbox"/> Less than 125,000 annual gross receipt <input type="checkbox"/> Less than 250,000 annual gross receipt <input type="checkbox"/> Less than 499,000 annual gross receipt <input checked="" type="checkbox"/> More than 500,000 annual gross receipt		
<input type="checkbox"/> Black American <input checked="" type="checkbox"/> Hispanic American <input type="checkbox"/> Asian Pacific American		
<input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Other		
Have you been certified as a HUB or an MBE/WBE source?: <input type="checkbox"/> Yes <input type="checkbox"/> No		
Indicate Certification No.(s): <u>1473035911500</u> or are Certificate(s) attached?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
What type of product(s) is/are solicited by your company?: Commercial General Contractor		
Would you like to be provided with specifications for procurements of such products?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
To Be Completed by the County: Rec'd by (Purchasing): _____ Date Rec'd by (Purchasing): _____		
Date Forwarded Information to Auditor's Office: _____ Entry Date: _____ Vendor No.: _____		

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): 1473035911500 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?: 26 %
(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: _____

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

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

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

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Noble Texas Builders LLC.

2 Business name/disregarded entity name, if different from above

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

Individual/sole proprietor or single-member LLC

C Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ P

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
108 S. Main St.

6 City, state, and ZIP code
La Feria, TX 78559

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

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

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

Social security number

			-			
--	--	--	---	--	--	--

or

Employer identification number

4	7	-	3	0	3	5	9	1	1
---	---	---	---	---	---	---	---	---	---

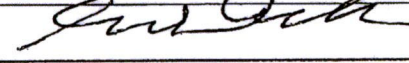
Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here

Signature of U.S. person ▶ 

Date ▶ 3/7/19

General Instructions

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

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

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Exhibit “F”

Certification Regarding

Debarment

**Certification
Regarding Debarment, Suspension Ineligibility**

As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in 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, theory, 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 of cause or default.

Signature: 

Print Name: Alfredo Garcia Jr.

Title: Vice-President / Director of Operations

Telephone Number: 956-277-0708

Date: 4/14/2020

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

Exhibit “G”

Title VI Appendices

“A” thru “E”

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the **COUNTY OF HIDALGO** will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all Department of Transportation programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the **COUNTY OF HIDALGO** all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit 1 attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto **COUNTY OF HIDALGO** and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the **COUNTY OF HIDALGO**, its successors and assigns.

The **COUNTY OF HIDALGO**, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the **COUNTY OF HIDALGO** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **COUNTY OF HIDALGO** pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permitted, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the **COUNTY OF HIDALGO** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **COUNTY OF HIDALGO** and its assigns.*

(*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **COUNTY OF HIDALGO** pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, **COUNTY OF HIDALGO** will there upon revert to and vest in and become the absolute property of **COUNTY OF HIDALGO** and its assigns.*

(*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23U.S.C. § 324et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49CFRPart 27;
- The Age Discrimination Act of 1975, as amended,(42U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49U.S.C. § 4 71, Section 4 7123),as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987,(PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189)as implemented by Department of Transportation regulations at 49C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).

EXHIBIT “H”

(IF APPLICABLE)

**2 C.F.R. § 200.326 & 2 C.F.R. Part 200, Appendix II,
Required Contract Clauses for Non-Federal Entity
Contracts Under Federal Awards**

&

**Required Contract Clauses for Non-Federal Entity
Contracts Under Federal Awards with the Federal
Emergency Management Agency (FEMA)**

2 C.F.R. § 200.326 & 2 C.F.R. Part 200, Appendix II, Required Contract Clauses for Non-Federal Entity Contracts Under Federal Awards

The United States Office of Management and Budget (OMB) issued in 2 C.F.R. 200: *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* (Uniform Guidance). Subpart D: Post Federal Award Requirements: 2 CFR §§200.317-200.326 of the Uniform Guidance contain provisions applicable to procurements made with federal grant funding.

As a non-Federal entity, the County of Hidalgo's ("County") contracts must contain the applicable contract clauses described in Appendix II to the Uniform Guidance (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. §200.326. If applicable, the following clauses shall supersede any existing, similar clauses stated within the bid document, contract, and/or Terms and Conditions. *The term "Contractor" used herein refers to the proposer, bidder or other entity/individual responding to the applicable procurement packet.*

If applicable, the regulations in 2 CFR, Part 200 and Appendix II to the Uniform Guidance, as it may be amended from time to time, and the contract clauses below, are incorporated by reference as part of this procurement packet and any resulting agreement.

To procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. The following provisions are required and apply when federal funds are expended by the County of Hidalgo for any contract resulting from this procurement process.

1. Remedies.

- a. Applicability. This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- c. Statement. Pursuant to Federal Rule (A) above, when federal funds are expended by the County, the County reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party. Contractor shall comply with all applicable Federal, State of Texas, and local laws, rules, and regulations and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services, and any provision of equipment and material ("Applicable Law"). All transactions related to any of the Contract Documents shall be governed by the laws of the State of Texas, and trial of any action brought in connection with the bid or the Contract Documents shall be held exclusively in a state court in the County of Hidalgo, Texas.

2. **Termination for Cause and Convenience.**

- a. **Applicability.** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** All contracts in excess of \$10,000 shall address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement as follows. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- c. **Statement. Termination.** County may terminate this Agreement for any reason upon ten (10) days written notice to the other party. County may terminate this Agreement immediately upon written notice if Contractor breaches this Agreement. In the event of any termination, Contractor shall promptly deliver to the County any and all Work Materials prepared for the County prior to the effective date of such termination, all of which shall become County's sole property. After receipt of the Work Materials, County will pay Contractor for the services which the County determines were satisfactorily performed as of the effective date of the termination.

Excuses for Non-Performance. Either party shall be absolved from its obligations under this contract when and to the extent that performance is delayed or prevented (and in the County of Hidalgo's case when and to the extent that its need for the articles, materials or work to be supplied hereunder is reduced or eliminated) by reason of acts of God, fire explosion, war riots, strikes, labor disputes, or governmental laws, orders or regulations.

Default. If Contractor or Subcontractor shall breach any provision hereof or shall become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings or make an assignment to the benefit of creditors, County of Hidalgo shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of law) to terminate this contract by written notice to Contractor whereupon County shall be relieved of all further obligation hereunder except the obligation to pay the reasonable value of Contractor's prior performance (at not exceeding the contract rate), and Contractor shall be liable to County for all costs incurred by County in completing or procuring the completion of performance in excess of the contract price herein specified. The County's right to require strict performance of any obligation hereunder shall not be affected by any previous waiver, forbearance of course of dealing. Time is of the essence thereof.

3. **Equal Employment Opportunity.**

- a. **Applicability:** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.

c. Key Definitions:

- (1) *Federally Assisted Construction Contract.* The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- (2) *Construction Work.* The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction

- d. Statement: Contractor will comply with the Nondiscrimination Civil Rights Act of 1964, as amended and all Federal regulations relative to nondiscrimination in Federally assisted programs. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

“During the performance of this contract, the contractor agrees as follows:

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

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the

administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

4. **Davis Bacon Act and Copeland Anti-Kickback Act.**

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other Federal grant and cooperative agreement programs, including the Public Assistance Program.**
- b. Standard. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding City.

In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by

Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA or applicable Federal entity.

- c. Statement. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.” However, for purposes of grant programs where both clauses do apply, FEMA or applicable Federal entity requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

(1) *Contractor*. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) *Subcontracts*. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as Federal requirements may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) *Breach*. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. **Contract Work Hours and Safety Standards Act.**

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.

Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of

supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

c. Statement.

“Compliance with the Contract Work Hours and Safety Standards Act.

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

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

(3) *Withholding for unpaid wages and liquidated damages.* The County of Hidalgo shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

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

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Applicability: Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant

Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA or Federal awards under these programs do not meet the definition of “funding agreement.”

- b. Standard. If the FEMA or Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA or applicable awarding agency. See 2 C.F.R. Part 200, Appendix II, ¶ F.
- c. Key Definition: The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. **Clean Air Act and the Federal Water Pollution Control Act.**

- a. Applicability and Standard: Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.
- b. Statement: Included in contracts as provided in section “7a” above.
 - (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - (2) The contractor agrees to report each violation to the Federal awarding agency (e.g. Federal Emergency Management Agency-FEMA) and the Regional Office of the Environmental Protection Agency. Contractor understands and agrees that each violation reported to the County of Hidalgo will, in turn, be reported as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office.
 - (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the applicable Federal awarding agency (e.g. FEMA).

8. **Debarment and Suspension.**

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.

- b. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and Chapter IV, ¶ 6.d and Appendix C, ¶ 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, ¶ 6.d and Appendix C, ¶ 2.

In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any nonprocurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipient.

Specifically, a covered transaction includes the following contracts for goods or services:

- (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
- (2) The contract requires the approval of FEMA or applicable Federal entity, regardless of amount.
- (3) The contract is for Federally-required audit services.
- (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or applicable Federal entity or is in excess of \$25,000.

- c. Statement. The following provides a debarment and suspension clause. It incorporates a method of verifying that contractors are not excluded or disqualified:

For maximum protection, provide a print or electronic document for every prime and subcontractor, from www.sam.gov in order to ensure that they are not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities.

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. **Byrd Anti-Lobbying Amendment.**

- a. **Applicability:** This requirement applies to all Federal grant and cooperative agreement programs.
- b. **Standard.** Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any City, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- c. **Statement.** The following statement in bold provides a Byrd Anti-Lobbying contract clause:

(IF APPLICABLE, PLEASE FILL IN BLANKS AND SIGN)

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

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

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned Contractor, _____
certifies, to the best of his or her knowledge, that:

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. **Procurement of Recovered Materials.**

- a. Applicability: This requirement applies to all Federal grant and cooperative agreement programs.
- b. Standard. A non-Federal entity that is a **state agency or agency of a political subdivision** of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- c. Statement. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (ii) Meeting contract performance requirements; or
 - (iii) At a reasonable price.
- (3) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

Additional Required Contract Clauses for Non-Federal Entity Contracts Under Federal Awards with the Federal Emergency Management Agency (FEMA)

Additional FEMA or applicable Federal Requirements. In addition to the requirements above, non-Federal entity contracts under Federal award subject to financial assistance from FEMA are required to contain the following additional contract clauses. The Uniform Guidance authorizes FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

These clauses are incorporated by reference as part of this procurement packet and any resulting agreement.

11. **Changes.**

- a. **Standard.** To be eligible for FEMA assistance under the non-Federal entity's Federal grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA or applicable Federal entity recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.
- b. **Statement.** The following provides a contract clause regarding access to records:

“The contractor shall secure written authorization before proceeding with any additional work, whether requested by the County or required to complete the contract. The cost for any changes to the contract price, whether requested by the County or the Contractor will be approved only after submitting the contractor's true costs for the work and related equipment costs and site expenses.”

12. **Access to Records.**

- a. **Standard.** All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA or applicable Federal entity access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).
- b. **Statement.** The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide the County of Hidalgo, the FEMA or applicable Federal Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA or applicable Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

13. **DHS Seal, Logo, and Flags.**

- a. **Standard.** All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS City

officials without specific FEMA or applicable Federal entity pre-approval. See DHS Standard Terms and Conditions, v3.0, ¶ XXV (2013).

- b. Statement. The following provides a contract clause regarding DHS Seal, Logo, and Flags:

“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS City officials without specific FEMA or applicable Federal entity pre-approval.”

14. **Compliance with Federal Law, Regulations, and Executive Orders.**

- a. Standard. All non-Federal entities must place into their contracts an acknowledgement that FEMA or applicable Federal financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA or applicable Federal policies, procedures, and directives.

- b. Statement. The following provides a contract clause regarding Compliance with Federal Law, Regulations and Executive Orders:

“This is an acknowledgement that Federal financial assistance will be used to fund the contract only. The contractor will comply will all applicable Federal law, regulations, executive orders, FEMA or applicable Federal policies, procedures, and directives.”

15. **No Obligation by Federal Government.**

- a. Standard. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

- b. Statement. The following provides a contract clause regarding no obligation by the Federal Government:

“The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

16. **Program Fraud and False or Fraudulent Statements or Related Acts.**

- a. Standard. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

- b. Statement. The following provides a contract clause regarding Fraud and False or Fraudulent Related Acts:

“The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

Contractor agrees to comply with all federal, state and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that the Contractor read and understands all provisions, laws, acts, regulations, etc. as specifically noted above and certifies compliance with the same.

Vendor's Name/Company Name: _____

Printed Name and Title of Authorized Representative: _____

Signature of Authorized Representative: _____

Date: _____

Exhibit "I"

FHWA 1273

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60.29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

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

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, *Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services*, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the *Employment and Training Administration*.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

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

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

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

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

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

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal 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;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Exhibit "J"

PROPOSER'S AFFIDAVIT

PROPOSER'S AFFIDAVIT OF NON-COLLUSION NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING

STATE OF TEXAS
COUNTY OF HIDALGO

Affiant, Alfredo Garcia Jr., being first duly sworn, deposes that:

(1) Affiant does hereby state neither the proposer nor any of the proposer's officers, partners, owners, agents, representatives, employees, or parties in interest, has in any way colluded, conspired, agreed, directly or indirectly with any person, firm, corporation, or another proposer, or potential proposer, to provide any money or other valuable consideration for assistance in procuring or attempting to procure a contract or fix the prices in the attached proposed or the proposal of any other proposer, and further states that no such money or another reward will be hereinafter paid.

(2) Affiant further states they have neither recommended nor suggested to Hidalgo County or any of its officials or employees, any of the terms or provisions set forth in their Request for Proposal and subsequent agreement, except at a meeting open to all interested proposers, of which proper notice was given.

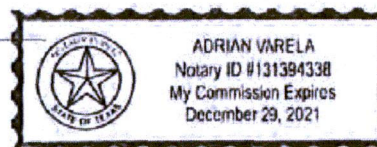
(3) Affiant, further states their officers, employees, or agents have not, and will not attempt to lobby, directly or indirectly, the Hidalgo County Commissioner's Court between proposal submission date and award by the Hidalgo County Commissioner's Court.

(4) Affiant further states no officer, or stockholder of the proposer is a member of the staff, or related to any employee of Hidalgo County except as noted herein below:

Signature/Title: *Alfredo Garcia Jr.* - Vice-President / Director of Operations

Subscribed and sworn to before me this 14th day of April, 2020.

Adrian Varela
Notary Public



My commission expires: December 29, 20 21

HIDALGO COUNTY

REQUEST FOR BIDS

“ADA Bus Shelter on N. 12th Avenue and Stubbs St, Edinburg, Texas”

RFB No.: [2019-280-04-15-RFV](#)

RFB SUBMITTAL CHECK LIST

All forms listed below must be included in the RFB response.

Indicate with a check mark (✓) the Forms completed and included in this response:

_____ Page 15 of Legal Notice

_____ Bid Form & Bid Sheet

_____ Exhibit “C” -Acknowledgement forms (pages 4 & 5)

_____ Exhibit “D” CIQ Form -Copy of County Clerk File Recording fee receipt. (if applicable)

_____ Exhibit “E” Vendor Bidder Applications, W-9, & HUB/DBE

_____ Exhibit “F” Certification Regarding Debarment

_____ Exhibit “H” Required Contract Clauses for Contracts Under Federal award 2 – CFR 200, Appendix II & FEMA (if applicable)

_____ Exhibit “J” Proposer’s Affidavit

_____ SAMS.gov Registration Acknowledgement www.sam.gov

_____ One (1) Original (pages one-sided, clearly marked ORIGINAL), One (1) Copy of Bid(s), and two (2) CD/USB in PDF Format (see number 2 of Legal Notice).