Contract Documents and Specifications for the City of Stockbridge, Georgia 2013 LMIG Program

September, 2013

FALCON DESIGN CONSULTANTS

ENGINEERING • SURVEYING • LAND PLANNING

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CITY OF STOCKBRIDGE, GEORGIA – 2013 LMIG PROGRAM

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INSTRUCTIONS TO BIDDERS

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ARTICLE 1 – DEFINED TERMS

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

A. *Issuing Office (Falcon Design Consultants)* – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

ARTICLE 2 – COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the amount, if any, stated in the advertisement or invitation to bid may be obtained from the Owner's website or the Issuing Office.

2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

ARTICLE 3 – QUALIFICATIONS OF BIDDERS

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

A. Required Bidder Qualification Statement with Supporting Data

B. Contractor's License No.

C. List of Proposed Subcontractors;

D. List of Proposed Suppliers;

E. List of 5 Project References;

ARTICLE 4 – EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 *Subsurface and Physical Conditions*

A. The Supplementary Conditions identify:

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

2. Those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).

B. Copies of reports and drawings, if any, referenced in Paragraph 4.01.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein as provided in Paragraph 4.02 of the General Conditions has been identified and established in Paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings. Bid documents may be purchased from Falcon Design Consultants office at, 235 Corporate Center Drive, Suite 200, Stockbridge, Georgia 30281 for a cost of $100 per set. The office number is 770-389-8666.

4.02 *Underground Facilities*

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

4.03 *Hazardous Environmental Condition*

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

B. Copies of reports and drawings, if any, referenced in Paragraph 4.03.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein as provided in Paragraph 4.06 of the General Conditions has been identified and established in Paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract

Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 4.06 of the General Conditions.

4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.06 *Not Used*

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

A. examine and carefully study the Bidding Documents, and the other related data identified in the Bidding Documents;

B. visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;

C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work;

D. *Not used*

E. consider the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs;

F. agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;

G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;

H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and

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

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

ARTICLE 5 – PRE-BID CONFERENCE

5.01 A pre-Bid conference will be held at 10:00 AM. local time on October 10, 2013 at Stockbridge City Hall. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 – SITE AND OTHER AREAS

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

ARTICLE 7 – INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Adam Price at *aprice@fdc-llc.com* or faxed to 770-389-8656. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received after 5:00 PM. October 11, 2013 may not be answered. Only questions answered by Addenda

will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

ARTICLE 8 – BID SECURITY

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five percent (5%) of Bidder's maximum Bid price, for both Phase I and Phase II identified in the Bid Form, and in the form of a certified check, bank money order, or a Bid bond (on the form attached) issued by a surety meeting the requirements of Paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 – CONTRACT TIMES

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

ARTICLE 10 – LIQUIDATED DAMAGES

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

ARTICLE 11 – SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitute or "or-equal" materials and equipment approved by Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. No item of material or equipment will be considered by Engineer as a substitute or "or-equal" unless written request for approval has been submitted by Bidder and has been

received by Engineer at least 10 days prior to the date for receipt of Bids. Each such request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS AND OTHERS

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

ARTICLE 13 – PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents. Additional copies may be obtained from the Owner's website or the Issuing Office.

13.02 All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each section listed therein.

13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.

13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

13.06 A Bid by an individual shall show the Bidder's name and official address.

13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.

13.08 All names shall be printed in ink below the signatures**.**

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

13.10 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.

13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

ARTICLE 14 – BASIS OF BID; COMPARISON OF BIDS

14.01 *Unit Price*

A. Bidders shall submit a Bid on a unit price basis as set forth in the Bid Form. All items bid are estimated quantities to complete the project in accordance with the Contract Documents. Quantities will be adjusted at the completion of the project in a Final Adjusting Change Order utilizing the unit pricing provided in the Bid Form and the actual quantity of each item bid. These quantities may be extended or reduced as directed by the Owner at the unit price for each item bid.

B. The project is bid in two separate phases, Phase I and Phase II, and the bidders shall provide a price for all unit price items.

C. The contract will be awarded after the review of both the Phase 1 and Phase 2 bids submitted. Based upon the total price submitted the owner reserves the right to issue a contract for a single phase of this project.

14.02 *Allowances*

A. *Not Used*

14.03 *Completion Time Comparisons*

A. *Not Used*

ARTICLE 15 – SUBMITTAL OF BID

15.01 With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the following documents:

A. Required Bid security;

B. List of Proposed Subcontractors;

C. List of Proposed Suppliers;

D. List of 5 Project References;

E. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;

F. Contractor's License No.: _____ *[or]* Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;

G. Required Bidder Qualification Statement with Supporting Data;

H. Certificate of Insurance

I. Contractor Affidavit and Agreement

J. Subcontractor Affidavit

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

enclosed in a separate package plainly marked on the outside with the notation "BID CITY OF STOCKBRIDGE GEORGIA – 2013 LMIG PROGRAM." A mailed Bid shall be addressed to City of Stockbridge; Attention: City Clerk; 4640 North Henry Boulevard, Stockbridge, Georgia 30281.

ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID

16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

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

ARTICLE 17 – OPENING OF BIDS

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

ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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

ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

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

19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work in accordance with the Contract Documents.

19.06 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Owner.

ARTICLE 20 – CONTRACT SECURITY AND INSURANCE

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such bonds.

ARTICLE 21 – SIGNING OF AGREEMENT

21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement along with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

CITY OF STOCKBRIDGE, GEORGIA
2013 LMIG PROGRAM
ITB #2013-009

INVITATION TO BID

SEPTEMBER 18, 2013

Sealed unit price bids will be received by the City of Stockbridge, Georgia from prospective contractors for the City of Stockbridge, Georgia – 2013 LMIG Program proposed roadway improvements within the city of Stockbridge. The work consists of furnishing and installing all materials, labor, tools, equipment, and related services required for a complete project. This project includes but is not limited to the required milling, paving, patching, striping, and related appurtenances shown or referenced in the Contract Documents for Phase I and Phase II of the City of Stockbridge – 2013 LMIG Program.

Bidders may obtain the Contract Documents for this project from the City's website at: http://www.cityofstockbridge.com/bids.aspx?id=0&catid=0. Hard copies of the Contract Documents may also be obtained from the Issuing Office: Falcon Design Consultants at: 235 Corporate Center Drive, Suite 200, Stockbridge, Georgia 30281; Phone No.: 770-389-8666 for a non-refundable cost of $100 per set.

A pre-bid conference will be held at 10:00 AM on Thursday, October 10, 2013 at the Stockbridge City Hall Council Chambers to discuss the project. Any questions pertaining to the Contract Documents shall be in writing and are to be submitted to Falcon Design Consultants; Attention: Adam Price via email at aprice@fdc-llc.com or faxed to 770-389-8656 by 5:00 PM on Friday, October 11, 2013. Contract Document Addendums addressing all questions will be posted on the City's website. Sealed Bids will be received by the City of Stockbridge at 4640 North Henry Boulevard, Stockbridge, Georgia 30281 until 10:00 AM local time, Thursday, October 17, 2013, and then publicly opened and read aloud. Only bids presented with a certification from the bidder that the bid submitted is based upon the current and complete Contract Documents will be accepted and opened.

No bid may be modified, withdrawn, or canceled for a period of sixty (60) days after the time designated for the receipt of Bids or until the Bidder is notified by the City whichever is sooner. The City reserves the right to reject any and all bids and to waive irregularities, technicalities, and formalities.

Each bid shall be accompanied by a Bid Bond in an amount of not less than five percent (5%) of the total bid amount. The Bid Bond may be in the form of a bond issued by a surety acceptable to the City or a cashier's check made payable to the City of Stockbridge, Georgia. The entire Bid Bond shall be forfeited to the City of Stockbridge, Georgia as liquidated damages if the bidder fails to execute the Contract and provide Performance and Payment Bonds within fifteen (15) days after being notified that he has been awarded the Contract.

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

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

BID FORM

For

City of Stockbridge, Georgia

2013 LMIG Program

ITB #2013-009

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

City of Stockbridge, Georgia

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

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

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

D. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including

applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.

E. Based on the information and observations referred to in Paragraph 3.01.D above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.

F. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

G. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

1. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s) for Phase I and Phase II:

5.02 **PHASE I:** Phase I consists of the roadway improvements for the following:

A. Club Circle

B. Club Court

C. Club Terrace

D. Club Drive

E. Wren Court

F. Club Place

ITEM NO.:	ESTIMATED QUANTITY	UNITS	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1.	1	L.S	Mobilization and Traffic Control	$_____	$_____
2.	10,500	S.Y.	6' Wide Edge Milling, 1 ½"-2 ½" Depth @ Edge of Pavement, Feathered to 0"	$_____	$_____
3.	350	S.Y.	Removal of Exist. Asphaltic Conc. Pavement Incl. Base as Directed by Owner	$_____	$_____
4.	75	TON	3"-4" Recycled Asphaltic Conc. Patch -19.0 mm Superpave Incl. Bituminous Material & H Lime	$_____	$_____
5.	950	TON	1" Recycled Asphaltic Conc. Perma-Flex or Equivalent	$_____	$_____
6.	1465	TON	1.5" Recycled Asphaltic Conc. - 12.5 mm Superpave Incl. Bituminous Material & H Lime	$_____	$_____
7.	50	TON	Recycled Asphaltic Conc. Leveling Incl. Bituminous Material & H Lime	$_____	$_____

8.	1950	GAL	Bituminous Tack Coat	$_____	$_____
9.	20	EA.	Adjust Manhole Frame and Cover to Finished Grade	$_____	$_____
10.	5	EA.	Adjust Water Valve Box and Cover to Finished Grade	$_____	$_____
11.	240	L.F.	GDOT Thermoplastic Stop Bar, 24" Wide White	$_____	$_____

Phase I - Total Base Bid in Words:

_____

_____**Dollars**

In Numbers: $_____

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

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

5.03 **PHASE II:** Phase II consists of the roadway improvements for the following:

A. Creek Circle

B. Stockview Terrace

C. Parkwood Drive

D. Nolan Street

E. Tye Street

ITEM NO.:	ESTIMATED QUANTITY	UNITS	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1.	1	L.S	Mobilization and Traffic Control	$_____	$_____
2.	11,800	S.Y.	6' Wide Edge Milling, 1 ½"-2 ½" Depth @ Edge of Pavement, Feathered to 0"	$_____	$_____
3.	450	S.Y.	Removal of Exist. Asphaltic Conc. Pavement Incl. Base as Directed by Owner	$_____	$_____
4.	85	TON	3"-4" Recycled Asphaltic Conc. Patch -19.0 mm Superpave Incl. Bituminous Material & H Lime	$_____	$_____

5.	360	TON	1" Recycled Asphaltic Conc. Perma-Flex or Equivalent	$_____	$_____
6.	1875	TON	1.5" Recycled Asphaltic Conc. - 12.5 mm Superpave Incl. Bituminous Material & H Lime	$_____	$_____
7.	75	TON	Recycled Asphaltic Conc. Leveling Incl. Bituminous Material & H Lime	$_____	$_____
8.	1850	GAL	Bituminous Tack Coat	$_____	$_____
9.	12	EA.	Adjust Manhole Frame and Cover to Finished Grade	$_____	$_____
10.	12	EA.	Adjust Water Valve Box and Cover to Finished Grade	$_____	$_____
11.	240	L.F.	GDOT Thermoplastic Stop Bar, 24" Wide White	$_____	$_____
12.	9000	L.F.	GDOT Thermoplastic Traffic Striping, 5" Wide White	$_____	$_____
13.	9000	L.F.	GDOT Thermoplastic Traffic Striping, 5" Wide Yellow	$_____	$_____

Phase I - Total Base Bid in Words:

_____

_____**Dollars**

In Numbers: $_____

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

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

ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete within 45 calendar days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 60 calendar days after the date when the Contract Times commence to run.

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

ARTICLE 7 – ATTACHMENTS TO THIS BID

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

A. Required Bid security;

B. List of Proposed Subcontractors;

C. List of Proposed Suppliers;

D. List of 5 Project References;

E. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;

F. Contractor's License No.: _____ *[or]* Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;

G. Required Bidder Qualification Statement with Supporting Data;

H. Certificate of Insurance

I. Contractor Affidavit and Agreement

J. Subcontractor Affidavit

ARTICLE 8 – DEFINED TERMS

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

ARTICLE 9 – BID SUBMITTAL

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____

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

Name (typed or printed): _____

A Corporation

Corporation Name: _____
(SEAL)

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

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

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____

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

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____
(SEAL)

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

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____
_____(SEAL)

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

Name (typed or printed): _____

Title: _____

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

Bidder's Business Address _____
_____

_____
_____

Phone No. _____ Fax No. _____
_____

E-mail _____ _____

SUBMITTED on _____, 20____.

State Contractor License No. _____.

BID BOND

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

BIDDER *(Name and Address)*:

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

OWNER *(Name and Address)*:

BID
Bid Due Date:
Description *(Project Name and Include Location)*:

BOND
Bond Number:
Date *(Not earlier than Bid due date)*:
Penal sum _____ $ _____
(Words) (Figures)

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

BIDDER

_____ (Seal)
Bidder's Name and Corporate Seal

By: _____
Signature

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

SURETY

_____ (Seal)
Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney)

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation shall be null and void if:

3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or

3.2 All Bids are rejected by Owner, or

3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

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

FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT

THIS AGREEMENT is by and between **City of Stockbridge** ("Owner") and

_____ ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: All material, labor, tools, equipment, and any other miscellaneous items necessary to complete the work as described in the Construction Drawings & Specifications.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: **City of Stockbridge, GA – 2013 LMIG Program**. This project includes but is not limited to the required asphaltic concrete patching, milling, leveling, resurfacing, and striping of local roadways in accordance with the Contract Documents and at the direction of the Owner.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Falcon Design Consultants (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within 45 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 60 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner $250 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner $250 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

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

A. For all Work at the Unit Price Base Bid of: _____$_____

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

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including

but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

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

ARTICLE 7 – INTEREST

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

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

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

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

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information,

observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

E. Based on the information and observations referred to in Paragraph 8.01.D above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

G. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

H. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement.
2. Performance bond.
3. Payment bond.
4. General Conditions.
5. Supplemental General Conditions
6. Specifications (Georgia Department of Transportation – Standard Specifications Construction of Transportation Systems – June, 2001).
7. Drawings (Location Map)
8. Addenda.
9. Exhibits to this Agreement (enumerated as follows):

    a. Contractor's Bid.

b. Documentation submitted by Contractor prior to Notice of Award.

c. Certificate of Insurance.

10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

a. Notice to Proceed.

b. Work Change Directives.

c. Change Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

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

10.02 *Assignment of Contract*

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

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

10.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

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

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

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

OWNER:

City of Stockbridge

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

4640 North Henry Boulevard

Stockbridge, GA 30281

Phone: (770) 389-7900

CONTRACTOR

_____

By: _____

Title: _____

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

Attest: _____

Title: _____

Address for giving notices:

_____

_____

_____

License No.: _____

(Where applicable)

Agent for service of process:

_____

CONTRACTOR AFFIDAVIT AND AGREEMENT

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

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

_____
EEV/Basic Pilot Program* User Identification Number

_____ _____
BY: Authorized Officer or Agent Date
(Contractor Name)

_____
Title of Authorized Officer of Contractor

_____
Printed Name of Authorized Officer or Agent

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

_____
Notary Public I
My Commission Expires:_____
*As of the effective date of O.C.G.A. 13-1 0-91, the applicable federal work authorization program is the “EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

RETURN THIS FORM WITH PROPOSAL DOCUMENTS

SUBCONTRACTOR AFFIDAVIT

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

_____
EEV/Basic Pilot Program* User Identification Number

_____ _____
BY: Authorized Officer or Agent Date
(Subcontractor Name)

_____
Title of Authorized Officer or Agent of Subcontractor

_____
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS
THE _____DAY OF_____ ,20_____

_____
Notary Public
My Commission Expires:_____

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

RETURN THIS FORM WITH PROPOSAL DOCUMENTS

PERFORMANCE BOND

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

CONTRACT
Effective Date of Agreement:
Amount:
Description (*Name and Location*):

BOND
Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

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

CONTRACTOR AS PRINCIPAL

_____ (Seal)
Contractor's Name and Corporate Seal

By: _____
Signature

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

SURETY

_____ (Seal)
Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney)

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

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

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

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.

2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
   - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
   - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
   - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
     1. Surety in accordance with the terms of the Contract; or
     2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:

   - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
   - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
   - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
   - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
     1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
     2. Deny liability in whole or in part and notify Owner citing reasons therefor.

4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

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

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

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

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

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

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

11. Definitions.

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

FOR INFORMATION ONLY – (*Name, Address and Telephone*)
Surety Agency or Broker:
Owner's Representative (*Engineer or other party*):

PAYMENT BOND

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

CONTRACTOR (*Name and Address*):

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

OWNER (*Name and Address*):

CONTRACT
Effective Date of Agreement:
Amount:
Description *(Name and Location)*:

BOND
Bond Number:
Date (*Not earlier than Effective Date of Agreement*):
Amount:
Modifications to this Bond Form:

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

CONTRACTOR AS PRINCIPAL

_____ (Seal)
Contractor's Name and Corporate Seal

By: _____
Signature

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

SURETY

_____ (Seal)
Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney)

_____
Print Name

_____
Title

Attest: _____
Signature

_____
Title

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

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with Contractor:

1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:

6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use

the funds for the completion of the Work.

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

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

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

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

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

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

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

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

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

FOR INFORMATION ONLY – (*Name, Address, and Telephone*) Surety Agency or Broker: Owner's Representative (*Engineer or other*):

Certificate of Owner's Attorney

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

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

Signature: _____

Date: _____

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

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

2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

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

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

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

6. *Bidder*—The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*—A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

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

11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

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

15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*—See Paragraph 11.01 for definition.

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

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

19. *Engineer*—The individual or entity named as such in the Agreement.

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

21. *General Requirements*—Sections of Division 1 of the Specifications.

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

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

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

25. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

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

27. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*—Polychlorinated biphenyls.

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

32. *Progress Schedule*—A critical path method schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

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

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

36. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.

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

38. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

39. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

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

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

42. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

43. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

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

45. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.

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

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

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

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

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

51. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen

subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

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

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

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

D. *Defective:*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

   a. does not conform to the Contract Documents; or

   b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

   c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. *Furnish, Install, Perform, Provide:*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

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

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

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

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

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

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor one copy of the Drawings and Project Manual in electronic format. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the 15th day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 15 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the thirtieth day after the Effective Date of the Agreement.

2.04 *Starting the Work*

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

2.05 *Before Starting Construction*

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

1. a preliminary critical path method Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

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

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of

the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

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

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

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

3.02 *Reference Standards*

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

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

2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work*: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall within 48 hours of discovering any conflict, error, ambiguity, or discrepancy report such conflict, effort, ambiguity, or discrepancy in writing to Engineer, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work*: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall within 48 hours of discovering such conflict, error, ambiguity, or discrepancy report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof. Contractor shall be responsible for and shall indemnify Owner against any and all costs, expenses, damages, claims, and consequences arising out of any conflict, error, ambiguity, or discrepancy if Contractor fails to provide written notice thereof within 48 hours as required by the applicable provisions of the preceding sections of this Paragraph 0.03.A.

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, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or

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

2. If there is any inconsistency or conflict between the terms, conditions, or requirements contained in the Contract Documents,

   a. Any Change Order shall govern and take precedence over

   b. Any Addendum, which shall govern and take precedence over,

   c. The Agreement, which shall govern and take precedence over,

d. The General Conditions, which shall govern and take precedence over,

e. The Drawings, which shall govern and take precedence over,

f. The Specifications, which shall govern and take precedence over,

g. Exhibits to the Agreement, which shall govern and take precedence over,

h. The Performance Bond, which shall govern and take precedence over,

i. The Payment Bond.

3. Among documents having the same order of precedence, the most recent term shall control.

4. Notwithstanding the order of precedence provided in the preceding paragraph, in the event of inconsistencies within or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, and ordinances, the Contractor shall (i) provide the better quality or greater quantity of Work or (ii) comply with the more stringent requirement; either or both in accordance with the Engineer's interpretation.

5. In any case of omissions or errors in figures, drawings, or specifications, the Contractor shall immediately submit the matter to the Owner for clarification, with copy to the Engineer. The Owner's clarifications are final and binding on all Parties.

6. Where figures are given, they shall be preferred to scale dimensions.

7. The omission or absence, in any of the Contract Documents, of information provided elsewhere in the Contract Documents shall not be considered a conflict or inconsistency.

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

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

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

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

4.01 *Availability of Lands*

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

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed.

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

4.02 *Subsurface and Physical Conditions*

A. The reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site are as follows:

1. N/A

2. N/A

3. N/A

B. *The drawings known to Owner of physical conditions relating to existing surface are as follows:*

1. N/A

2. N/A

3. N/A

C. The reports and drawings identified above are not part of the Contract Documents, but the "technical data" contained therein upon which Contractor may rely, as expressly identified and established above, are incorporated in the Contract Documents by reference. Contractor is not entitled to rely upon any other information and data known to or identified by Owner or Engineer.

D. Copies of reports and drawings identified in SC 4.02.A and SC 4.02.B that are not included with the Bidding Documents may be examined at _____ during regular business hours.

4.03 *Differing Subsurface or Physical Conditions*

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

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

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

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

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

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

C. *Possible Price and Times Adjustments:*

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

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

   b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

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

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

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

   c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

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

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and

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

   a. reviewing and checking all such information and data;

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

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

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

B. *Not Shown or Indicated:*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

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

4.05 *Reference Points*

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

grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

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

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

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

D. If Contractor encounters a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or

both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. Not Used

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

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

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

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

5.03 *Certificates of Insurance*

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

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

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

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

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

5.04 *Contractor's Insurance*

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

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

    a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

    b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

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

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

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

3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

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

6. include completed operations coverage:

   a. Such insurance shall remain in effect for two years after final payment.

   b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

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

5.06 *Property Insurance*

Not Used

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for:

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

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Not Used

B. Not Used

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

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

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

Not Used

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

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

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

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

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

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

6.03 *Services, Materials, and Equipment*

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

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

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

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and

3) it has a proven record of performance and availability of responsive service.

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

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

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute

items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

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

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,

b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and

c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services; and

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

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

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

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

E. *Engineer's Cost Reimbursement*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

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

6.06 *Concerning Subcontractors, Suppliers, and Others*

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

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

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

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

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

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

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

B. Not Used

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses,

and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

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

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

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

6.10 *Taxes*

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

6.11 *Use of Site and Other Areas*

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

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or

other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

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

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

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

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

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

6.12 *Record Documents*

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

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall

take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.

D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

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

6.15 *Hazard Communication Programs*

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

6.16 *Emergencies*

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

6.17 *Shop Drawings and Samples*

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

1. *Shop Drawings:*

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

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

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

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

c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

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

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

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

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and

approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

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

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents,

consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

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

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

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

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

6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner

and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

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

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

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

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

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

7.02 *Coordination*

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

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

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

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.

C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

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

8.03 *Furnish Data*

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

8.04 *Pay When Due*

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

8.05 *Lands and Easements; Reports and Tests*

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

8.06 *Insurance*

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

8.07 *Change Orders*

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

8.08 *Inspections, Tests, and Approvals*

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

8.09 *Limitations on Owner's Responsibilities*

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

8.10 *Undisclosed Hazardous Environmental Condition*

A. Not Used

8.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents.

8.12 *Compliance with Safety Program*

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

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or

Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

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

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

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

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

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise).

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

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

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

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

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

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

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

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed

with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

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

10.02 *Unauthorized Changes in the Work*

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

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

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

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

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

10.04 *Notification to Surety*

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

10.05 *Claims*

A. *Engineer's Decision Required*: All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may

otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

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

C. *Engineer's Action*: Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part;

2. approve the Claim; or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

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

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of

the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

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

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

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

5. Supplemental costs including the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

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

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

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

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

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

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

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

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

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

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

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

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

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

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

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

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

11.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances:*

1. Contractor agrees that:

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

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

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

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

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

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

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

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

12.01 *Change of Contract Price*

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

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

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

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

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

   a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

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

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

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

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

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

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

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

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

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

13.01 *Notice of Defects*

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

13.02 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and

testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

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

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

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

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

3. as otherwise specifically provided in the Contract Documents.

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

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

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.

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

13.04 *Uncovering Work*

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

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

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

13.06 *Correction or Removal of Defective Work*

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

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

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

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

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

13.08 *Acceptance of Defective Work*

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

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

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

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

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

14.02 *Progress Payments*

A. *Applications for Payments:*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as

of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

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

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

B. *Review of Applications:*

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

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

   a. the Work has progressed to the point indicated;

   b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and

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

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

   a. to supervise, direct, or control the Work, or

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

   c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

   d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

   e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

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

   a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

   b. the Contract Price has been reduced by Change Orders;

   c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or

   d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due:*

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

D. *Reduction in Payment:*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

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

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

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

d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

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

14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the tentative certificate to Owner, notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's

objections, Engineer considers the Work substantially complete, Engineer will, within said 14 days, execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. Not Used

14.06 *Final Inspection*

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

14.07 *Final Payment*

A. *Application for Payment:*

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

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

   b. consent of the surety, if any, to final payment;

   c. a list of all Claims against Owner that Contractor believes are unsettled; and

   d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the

Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due:*

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

14.08 *Final Completion Delayed*

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

14.09 *Waiver of Claims*

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

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

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so

fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

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

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

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

3. Contractor's repeated disregard of the authority of Engineer; or

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

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

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

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 7 days of receipt of said notice.

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

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

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

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

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

3. Not Used

4. reasonable expenses directly attributable to termination.

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

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

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

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions; or

2. agrees with the other party to submit the Claim to another dispute resolution process; or

3. gives written notice to the other party of the intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

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

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way

as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Contract Documents. All provisions which are not so amended or supplemented remain in full force and effect.

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

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

SC-2.02 *Copies of Documents*

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

A. Owner shall furnish to Contractor up to 3 printed or hard copies of the Drawings and Project Manual and one set in electronic format. Additional copies will be furnished upon request at the cost of reproduction.

SC-4.02 *Subsurface and Physical Conditions*

SC-4.02 Paragraph 4.02.A and Paragraph 4.02.B in its entirety and insert the following:

A. A preliminary geotechnical investigation of the asphaltic concrete was conducted and the results of this investigation are available upon written request from the Contractor to the Owner.

SC-4.06 *Hazardous Environmental Conditions*

SC-4.06 Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

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

B. Not Used.

SC-5.04 *Contractor's Liability Insurance*

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

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:

a. State:	**Statutory**
b. Applicable Federal (e.g., Longshoreman's):	**Statutory**
c. Employer's Liability:	**$1,000,000**

2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:

a. General Aggregate	**$1,000,000**
b. Products - Completed Operations Aggregate	**$1,000,000**
c. Personal and Advertising Injury	**$1,000,000**
d. Each Occurrence (Bodily Injury and Property Damage)	**$1,000,000**

e. Property Damage liability insurance will provide Explosion, Collapse, and Under-ground coverages where applicable.

f. Excess or Umbrella Liability

General Aggregate	**$1,000,000**
Each Occurrence	**$1,000,000**

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

a. Bodily Injury:	
Each person	**$1,000,000**
Each Accident	**$1,000,000**

b. Property Damage:
Each Accident **$1,000,000**

4. The Contractual Liability coverage required by Paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:
Each person **$1,000,000**
Each Accident **$1,000,000**

b. Property Damage:
Each Accident **$1,000,000**
Annual Aggregate **$1,000,000**

SC-6.11 *Use of Site and Other Areas*

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

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

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

SC-6.17 *Shop Drawings and Samples*

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

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

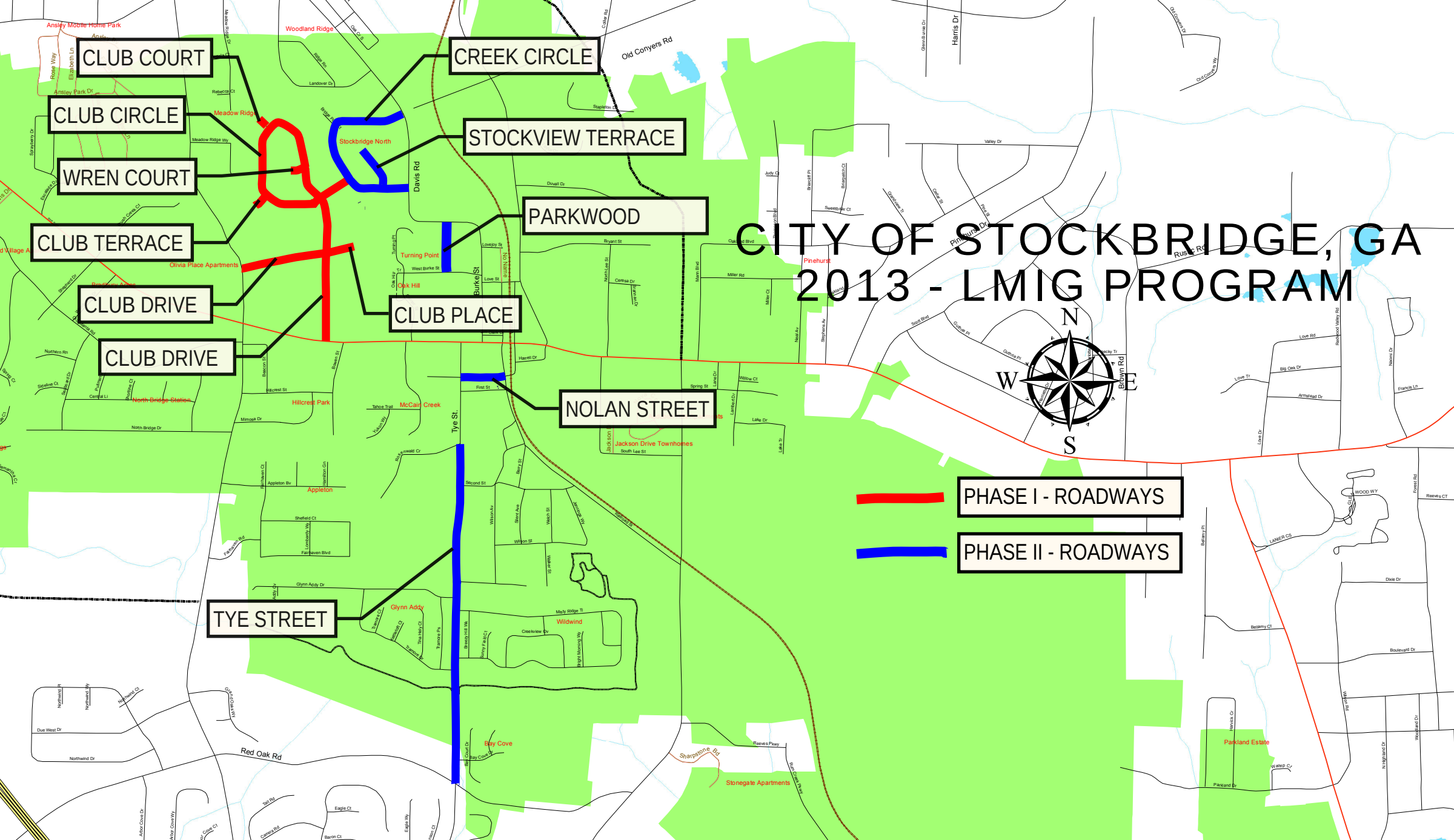
G. In the event that Contractor requests a change of a previously approved item, Contractor shall reimburse Owner for Engineer's charges for its review time unless the need for such change is beyond the control of Contractor.

SC-7 *Technical Specifications*

SC-7Technical Specifications for use with the City of Stockbridge, GA 2013 LMIG Program shall be per the "Georgia Department of Transportation – Standard Specifications Construction of Transportation Systems – June 21, 2001 or latest revision"

SC-8 *Project Drawing*

SC-8 An area map "City of Stockbridge, GA – 2013 LMIG Program" is attached to these documents and defines the limits of Phase I and Phase II of the project.


CITY OF STOCKBRIDGE, GA
2013 - LMIG PROGRAM
CLUB COURT
CLUB CIRCLE
WREN COURT
CLUB TERRACE
CLUB DRIVE
CLUB DRIVE
CREEK CIRCLE
STOCKVIEW TERRACE
PARKWOOD
CLUB PLACE
NOLAN STREET
TYE STREET
PHASE I - ROADWAYS
PHASE II - ROADWAYS
N
W
E
S
Old Conyers Rd
Davis Rd
Burke St
Tye St.
Brown Rd
Red Oak Rd
Harris Dr
Pinehurst
Russ Rd
Ansley Mobile Home Park
Woodland Ridge
Meadow Ridge
Stockbridge North
Olivia Place Apartments
Turning Point
Oak Hill
Hillcrest Park
McCain Creek
North Bridge Station
Appleton
Jackson Drive Townhomes
Wildwind
Bay Cove
Stonegate Apartments
Parkland Estate

SECTION 01200

PRICE AND PAYMENT PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Schedule of Values.

B. Application for Payment.

C. Change procedures.

D. Defect assessment.

1.2 SCHEDULE OF VALUES

A. Submit printed schedule on Contractor's standard form or electronic media printout will be considered for this use.

B. Submit Schedule of Values in duplicate within ten (10) days after date of Owner-Contractor Agreement.

C. Format: Use Table of Contents of this Project Manual. Identify each line item with number and title of major Specification Section. Also identify Site mobilization, bonds and insurance, and closeout documents.

D. Revise schedule to list approved Change Orders with each Application for Payment.

1.3 APPLICATION FOR PAYMENT

A. Submit three (3) copies of each Application for Payment on Contractor's Standard Application for Payment form to be approved by the Engineer.

B. Content and Format: Use Schedule of Values for listing items in Application for Payment.

C. Submit updated construction schedule with each Application for Payment.

D. Payment Period: Application for Payment will be submitted monthly by/on the 25th of each month for review and approval.

E. Submit three (3) copies of the Waiver of Liens form with the final Application for Payment

F. Substantiating Data: When Engineer requires substantiating information, submit data justifying dollar amounts in question. Include the following with Application for Payment:
   1. Current construction photographs specified in Section 01330 - Submittal Procedures.
   2. Partial release of liens from major Subcontractors and vendors.
   3. Record Documents as specified in Section 01700 - Execution Requirements for review by Owner, which will be returned to Contractor.

4. Affidavits attesting to off-Site stored products.
5. Construction Progress Schedule, revised and current as specified in Section 01330 - Submittal Procedures.

1.4 CHANGE PROCEDURES

A. Submittals: Submit name of individual who is authorized to receive change documents and is responsible for informing others in Contractor's employ or Subcontractors of changes to the Work.

B. Carefully study and compare Contract Documents before proceeding with fabrication and installation of Work. Promptly advise Engineer of any error, inconsistency, omission, or apparent discrepancy.

C. Requests for Interpretation (RFI) and Clarifications: Allot time in construction scheduling for liaison with Engineer; establish procedures for handling queries and clarifications.
   1. Use AIA G716 - Request for Information for requesting interpretations.
   2. Engineer may respond with a direct answer on the Request for Interpretation form, EJCDC C-942 - Field Order, or Proposal Request.

D. Engineer will advise of minor changes in the Work not involving adjustment to Contract Price or Contract Time by issuing supplemental instructions on EJCDC C-942.

E. Engineer may issue Proposal Request including a detailed description of proposed change with supplementary or revised Drawings and Specifications, a change in Contract Time for executing the change with the period of time during which the requested price will be considered valid. Contractor will prepare and submit estimate within three (3) days.

F. Contractor may propose changes by submitting a request for change to Engineer, describing proposed change and its full effect on the Work. Include a statement describing reason for the change and the effect on Contract Price and Contract Time with full documentation.

G. Stipulated Sum/Price Change Order: Based on Proposal Request and Contractor's fixed price quotation for Change Order as approved by Engineer.

H. Unit Price Change Order: For Contract unit prices and quantities, the Change Order will be executed on a fixed unit price basis. For unit costs or quantities of units of that which are not predetermined, execute Work under Work Directive Change. Changes in Contract Price or Contract Time will be computed as specified for Time and Material Change Order.

I. Final Adjusting Change Order (Quantity Change): All items bid are estimated quantities to complete the project in accordance with the Contract Documents. Quantities will be adjusted at the completion of the project in a Final Adjusting Change Order utilizing the unit pricing provided in the Bid Form and the actual quantity of each item bid. These quantities may be extended or reduced as directed by the Owner at the unit price for each item bid.

J. Work Directive Change: Engineer may issue directive, on EJCDC C-940 - Work Change Directive signed by Owner, instructing Contractor to proceed with change in the Work,

for subsequent inclusion in a Change Order. Document will describe changes in the Work and designate method of determining any change in Contract Price or Contract Time. Promptly execute change.

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

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

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

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

1.5 DEFECT ASSESSMENT

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

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

C. The defective Work may remain, but unit sum/price will be adjusted to new sum/price at discretion of Owner.

D. Individual Specification Sections may modify these options or may identify specific formula or percentage sum/price reduction.

E. Authority of Engineer to assess defects and identify payment adjustments is final.

F. Nonpayment for Rejected Products: Payment will not be made for rejected products for any of the following reasons:
   1. Products wasted or disposed of in a manner that is not acceptable.
   2. Products determined as unacceptable before or after placement.
   3. Products not completely unloaded from transporting vehicle.
   4. Products placed beyond lines and levels of the required Work.
   5. Products remaining on hand after completion of the Work.
   6. Loading, hauling, and disposing of rejected products.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01330

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Definitions.

B. Submittal procedures.

C. Construction progress schedules.

D. Proposed product list.

E. Product data.

F. Use of electronic CAD files of Project Drawings.

G. Shop Drawings.

H. Samples.

I. Other submittals.

J. Design data.

K. Test reports.

L. Certificates.

M. Manufacturer's instructions.

N. Manufacturer's field reports.

O. Construction photographs.

P. Contractor review.

1.2 DEFINITIONS

A. Action Submittals: Written and graphic information and physical samples that require Engineer's responsive action.

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

1.3 SUBMITTAL PROCEDURES

A. Transmit each submittal with Engineer-accepted form.

B. Identify: Project, Contractor, Subcontractor and supplier, pertinent Drawing and detail number, and Specification Section number appropriate to submittal.

C. Apply Contractor's stamp, signed or initialed, certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is according to requirements of the Work and Contract Documents.

D. Schedule submittals to expedite Project, and deliver to Engineer at business address. Coordinate submission of related items.

E. For each submittal for review, allow fifteen (15) days excluding delivery time to and from Contractor.

F. Identify variations in Contract Documents and product or system limitations that may be detrimental to successful performance of completed Work.

G. Allow space on submittals for Contractor and Engineer review stamps.

H. When revised for resubmission, identify changes made since previous submission.

I. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.

J. Submittals not requested will not be recognized nor processed.

K. Incomplete Submittals: Engineer will not review. Complete submittals for each item are required. Delays resulting from incomplete submittals are not the responsibility of Engineer.

1.4 CONSTRUCTION PROGRESS SCHEDULES

A. Construction Progress Schedules shall be submitted to the Owner for approval prior to beginning any construction and updated at anytime requested by the Owner or when the Contractor is not current on the approved schedule.

1.5 PROPOSED PRODUCT LIST

A. Within fifteen (15) days after date of Owner-Contractor Agreement, submit list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.

B. For products specified only by reference standards, indicate manufacturer, trade name, model or catalog designation, and reference standards.

1.6 PRODUCT DATA

A. Product Data: Action Submittal: Submit to Engineer for review for assessing conformance with information given and design concept expressed in Contract Documents.

B. Submit number of copies Contractor requires, plus two (2) copies Engineer will retain.

C. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.

D. Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.

E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.7 ELECTRONIC CAD FILES OF PROJECT DRAWINGS – Not Used

1.8 SHOP DRAWINGS

A. Shop Drawings: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.

B. When required by individual Specification Sections, provide Shop Drawings signed and sealed by a professional Engineer responsible for designing components shown on Shop Drawings.
   1. Include signed and sealed calculations to support design.
   2. Submit Shop Drawings and calculations in form suitable for submission to and approval by authorities having jurisdiction.
   3. Make revisions and provide additional information when required by authorities having jurisdiction.

C. Submit number of opaque reproductions Contractor requires, plus two (2) copies Engineer will retain.

D. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.9 SAMPLES

A. Samples: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.

B. Samples for Selection as Specified in Product Sections:
   1. Submit to Engineer for aesthetic, color, and finish for the Owner's selection.
   2. Submit Samples of finishes, textures, and patterns to the Engineer for the Owner's selection.

C. Submit Samples to illustrate functional and aesthetic characteristics of products, with integral parts and attachment devices. Coordinate Sample submittals for interfacing work.

D. Include identification on each Sample, with full Project information.

E. Submit number of Samples specified in individual Specification Sections; Engineer will retain one (1) Sample.

F. Reviewed Samples that may be used in the Work are indicated in individual Specification Sections.

G. Samples will not be used for testing purposes unless specifically stated in Specification Section.

H. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01700 - Execution Requirements.

1.10 OTHER SUBMITTALS

A. Closeout Submittals: Comply with Section 01700 - Execution Requirements.

B. Permits: Within fifteen (15) days after date of Owner-Contractor Agreement, submit a list of permits and licenses to be obtained, identifying the granting agency and the required date of permit submittal.

1.11 DESIGN DATA

A. Informational Submittal: Submit data for Engineer's knowledge as Contract administrator or for Owner.

B. Submit information for assessing conformance with information given and design concept expressed in Contract Documents.

1.12 TEST REPORTS

A. Informational Submittal: Submit reports for Engineer's knowledge as Contract administrator or for Owner.

B. Submit test reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.13 CERTIFICATES

A. Informational Submittal: Submit certification by manufacturer, installation/application Subcontractor, or Contractor to Engineer, in quantities specified for Product Data.

B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.

C. Certificates may be recent or previous test results on material or product but must be acceptable to Engineer.

1.14 MANUFACTURER'S INSTRUCTIONS

A. Informational Submittal: Submit manufacturer's installation instructions for Engineer's knowledge as Contract administrator or for Owner.

B. Submit printed instructions for delivery, storage, assembly, installation, adjusting, and finishing, to Engineer in quantities specified for Product Data.

C. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

1.15 MANUFACTURER'S FIELD REPORTS

A. Informational Submittal: Submit reports for Engineer's knowledge as Contract administrator or for Owner.

B. Submit report in duplicate within 24 hours of observation to Engineer for information.

C. Submit reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.16 CONSTRUCTION PHOTOGRAPHS

A. Provide Digital Images of Site and construction throughout progress of Work.

B. Each month submit Digital Images with Application for Payment.

C. Provide photo log for all Digital Images identifying the subject of the photo and direction information regarding the view..

D. Digital Images: Deliver complete set of digital image electronic files on CD-ROM to Owner with Project record documents. Identify electronic media with date photographs were taken. Submit images that have same aspect ratio as sensor, uncropped.
   1. Digital Images: Uncompressed TIFF format, produced by digital camera with minimum sensor size of 4.0 megapixels, and image resolution of not less than 1600 by 1200 pixels.
   2. Date and Time: Include date and time in filename for each image.

1.17 CONTRACTOR REVIEW

A. Review for compliance with Contract Documents and approve submittals before transmitting to Engineer.

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

C. Stamp, sign or initial, and date each submittal to certify compliance with requirements of Contract Documents.

D. Do not fabricate products or begin Work for which submittals are required until approved submittals have been received from Engineer.

1.18 ENGINEER REVIEW

A. Do not make "mass submittals" to Engineer. "Mass submittals" are defined as six (6) or more submittals or items in one day or fifteen (15) or more submittals or items in one week. If "mass submittals" are received, Engineer's review time stated above will be extended as necessary to perform proper review. Engineer will review "mass submittals" based on priority determined by Engineer after consultation with Owner and Contractor.

B. Informational submittals and other similar data are for Engineer's information, do not require Engineer's responsive action, and will not be reviewed or returned with comment.

C. Submittals made by Contractor that are not required by Contract Documents may be returned without action.

D. Submittal approval does not authorize changes to Contract requirements unless accompanied by Change Order, Field Order, or Work Change Directive.

E. Owner may withhold monies due to Contractor to cover additional costs beyond the second submittal review.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01400

QUALITY REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Quality control.

B. Mockup requirements.

C. Testing and inspection services.

1.2 QUALITY CONTROL

A. Monitor quality control over suppliers, manufacturers, products, services, Site conditions, and workmanship, to produce Work of specified quality.

B. Comply with specified standards as the minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.

C. Perform Work using persons qualified to produce required and specified quality.

D. Products, materials, and equipment may be subject to inspection by Engineer and Owner at the project site. Such inspections shall not relieve Contractor of complying with requirements of Contract Documents.

E. Supervise performance of Work in such manner and by such means to ensure that Work, whether completed or in progress, will not be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during construction period.

1.3 TOLERANCES

A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.

B. Comply with manufacturers' recommended tolerances and tolerance requirements in reference standards. When such tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.

C. Adjust products to appropriate dimensions; position before securing products in place.

1.4 REFERENCES

A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard except when more rigid requirements are specified or are required by applicable codes.

B. Conform to reference standard by date of issue current as of date for receiving Bids except where specific date is established by code.

C. Obtain copies of standards and maintain on Site when required by product Specification Sections.

D. When requirements of indicated reference standards conflict with Contract Documents, request clarification from Engineer before proceeding.

E. Neither contractual relationships, duties, or responsibilities of parties in Contract nor those of Engineer shall be altered from Contract Documents by mention or inference in reference documents.

1.5 LABELING – Not Used

1.6 MOCK-UP REQUIREMENTS

A. Tests will be performed under provisions identified in this Section and identified in the referenced Specification Sections.

B. Assemble and construct specified systems and finishes.

C. Accepted mockups shall be comparison standard for remaining Work.

D. Where mockup has been accepted by Engineer mockup can be used as part of the finished when directed to do so by Engineer.

1.7 TESTING AND INSPECTION SERVICES

A. Owner will employ and pay for specified services of an independent geotechnical firm to perform required testing.

B. Owner's Independent geotechnical firm will perform tests and other services specified in individual Specification Sections and as required by Engineer.

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

D. Reports shall be submitted by independent firm to Engineer, Contractor, and authorities having jurisdiction, indicating observations and results of tests and compliance or noncompliance with Contract Documents.
   1. Submit final report indicating correction of Work previously reported as noncompliant.

E. Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.
   1. Notify Engineer and independent firm 24 hours before expected time for operations requiring services.
   2. Make arrangements with independent firm and pay for additional Samples and tests required for Contractor's use.

F. Employment of testing agency or laboratory shall not relieve Contractor of obligation to perform Work according to requirements of Contract Documents.

G. Retesting or re-inspection required because of nonconformance with specified or indicated requirements shall be performed by same independent firm on instructions from Engineer. Payment for retesting or re-inspection will be charged to Contractor by deducting testing charges from Contract Sum/Price.

H. Geotechnical Firm Responsibilities:
   1. Test Samples of mixes submitted by Contractor.
   2. Provide qualified personnel at Site. Cooperate with Engineer and Contractor in performance of services.
   3. Perform indicated sampling and testing of products according to specified standards.
   4. Ascertain compliance of materials and mixes with requirements of Contract Documents.
   5. Promptly notify Engineer and Contractor of observed irregularities or nonconformance of Work or products.
   6. Perform additional tests required by Engineer.
   7. Attend preconstruction meetings and progress meetings.

I. Geotechnical Firm Agency Reports: After each test, promptly submit two copies of report to Engineer, Contractor, and authorities having jurisdiction. When requested by Engineer, provide interpretation of test results. Include the following:
   1. Date issued.
   2. Project title and number.
   3. Name of inspector.
   4. Date and time of sampling or inspection.
   5. Identification of product and Specification Section.
   6. Location in Project.
   7. Type of inspection or test.
   8. Date of test.
   9. Results of tests.
   10. Conformance with Contract Documents.

J. Limits on Testing Authority:
   1. Geotechnical Firm Agency or laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.
   2. Geotechnical Firm Agency or laboratory may not approve or accept any portion of the Work.
   3. Geotechnical Firm Agency or laboratory may not assume duties of Contractor.
   4. Geotechnical Firm Agency or laboratory has no authority to stop the Work.

1.8 MANUFACTURER'S FIELD SERVICES

A. When specified in individual Specification Sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe Site conditions, conditions of surfaces and installation, quality of workmanship, testing and adjusting, as applicable, and to initiate instructions when necessary.

B. Submit qualifications of observer to Engineer 10 days in advance of required observations. Observer is subject to approval of Engineer.

C. Report observations and Site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturer's written instructions.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01500

TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Temporary facilities under Construction Management Agreement.

B. Temporary Utilities:
   1. Temporary electricity.
   2. Temporary lighting for construction purposes.
   3. Temporary water service.
   4. Temporary sanitary facilities.

C. Construction Facilities:
   1. Vehicular access.
   2. Parking.
   3. Progress cleaning and waste removal.
   4. Project identification.
   5. Traffic regulation.

D. Temporary Controls:
   1. Barriers.
   2. Enclosures and fencing.
   3. Security.
   4. Water control.
   5. Dust control.
   6. Erosion and sediment control.
   7. Noise control.
   8. Pest and rodent control.

E. Removal of utilities, facilities, and controls.

1.2 REFERENCES

A. ASTM International:
   1. ASTM E 84 - Standard Test Method for Surface Burning Characteristics of Building Materials.
   2. ASTM E 90 - Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements.
   3. ASTM E 119 - Standard Test Methods for Fire Tests of Building Construction and Materials.

1.3 TEMPORARY FACILITIES UNDER CONSTRUCTION MANAGEMENT AGREEMENT – Not Used

1.4 TEMPORARY WATER SERVICE

A. Contractor to provide any temporary water service at no cost to the Owner.

1.5 TEMPORARY SANITARY FACILITIES

A. Contractor to provide and maintain required facilities and enclosures at no cost to the Owner.

B. Provide facilities at time of Project mobilization.

1.6 FIELD OFFICES AND SHEDS

A. Contractor to provide and maintain any required field offices and storage sheds at no cost to the Owner.

1.7 VEHICULAR ACCESS

A. Provide written traffic control plan for approval by Owner.

B. Provide unimpeded access for emergency vehicles.

C. Provide and maintain access to fire hydrants and control valves free of obstructions.

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

E. Use designated existing on-Site roads for construction traffic.

1.8 PARKING

A. Arrange for temporary surface parking areas to accommodate construction personnel at no cost to the Owner.

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

C. Removal, Repair:
   1. Remove temporary materials and construction.
   2. Repair permanent facilities damaged by use, to original condition.

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

1.9 PROGRESS CLEANING AND WASTE REMOVAL

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

1.10 TRAFFIC REGULATION

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

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

C. Traffic Signs and Signals:
   1. Provide signs at approaches to Site and on Site, at crossroads, detours, parking areas, and elsewhere as needed to direct construction and affected public traffic.
   2. Relocate signs and signals as Work progresses, to maintain effective traffic control.

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

1.11 BARRIERS

A. Provide barriers to prevent unauthorized entry to construction areas , to allow for Owner's use of Site, and to protect existing facilities and adjacent properties from damage from construction operations and demolition.

B. Tree and Plant Protection: Preserve and protect existing trees and plants designated to remain.
   1. Protect areas within drip lines from traffic, parking, storage, dumping, chemically injurious materials and liquids, ponding, and continuous running water.
   2. Replace trees and plants damaged by construction operations.

C. Protect non-owned vehicular traffic, stored materials, Site, and structures from damage.

1.12 ENCLOSURES AND FENCING

A. Construction: Contractor's option approver by Owner.

1.13 SECURITY

A. Restrictions:
   1. Do not allow cameras on Site or photographs taken except by written approval of Owner.
   2. Established work hours for this project are 8:00 AM to 5:00 PM Monday through Saturday unless otherwise agreed upon by the Owner.

1.14 WATER CONTROL

A. Protect Site from puddles or running water.

1.15 DUST CONTROL

A. Execute Work by methods that minimize raising dust from construction operations.

B. Provide positive means to prevent airborne dust from dispersing into atmosphere and into Owner-occupied areas.

1.16 EROSION AND SEDIMENT CONTROL

A. Plan and execute construction by methods to control surface drainage from cuts and fills from borrow and waste disposal areas. Prevent erosion and sedimentation.

B. Minimize surface area of bare soil exposed at one time.

C. Provide temporary measures including berms, dikes, drains, and other devices to prevent water flow.

D. Construct fill and waste areas by selective placement to avoid erosive surface silts and clays.

E. Periodically inspect earthwork to detect evidence of erosion and sedimentation. Promptly apply corrective measures.

F. Comply with sediment and erosion control plan indicated on Drawings.

1.17 NOISE CONTROL

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

1.18 POLLUTION CONTROL

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

B. Comply with pollution and environmental control requirements of authorities having jurisdiction.

1.19 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

A. Remove temporary utilities, equipment, facilities, and materials before Final Application for Payment inspection.

B. Clean and repair damage caused by installation or use of temporary Work.

C. Restore existing and permanent facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01600

PRODUCT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Products.

B. Product delivery requirements.

C. Product storage and handling requirements.

D. Product options.

1.2 PRODUCTS

A. At minimum, comply with specified requirements and reference standards.

B. Specified products define standard of quality, type, function, dimension, appearance, and performance required.

C. Furnish products of qualified manufacturers that are suitable for intended use. Furnish products of each type by single manufacturer unless specified otherwise. Confirm that manufacturer's production capacity can provide sufficient product, on time, to meet Project requirements.

D. Do not use materials and equipment removed from existing premises except as specifically permitted by Contract Documents.

E. Furnish interchangeable components from same manufacturer for components being replaced.

1.3 PRODUCT DELIVERY REQUIREMENTS

A. Transport and handle products according to manufacturer's instructions.

B. Promptly inspect shipments to ensure products comply with requirements, quantities are correct, and products are undamaged.

C. Provide equipment and personnel to handle products; use methods to prevent soiling, disfigurement, or damage.

1.4 PRODUCT STORAGE AND HANDLING REQUIREMENTS

A. Store and protect products according to manufacturer's instructions.

B. Store products with seals and labels intact and legible.

C. Store sensitive products in weathertight, climate-controlled enclosures in an environment suitable to product.

D. For exterior storage of fabricated products, place products on sloped supports aboveground.

E. Provide off-Site storage and protection when Site does not permit on-Site storage or protection.

F. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.

G. Store loose granular materials on solid flat surfaces in well-drained area. Prevent mixing with foreign matter.

H. Provide equipment and personnel to store products; use methods to prevent soiling, disfigurement, or damage.

I. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

1.5 PRODUCT OPTIONS

A. Products Specified by Reference Standards or by Description Only: Products complying with specified reference standards or description.

PART 2 PRODUCTS – Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SECTION 01700

EXECUTION AND CLOSEOUT REQUIREMENTS

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Field engineering.

B. Closeout procedures.

C. Demonstration and instructions.

D. Project record documents.

E. Examination.

F. Preparation.

G. Execution.

H. Cutting and patching.

I. Protecting installed construction.

J. Final cleaning.

1.2 CLOSEOUT PROCEDURES

A. Prerequisites to Substantial Completion: Complete following items before requesting Certification of Substantial Completion, either for entire Work or for portions of Work:
   1. Conduct inspection to establish basis for request that Work is substantially complete. Create comprehensive list (initial punch list) indicating items to be completed or corrected, value of incomplete or nonconforming Work, reason for being incomplete, and date of anticipated completion for each item. Include copy of list with request for Certificate of Substantial Completion.
   2. Obtain and submit releases enabling Owner's full, unrestricted use of Project and access to services and utilities.
   3. Discontinue or change over and remove temporary facilities and services from Project Site, along with construction tools and similar elements.
   4. Perform final cleaning according to this Section.

B. Substantial Completion Inspection:
   1. When Contractor considers Work to be substantially complete, submit to Engineer:
      a. Written certificate that Work, or designated portion, is substantially complete.
      b. List of items to be completed or corrected (initial punch list).
   2. Within seven (7) days after receipt of request for Substantial Completion, Engineer will make inspection to determine whether Work or designated portion is substantially complete.
   3. Should Engineer determine that Work is not substantially complete:

a. Engineer will promptly notify Contractor in writing, stating reasons for its opinion.
b. Contractor shall remedy deficiencies in Work and send second written request for Substantial Completion to Engineer.
c. Engineer will reinspect Work.
d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.

4. When Engineer finds that Work is substantially complete, Engineer will:
   a. Prepare Certificate of Substantial Completion on EJCDC C-625 - Certificate of Substantial Completion accompanied by Contractor's list of items to be completed or corrected as verified and amended by Engineer and Owner (final punch list).
   b. Submit Certificate to Owner and Contractor for their written acceptance of responsibilities assigned to them in Certificate.
5. After Work is substantially complete, Contractor shall:
   a. Complete Work listed for completion or correction within time period stipulated.

C. Prerequisites for Final Completion: Complete following items before requesting final acceptance and final payment.
1. When Contractor considers Work to be complete, submit written certification that:
   a. Contract Documents have been reviewed.
   b. Work has been examined for compliance with Contract Documents.
   c. Work has been completed according to Contract Documents.
   d. Work is completed and ready for final inspection.
2. Submittals: Submit following:
   a. Final punch list indicating all items have been completed or corrected.
   b. Final payment request with final releases and supporting documentation not previously submitted and accepted. Include certificates of insurance for products and completed operations where required.
   c. Specified warranties, workmanship/maintenance bonds, maintenance agreements, and other similar documents.
   d. Accounting statement for final changes to Contract Sum.
   e. Contractor's affidavit of payment of debts and claims on form approved by the Engineer.
   f. Contractor affidavit of release of liens on form approved by the Engineer.
   g. Consent of surety to final payment on form approved by the Engineer.
   h. Perform final cleaning for Contractor-soiled areas according to this Section.

D. Final Completion Inspection:
1. Within seven (7) days after receipt of request for final inspection, Engineer will make inspection to determine whether Work or designated portion is complete.
2. Should Engineer consider Work to be incomplete or defective:
   a. Engineer will promptly notify Contractor in writing, listing incomplete or defective Work.
   b. Contractor shall remedy stated deficiencies and send second written request to Engineer that Work is complete.
   c. Engineer will reinspect Work.
   d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.

1.3 STARTING OF SYSTEMS – Not Used

1.4 DEMONSTRATION AND INSTRUCTIONS – Not Used

1.5 TESTING, ADJUSTING, AND BALANCING – Not Used

1.6 PROJECT RECORD DOCUMENTS

A. Maintain on Site one set of the following record documents; record actual revisions to the Work:
   1. Drawings.
   2. Specifications.
   3. Addenda.
   4. Change Orders and other modifications to the Contract.
   5. Reviewed Shop Drawings, product data, and Samples.

B. Ensure entries are complete and accurate, enabling future reference by Owner.

C. Store record documents separate from documents used for construction.

D. Record information concurrent with construction progress, not less than weekly.

E. Specifications: Legibly mark and record, at each product Section, description of actual products installed, including the following:
   1. Product substitutions or alternates used.
   2. Changes made by Addenda and modifications.

F. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction as follows:
   1. Include Contract modifications such as Addenda, supplementary instructions, change directives, field orders, minor changes in the Work, and change orders.
   2. Include locations of concealed elements of the Work.
   3. Field changes of dimension and detail.
   4. Details not on original Drawings.

G. Submit marked-up paper copy documents to Engineer with claim for final Application for Payment.

1.7 OPERATION AND MAINTENANCE DATA – Not Used

1.8 MANUAL FOR MATERIALS AND FINISHES – Not Used

1.9 MANUAL FOR EQUIPMENT AND SYSTEMS – Not Used

1.10 SPARE PARTS AND MAINTENANCE PRODUCTS – Not Used

1.11 PRODUCT WARRANTIES AND PRODUCT BONDS

A. Obtain warranties and bonds executed in by responsible Subcontractors, suppliers, and manufacturers within ten (10) days after completion of applicable item of Work.

B. Execute and assemble transferable warranty documents and bonds from Subcontractors, suppliers, and manufacturers.

C. Verify documents are in proper form, contain full information, and are notarized.

D. Co-execute submittals when required.

E. Submit prior to final Application for Payment.

F. Time of Submittals:
   1. Make other submittals within ten (10) days after date of Substantial Completion, prior to final Application for Payment.
   2. For items of Work for which acceptance is delayed beyond Substantial Completion, submit within ten (10) days after acceptance, listing date of acceptance as beginning of warranty or bond period.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION

3.1 EXAMINATION

A. Verify that existing Site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.

B. Verify that existing substrate is capable of structural support or attachment of new Work being applied or attached.

C. Examine and verify specific conditions.

3.2 PREPARATION

A. Clean substrate surfaces prior to applying next material or substance according to manufacturer's instructions.

3.3 EXECUTION

A. Comply with manufacturer's installation instructions, performing each step in sequence. Maintain one set of manufacturer's installation instructions at Project Site during installation and until completion of construction.

B. When manufacturer's installation instructions conflict with Contract Documents, request clarification from Engineer before proceeding.

C. Verify that field measurements are as indicated on approved Shop Drawings or as instructed by manufacturer.

D. Climatic Conditions and Project Status: Install each unit of Work under conditions to ensure best possible results in coordination with entire Project.

1. Isolate each unit of Work from incompatible Work as necessary to prevent deterioration.
2. Coordinate enclosure of Work with required inspections and tests to minimize necessity of uncovering Work for those purposes.

E. Adjust operating products and equipment to ensure smooth and unhindered operation.

F. Clean and perform maintenance on installed Work as frequently as necessary through remainder of construction period. Lubricate operable components as recommended by manufacturer.

3.4 CUTTING AND PATCHING

A. Execute Work by methods to avoid damage to other Work and to provide proper surfaces to receive patching and finishing.

B. Restore Work with new products according to requirements of Contract Documents.

C. Identify hazardous substances or conditions exposed during the Work to Engineer for decision or remedy.

3.5 PROTECTING INSTALLED CONSTRUCTION

A. Protect installed Work and provide special protection where specified in individual Specification Sections.

B. Provide temporary and removable protection for installed products. Control activity in immediate Work area to prevent damage.

C. Prohibit traffic as required to protect surfaces.

3.6 FINAL CLEANING

A. Clean debris and remove from site in accordance with local regulations.

B. Clean Site; sweep paved areas, rake clean landscaped surfaces.

C. Remove waste and surplus materials, rubbish, and construction facilities from Site.

END OF SECTION