

**Public Works Committee Meeting**  
**Tuesday, April 5, 2022 5:00 PM**  
**Crete City Hall**  
**243 E 13th Street**  
**Crete, NE 68333**

**1. Open Meeting**

- In accordance with Nebraska law, a copy of the Open Meetings Act can be found in the back of the Council Chambers.
- Items listed on the agenda may be considered in any order.

**2. Roll Call**

- Attendance of members will be recorded to determine the presence of a quorum for official actions.

**3. Items of Business**

- The Committee may discuss or limit discussion on, hear testimony in favor of or in opposition to, or take action to provide a recommendation to the City Council on any matter presented under this title.
- 3.A. Provide a recommendation to the City Council on approving a permit to occupy city right-of-way for Windstream Nebraska from the alley of Block 137 to Doane University.
- 3.B. Provide a recommendation to the City Council on entering into an agreement with Stephens & Smith Construction in the amount of \$65,320 for sidewalk repairs and improvements in front of City Hall.
- 3.C. Provide a recommendation to the City Council on approving the cost estimate and scope of work for concrete replacement at the City Library and authorizing the solicitation of bids.
- 3.D. Discuss garbage collection solutions for the townhomes along 16th Street.

**4. Officers' Reports**

- Reports may be given by the Mayor, Officers, Departments, or Councilmembers concerning the current operations of the City.
- No action can be taken on matters presented under this title except to answer any questions or to refer the matter for further action.

**5. Adjournment**

**Disclaimers & Notices**

- The Council may enter into closed session to discuss any matter on this agenda when it is determined that a closed session is clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual (if such individual has not requested a public meeting) or as otherwise allowed by law. Any closed session shall be limited to the subject matter for which the closed session was called. If the motion to close passes, then immediately prior to the closed session the Mayor shall restate on the record the limitation of the subject matter of the closed session.
- The City of Crete assures that no person shall on the grounds of race, color, national origin, age, disability, handicap or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the City receiving Federal financial assistance. To report discrimination, contact the City Clerk's office.
- The complete agenda with attachments is available at [www.crete.ne.gov](http://www.crete.ne.gov).



243 East 13th Street  
 P.O. Box 86  
 Crete, NE 68333-0086

# Application for a Permit to Occupy City of Crete Right-of-Way

(Rev. 2, 11-2015)

I Windstream Nebraska, LLC hereby request to occupy City of Crete Right-of-  
Name

Way at 1014 Boswell Ave. with a device or structure.  
Address

Description of structure or device:

PLACE 515' OF PLASTIC DUCT AND 615' OF BFO48, THEN PLACE 690' OF CO48 FIBER CABLE AND COIL A 50' SLACK LOOK AT THE POLE.

WO#71502216200000;PR-5929

- Diagram, or print included?
- Necessary permits and licenses obtained? Insurance?
- Approved by the Public Works Director \_\_\_\_\_ Date: \_\_\_\_\_

Note:

- 1) All applicants to occupy public right-of-way understand and agree that if, for any reason, the City or its agents require access; the obstruction shall be moved at the applicant's expense.
- 2) Any items approved for placement in the right-of-way shall be held to the building or property line as closely as possible.
- 3) If this is a 3rd party utility type project, all affected property owners shall be notified prior to the beginning of project by the project owner, or the project's contractor.
- 4) City Council approval is required for large projects (more than one property involved, or utility oriented projects).
- 5) All requests to occupy right-of-way must include a detailed sketch, print, or drawing with dimensions with respect to property lines, paving, curbs etc....
- 6) If this application is for underground sprinkler systems, a print or drawing of the system including location of lines and heads with measurements listed must accompany the application. Additionally, the applicant may be required to provide proof of proper permits to install, plumb, and provide backflow protection for said underground sprinkler systems.
- 7) Application for a permanent structure deemed to be a traffic or public safety hazard or which limit visibility will be denied.
- 8) An application shall be approved before any construction or installation is allowed to begin.

Melvin Fecher  
 Signature of Applicant

03/29/2022  
 Date of Application

NAME: KEVIN DOWD      AGENCY: WINDSTREAM ENGINEER      PHONE NUMBER: 531-510-8951      EMAIL: kevin.s.dowd@windstream.com      AREA:

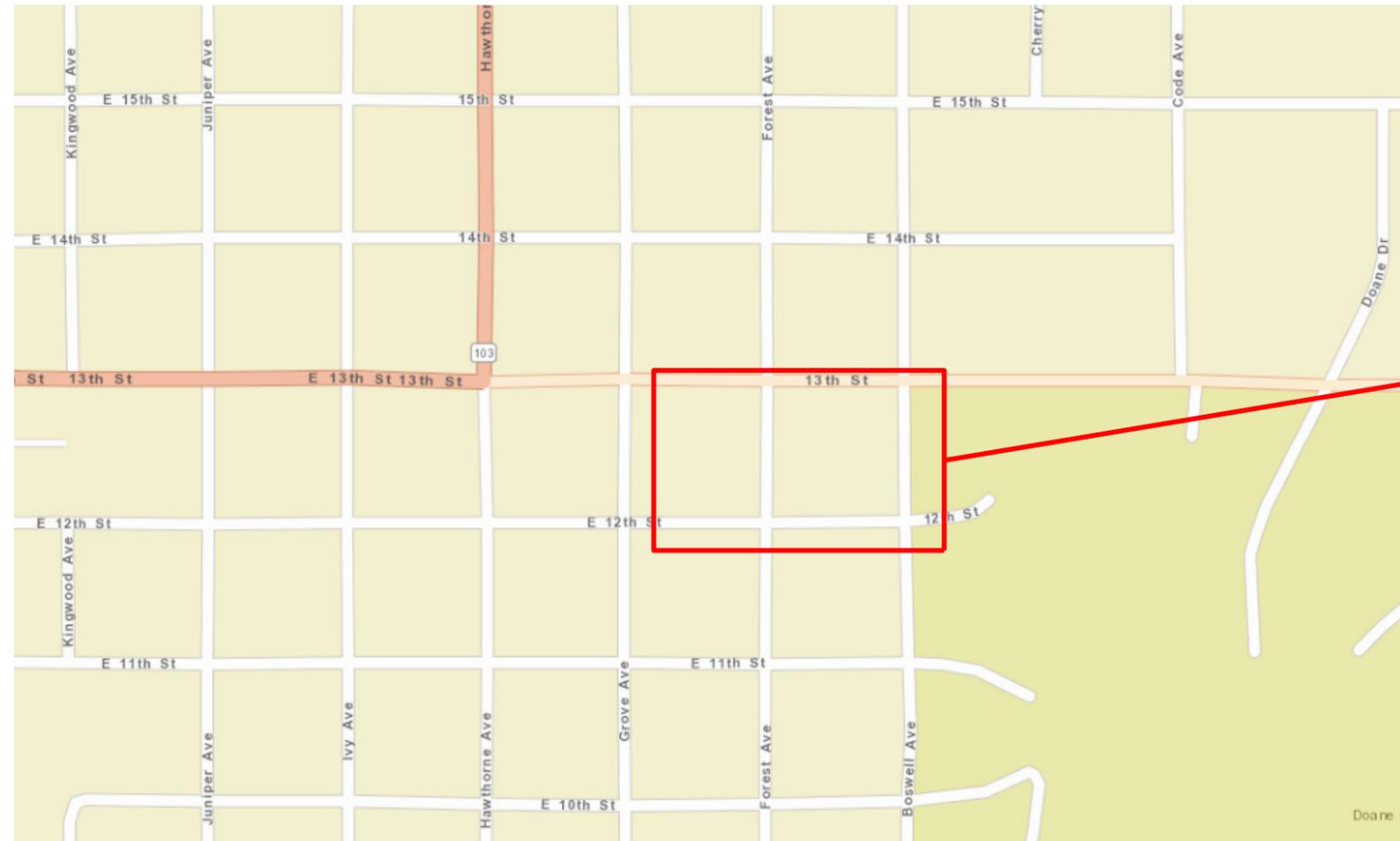
SHEET INDEX	
SHEET NO.	SHEET NAME
1	COVER
2	PERMIT PLANS

**PERMIT PLANS**

**LINCOLN, NE (2022)  
WINDSTREAM  
71502162 / 21SB1329189  
PLACE DIVERSE CABLE ROUTE FOR DOANE UNIVERSITY  
CRETE, NE**

PERMITS REQUIRED	
TYPE	CONSTRUCTION
CITY	Y
COUNTY	N/A
STATE	N/A

Legend	
New Bored Conduit	
New Plowed Conduit	
New Buried Cable	
New Aerial Cable	
Existing Conduit	
Existing Aerial Copper	
Existing Aerial Fiber	
Existing Buried Copper	
Existing Buried Fiber	
New Pedestal	
New Buried Vault	
New Cabinet	
New Down Guy and Anchor	
New Pole	
Removals	
Existing Pedestals	
Existing Poles	



**WORK AREA**



**PRIOR TO CONSTRUCTION:**

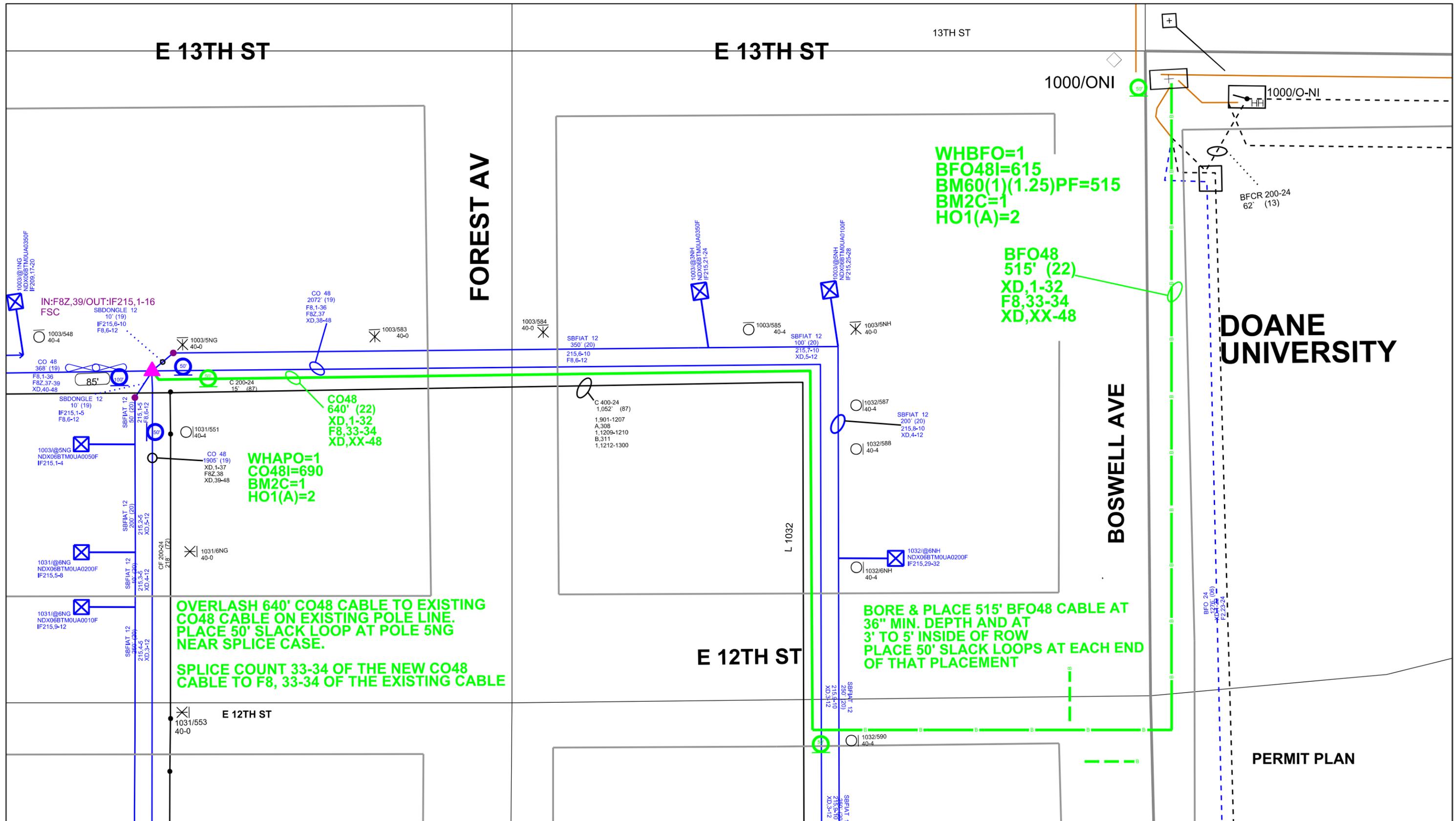
CALL : 1-800-331-5666 OR 811 FOR LOCATION OF UNDERGROUND TELEPHONE, ELECTRIC, GAS MAINS, CABLEVISION AND CITY OF LINCOLN UTILITIES.

NOTE: EXISTING UNDERGROUND AND OVERHEAD UTILITIES AND DRAINAGE STRUCTURES HAVE BEEN PLOTTED FROM AVAILABLE INFORMATION AND THEREFORE, THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE ONLY. IT IS THE RESPONSIBILITY OF THE INDIVIDUAL CONTRACTORS TO EXACTLY LOCATE AND PROTECT EACH EXISTING UTILITY BEFORE AND DURING ACTUAL CONSTRUCTION.

COVER

<b>FTBB:</b> N/A	<b>Job Description:</b> PLACE FIBER FOR DOANE UNIVERSITY	<b>Customer/Other Contacts:</b>	<b>Work Order #:</b> 715022162	<b>Exchange:</b> CRET	<b>Cut Sheet Req:</b> N
<b>AWGF:</b> N/A	21SB1329189 - (ORD 12935703)		<b>Date:</b> 3/22/2022	<b>District:</b> NE1-Nebraska	<b>Permit Req:</b> Y
<b>Geo Block:</b> NELNCL	<b>Project Manager:</b> KEVIN S. DOWD 531-510-8951		<b>Engineer:</b> KEVIN DOWD, P.E.	<b>Revision #:</b> 0	<b>MOP Req:</b> Y
<b>Tax District:</b> 0001	<b>Operations Manager:</b>		<b>Phone No:</b> 531-510-8951	<b>Revision Date:</b> N/A	<b>Joint Work Req:</b> N
<b>Requested By:</b> N/A		<b>Circuit ID:</b> N/A		<b>Sheet</b> 1 Of 2	





PERMIT PLAN

<b>FTBB:</b> N/A	<b>Job Description:</b> PLACE FIBER FOR DOANE UNIVERSITY
<b>AWGF:</b> N/A	21SB1329189 - (ORD 12935703)
<b>Geo Block:</b> NELNCL	<b>Project Manager:</b> KEVIN S. DOWD 531-510-8951
<b>Tax District:</b> 0001	<b>Operations Manager:</b>
<b>Requested By:</b> N/A	

<b>Customer/Other Contacts:</b>
<b>Circuit ID:</b> N/A

<b>Work Order #:</b> 715022162	<b>Exchange:</b> CRET
<b>Date:</b> 3/22/2022	<b>District:</b> NE1-Nebraska
<b>Engineer:</b> KEVIN DOWD, P.E.	<b>Revision #:</b> 0
<b>Phone No:</b> 531-510-8951	<b>Revision Date:</b> N/A
	<b>Sheet 2 Of 2</b>

<b>Cut Sheet Req:</b>	N
<b>Permit Req:</b>	N
<b>MOP Req:</b>	Y
<b>Joint Work Req:</b>	N





INCLUDED:

\_\_\_\_\_

Excavation, site prep  
(assumes grade +/- .10 ft

EXCLUDED:

X \_\_\_\_\_

Note: This price does not include an allowance for corrective measures in the case of incorrect subgrade grading. If corrective action is needed S&S will not proceed with our scope until corrective action/terms are agreed upon.

\_\_\_\_\_

Joint sealant  
Drain tile/waterproofing  
Foundation, sills  
Concrete testing  
Bond  
Trench drain, inlets, pits, etc.

X \_\_\_\_\_

\_\_\_\_\_

Layout from control set by others

X \_\_\_\_\_

\_\_\_\_\_

Hoisting material/equipment

X \_\_\_\_\_

\_\_\_\_\_

Shoring

X \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: If a billing service (Textura, etc) is used the applicable charges will become an additive change order to this proposal.**

- 1 Addenda have been seen: 0
- 2 Payment is to be received by Stephens & Smith on or before the tenth of the month following completion of any portion of the job which has been properly billed.
- 3 This document to be an "Addendum" to the contract as a scope outline**
- 4 All concrete naturally contains a small amount of deleterious material that can cause surface discoloration, pitting or pop-outs. This is not caused by improper workmanship or poor quality concrete and is not a condition covered by warranty.

This quotation is effective for thirty days from the bid date. If you have questions please contact me.

Sincerely,

Stephens & Smith Construction Co. Inc.

*Marilyn Adame*

\_\_\_\_\_  
Marilyn Adame-Ortiz

\_\_\_\_\_  
Date

\_\_\_\_\_  
Accepted by:

[madame-ortiz@stephensandsmith.com](mailto:madame-ortiz@stephensandsmith.com)

1542 S. 1st Street

Lincoln NE 68502

(402) 475-8087

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



**Stephens & Smith Construction Co., Inc.**  
*An Owner on Every Project*

March 22, 2022

Attn: Brian Stork  
City of Crete  
243 East 13<sup>th</sup> Street  
Crete, NE 68333

RE: Sidewalk Improvements Project #1, Crete, NE – City Hall Steps Replacement  
BID # 59003

It is our pleasure to submit the following quote for the above named project as a concrete subcontractor:

**CONCRETE FOUNDATIONS: \$ 38,300.00**

Scope of work for this project includes footings & CIP walls for the Sidewalk Improvements Project #1, Crete, NE – City Hall Steps Replacement.

---

**Sidewalk Improvements Project #1, Crete, NE – City Hall Steps Replacement**

Spread Footings:  
1'4" x 0'8" Approx. 81'

Cast-in-Place Walls:  
0'8" x 7'0" Approx. 81'

**BID INCLUSIONS:**

4000 psi concrete; labor only on all anchor bolts and misc. steel; furnishing and placing rebar and dowels; footing layout from pre-established gridlines and benchmark elevations; digging the footings from subgrade, dirt stockpiled on site; excavation of stair area; smooth commercial wall forms with full width wall ties; travel.

**BID EXCLUSIONS:**

anchor bolts, dovetail anchors, bollard pipe, and misc. steel; mechanical pads, light pole bases and sign bases; grouting; backfill; hand-rubbing exposed concrete walls; demolition sawing, tear out, patching, or hauling; precast items; mass excavation or site prep (assume grade @ +/- 0.1 ft.); allowance for bonds or concrete testing; setting building lines or elevations; allowance for heating or snow removal; dewatering of ground water, springs, and aquifers; draitile; trench drains, inlets or pits; barricading.

1. No addenda have been seen.
2. Payment is to be received by Stephens & Smith on or before the tenth of the month following completion of any portion of the job, which has been properly billed. Accounts past due will bear interest of 1 1/3% per month, accrued from the first of the month from which they are billed.
3. Price is based on plans dated January 20<sup>th</sup>, 2020.
4. Preliminary sitework is not included in this bid.

**[www.stephensandsmith.com](http://www.stephensandsmith.com)**

**1542 South 1st St. Lincoln, NE 68502 Phone (402) 475-8087 Fax (402) 475-0119  
5711 South 60th St. Omaha, NE 68117 Phone (402) 731-0363 Fax (402) 731-6388**



Stephens & Smith Construction Co., Inc.  
*An Owner on Every Project*

5. Elevations and building lines are to be established by an Engineer or Surveyor.
6. This proposal assumes ground conditions are suitable for proper bearing. Existing conditions requiring extra excavation, concrete, or labor to reach bearing will be at owner's expense.
7. Price does not include backfill behind new concrete.
8. Price does not allow for cold weather pouring. Any increase in cost due to cold weather conditions will be billed in addition to the price on this proposal.
9. Heating and covering of walls or footings after concrete has been placed is not included in this proposal. If blankets are required to protect dug footings or poured concrete, an additional charge will be included.
10. Waterproofing is not included in this proposal.
11. No CMU block or concrete sills have been included.
12. Concrete pumping is included in this bid.
13. Walls are based on our commercial forming system. No facing or rubbing of walls is included in this bid.
14. This proposal assumes that soil conditions will allow for Earth Formed footings. If soil stability does not allow for this type of construction, then there will be an additional charge.
15. This proposal is based upon the understanding that any work herein specified shall be done in a normal 8-hour day, 5-day workweek, and those days being Monday through Friday. In the event the Contractor or owner requires Stephens and Smith Construction to perform overtime other than that specified above, such premium time plus applicable taxes and insurance expenses will become an additional charge.
16. The General Contractor will be responsible for maintaining access to the job site and maintaining all OSHA requirements.
17. This proposal shall become part of the contract documents.
18. Contractor shall supply a dumpster for debris from construction activity.

This price quote is effective for thirty days from the bid date. If you have questions, please contact me.

Sincerely,

Stephens & Smith Construction Co. Inc.

*Riley Petersen*

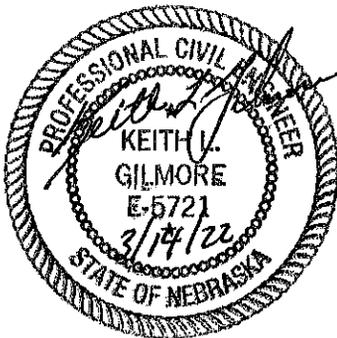
---

(Riley Petersen)  
1542 S. 1st Street  
Lincoln, NE 68502  
(402)-475-8087

**[www.stephensandsmith.com](http://www.stephensandsmith.com)**

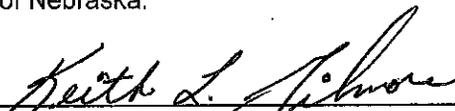
**1542 South 1st St. Lincoln, NE 68502 Phone (402) 475-8087 Fax (402) 475-0119  
5711 South 60th St. Omaha, NE 68117 Phone (402) 731-0363 Fax (402) 731-6388**

**LIBRARY CONCRETE WORK  
CRETE, NEBRASKA  
2022**



I hereby certify that these Drawings and Project Manual were prepared by me, or under my direct supervision, and that I am a duly registered Professional Civil Engineer under the laws of the State of Nebraska.

226.350

  
\_\_\_\_\_  
Keith L. Gilmore, P.E.  
GILMORE & ASSOCIATES, INC.

## TABLE OF CONTENTS

ADVERTISEMENT FOR BIDS

INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACTS

BID FORM

NOTICE OF AWARD

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

PERFORMANCE BOND

PAYMENT BOND

NOTICE TO PROCEED

CHANGE ORDER

CONTRACTOR'S APPLICATION FOR PAYMENT

CERTIFICATE OF SUBSTANTIAL COMPLETION

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

SUPPLEMENTARY CONDITIONS

ARTICLE 3: GENERAL REQUIREMENTS

ARTICLE 4: REMOVALS, EARTHWORK, AND SOD

ARTICLE 5: P.C. CONCRETE CONSTRUCTION

ARTICLE 6: ALUMINUM HANDRAILS

ARTICLE 7: SYNTHETIC TURF

## ADVERTISEMENT FOR BIDS

The City of Crete will receive Bids for the construction of Library Concrete Work 2022 until \_\_\_\_:\_\_\_\_ a.m., \_\_\_\_\_, 2022 at the City Office, 243 East 13th St., Crete, Nebraska, 68333. At that time, all bids will be opened and publicly read aloud.

The construction work contemplated in this project includes the following principal features:

### **A. WEST PROJECT**

Removals, concrete work, grading, sod, and related work.

### **B. STEPS AND RAILS**

Removals, concrete work, hand rails, grading, and related work.

### **C. EAST PROJECT**

Remove decomposed granite and install concrete work, synthetic turf and related work.

### **D. MUSIC PAD**

1. Removals, concrete work, drain grate, drain pipping, grading, and related work.
2. Remove existing sprinklers and install new sprinkler heads, pipping valve and related work.

The Bid shall be an aggregate bid on all Work to be performed, broken down in such a manner as will accurately reflect unit prices for estimated quantities set out herein. Details of construction, materials to be used, and methods of installation for this Project are given in the Drawings and Project Manual. A Contract will be awarded to the low, responsive, responsible Bidder, whose Bid is most advantageous to the Owner, based on the aggregate bid for the Work, construction time schedule, begin and end construction dates, materials, and past performance on contracts with the Owner.

One contract will be awarded for the projects.

Bidding Documents, including Drawings and Project Manual, are on file at City Office, 243 East 13th St., Crete, Nebraska. These documents may be downloaded in electronic portable document format (pdf) for bidding purposes from [QuestCDN](http://QuestCDN), at [www.questcdn.com](http://www.questcdn.com), Project # 8145638 for \$15.00. No refund will be issued to the Bidder(s).

Complete sets of Bidding Documents as issued by QuestCDN and/or the Issuing Office must 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 or Bidding Documents obtained from any source other than QuestCDN or the Issuing Office.

Each Bid shall be accompanied in a separate sealed envelope by a certified check drawn on a solvent bank in the State of Nebraska, or Bid Bond in an amount not less than five percent of the total Bid, and shall be made payable to the City of Crete, Nebraska, as security that the Bidder to whom the Contract will be awarded will enter into a Contract to build the improvements in accordance with this notice, and give bond in the sum as hereinafter provided for construction of the improvements. Checks and bonds accompanying Bids not accepted shall be returned to the Bidder in accordance with the terms contained in the Instructions to Bidders.

No Bids shall be withdrawn after the opening of Bids without consent of the City of Crete, Nebraska, for a period of 45 days after the scheduled time of opening Bids.

The Successful Bidder will be required to furnish satisfactory Performance and Payment Bonds in the sum of the full amount of the Contract. Said bonds, to be executed by a responsible corporate surety, shall guarantee: the faithful performance of the Contract; the terms and conditions therein contained; and payment for all labor and materials used in connection with the Work.

The City of Crete, Nebraska, reserves the right to reject any and all bids and to waive any technicalities in bidding.

NOTE: This EJDC Document has been modified as indicated herein. A ~~strickethrough~~ indicates that language has been deleted from this EJDC Document. An underline indicates that the language has been added to this EJDC Document.

## INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACTS

Prepared by



Issued and Published Jointly by



Endorsed by



# INSTRUCTIONS TO BIDDERS

## TABLE OF CONTENTS

	<b>Page</b>
Article 1 – Defined Terms.....	1
Article 2 – Copies of Bidding Documents .....	1
Article 3 – Qualifications of Bidders.....	1
Article 4 – Site and Other Areas; Existing Site Conditions; Examination of Site; Owner’s Safety Program; Other Work at the Site .....	1
Article 5 – Bidder’s Representations.....	4
<del>Article 6 – Pre-Bid Conference .....</del>	<del>5</del>
Article 7 – Interpretations and Addenda.....	5
Article 8 – Bid Security .....	5
Article 9 – Contract Times.....	5
Article 10 – Liquidated Damages.....	6
Article 11 – Substitute and “Or-Equal” Items.....	6
Article 12 – Subcontractors, Suppliers, and Others .....	7
Article 13 – Preparation of Bid.....	7
Article 14 – Basis of Bid.....	8
Article 15 – Submittal of Bid.....	9
Article 16 – Modification and Withdrawal of Bid.....	9
Article 17 – Opening of Bids.....	10
Article 18 – Bids to Remain Subject to Acceptance .....	10
Article 19 – Evaluation of Bids and Award of Contract.....	10
Article 20 – Bonds and Insurance.....	11
Article 21 – Signing of Agreement.....	11
Article 22 – Sales and Use Taxes .....	11
Article 23 – Contracts to be Assigned .....	11

additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

#### 4.02 Existing Site Conditions

##### A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

###### 1. The Supplementary Conditions identify:

- ~~a. Those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.~~
- ~~b. Those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).~~
- ~~c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.~~
- ~~d. Technical Data contained in such reports and drawings.~~

2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

~~3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.~~

~~4. Geotechnical Baseline Report: The Bidding Documents contain a Geotechnical Baseline Report (GBR). The GBR describes certain select subsurface conditions that are anticipated to be encountered by Contractor during construction in specified locations ("Baseline Conditions"). The GBR is a Contract Document.~~

~~The Baseline Conditions in the GBR are intended to reduce uncertainty and the degree of contingency in submitted Bids. However, Bidders cannot rely solely on the Baseline Conditions. Bids should be based on a comprehensive approach that includes an independent review and analysis of the GBR, all other Contract Documents, Technical Data, other available information, and observable surface conditions. Not all potential subsurface conditions are baselined.~~

~~Nothing in the Bidding Documents GBR is intended to relieve Bidders of the responsibility to make their own determinations regarding construction costs, bidding strategies, and Bid prices, nor of the responsibility to select and be responsible for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.~~

B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or adjacent to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others, and Owner and Engineer do not assume responsibility for the accuracy of

## ARTICLE 5 – BIDDER'S REPRESENTATIONS

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

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work ;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and ~~(2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;~~
- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(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;
- I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- J. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents 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

Completion and readiness for final payment into consideration during the evaluation of Bids, and it will be necessary for the apparent Successful Bidder to satisfy Owner that it will be able to achieve Substantial Completion and readiness for final payment within the time(s) such Bidder has designated in the Bid. The Successful Bidder's time commitments will be entered into the Agreement (or incorporated in the Agreement by reference to the specific terms of the Bid).

#### ARTICLE 10 – LIQUIDATED DAMAGES

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

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

11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder or Supplier and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. Each such request shall also include the name of the material or equipment for which application for “or-equal” status is being submitted and a complete description of the proposed item including drawings, cuts, performance and test data, and any other information necessary or required by Engineer for an evaluation. A statement setting forth any changes in other materials, equipment, or work that incorporation of the proposed item would require shall be included. The burden of proof of the merit of the proposed item is upon Bidder or Supplier. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner. If in the Engineer's sole discretion an item of material or equipment proposed by Bidder or Supplier does not qualify as an “or-equal” item, it will be considered a proposed substitute item and application for acceptance will not be considered by Engineer until such application is submitted by Contractor after the Effective Date of the Agreement

Whenever it is indicated in the Contract Documents that a substitute or “or-equal” item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance may also be considered by the Engineer after the Effective Date of the Agreement. The procedure for submission of any such application for substitute or “or-equal” items by the Contractor after the Effective Date of the Agreement and consideration by Engineer is set forth in SC-7.04 and SC 7.05 of the Supplementary Conditions.

11.02 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder's sole risk.

11.03 If an award is made, Contractor shall be allowed to submit proposed substitutes and “or-equals” in accordance with the General Conditions and Supplementary Conditions.

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

#### ARTICLE 14 – BASIS OF BID

##### 14.01 *Lump Sum*

- A. Bidders shall submit a Bid on a lump sum basis as set forth in the Bid Form.

##### ~~14.02 *Unit Price*~~

- ~~A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.~~
- ~~B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity" (which Owner or its representative has set forth in the Bid Form) for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.~~
- ~~C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.~~

##### ~~14.03 *Allowances*~~

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

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

#### **ARTICLE 17 – OPENING OF BIDS**

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

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

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

#### **ARTICLE 19 – 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 will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible or the Bidder is unqualified or if doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Owner may also reject the Bid of any Bidder that fails to provide any certifications or documentation required by the Bidding Documents to be submitted prior to award of the Contract. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the Owner will reject the Bid as nonresponsive; provided that Owner also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.
- 19.02 If Owner awards the contract for the Work, such award shall be to the responsible Bidder submitting the lowest responsive Bid.
- 19.03 Evaluation of Bids
- A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit-prices, dates of substantial completion and final completion, construction start date, and other data, as may be requested in the Bid Form or prior to the Notice of Award. Discrepancies in the Bid between words and figures will be resolved in favor of the words.
  - B. ~~For the determination of the apparent low Bidder when unit-price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit-price Bid for that item, together with any lump-sum items.~~
  - C. ~~Bid prices will be compared after adjusting for differences in time of Substantial Completion (total number of calendar days to substantially complete the Work) designated by Bidders. The adjusting amount will be determined at the rate set forth in the Agreement for liquidated damages for failing to achieve Substantial Completion, or such other amount that Owner has designated in the Bid Form.~~

THIS BID IS BEING SUBMITTED TO:

City of Crete  
 243 East 13<sup>th</sup> Street  
 P.O. Box 86  
 Crete, NE 68333-0086

PROJECT IDENTIFICATION: Library Concrete Work 2022  
 Crete, Nebraska

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 and furnish all Work as specified or indicated in the Bidding Documents for the Bid Price and within the Bid Time indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

Bidder accepts all of the terms and conditions of the Advertisement for Bids and 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 day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- (a) Bidder has examined and carefully studied the Bidding Documents and the following Addenda, receipt of all which is hereby acknowledged: (List Addenda by Addenda Number and 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, performance, and furnishing of the Work.
- (c) Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- (d) Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Article 5.03.A of the Standard General Conditions. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the Site. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are

necessary for the determination of this Bid for performance and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Bidding Documents.

- (e) Bidder is aware of the general nature of Work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Bidding Documents.
- (f) Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies, and data with 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, and the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

Bidder will complete the Work in accordance with the Contract Documents for the following prices. The Work shall be bid complete in place. Bids shall include sales tax and all other applicable taxes and fees on items not exempt from sales tax.

BID SCHEDULE

**A. WEST PROJECT**

Contractor shall furnish all labor, tool, equipment, and materials to construct improvements shown on the drawings. Work shall include but not limited to removals, concrete work, grading, sod, and related work.(LUMP SUM)

DOLLARS (\$) \_\_\_\_\_ )

**B. STEPS AND RAILS**

Contractor shall furnish all labor, tool, equipment, and materials to construct steps and rails as shown on the drawings. Work shall include but not limited to removals, concrete work, hand rails, grading, and related work.(LUMP SUM)

DOLLARS (\$) \_\_\_\_\_ )

**C. EAST PROJECT**

Contractor shall furnish all labor, tools, equipment, and materials to construct improvements shown on the drawings. Work shall include but not limited to removals, concrete work, synthetic turf installation, and related work.(LUMP SUM)

DOLLARS (\$) \_\_\_\_\_ )

**D. MUSIC PAD**

- 1) Contractor shall furnish all labor, tools, equipment, and materials to construct improvements shown on the drawings. Work shall include but not limited to removals, concrete work, drain grate, drain pipping, grading, and related work.

---

DOLLARS (\$) )

---

- 2) Contractor shall furnish all labor, tools, equipment, and materials to remove existing sprinklers in the music pad area, and install new sprinkler heads, pipping valve and related work for the project area.

---

DOLLARS (\$) )

---

TOTAL BID, MUSIC PAD, Nos.1 and 2, inclusive:

---

DOLLARS (\$) )

---

GRAND TOTAL BID, PROJECTS A, B, C, AND D, inclusive:

---

DOLLARS (\$) )

---

The Bid shall be an aggregate bid on all Work to be performed. Details of construction, materials to be used, and methods of installation for this Project are given in the Project Manual. The Owner reserves the right to award the base bid and any combination of alternates or additions, if any. Bidder acknowledges that quantities are not guaranteed and final payment will be based on actual quantities determined as provided in the Contract Documents.

Complete sets of Bidding Documents as issued by QuestCDN and/or the Issuing Office must 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 or Bidding Documents obtained from any source other than QuestCDN or the Issuing Office.

The Bidder shall thoroughly examine the construction site, soil conditions, contract documents, addenda, scope, and intent of the Work prior to preparing his Bid for items listed in the Bid Schedule as "Lump Sum". Failure of the Bidder to accurately estimate the quantity of materials or suitability of his construction means to perform the Work required in the Contract Documents shall not be a basis for additional payments for any item listed in the Bid Schedule as "Lump Sum" and no additional compensation shall be made. Cost of all materials and work necessary for, or incidental to, the construction of the Project as shown on the Drawings or described in the Project Manual, and not specifically listed in the Bid Schedule, shall be incorporated by the Bidder in the "Lump Sum" items of the Bid Schedule as he deems appropriate. Complete compensation will be considered as included in the payment for the "Lump Sum" items of the Bid Schedule.

Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

Bidder agrees that the Work will be substantially completed and ready for final payment in accordance with Article 15.06 of the Standard General Conditions on or before the date indicated in the Agreement. The total base bid, in combination with any alternates, substitutions, or additions, if any, accepted and awarded by Owner shall be the basis for establishing the amount of the Performance Bond and Payment Bond on this Contract. The total base bid is based on the quantities shown in the Bid and is subject to additions or reductions according to the actual construction quantities and measurements of finished construction, as determined by the Engineer, upon completion of construction.

The undersigned hereby agrees, if awarded the Contract, to furnish a Performance Bond in an amount equal to 100 percent of the Contract sum as security for the faithful performance of the Contract (including guarantee provisions) and also a Labor and Materials Payment Bond in an amount not less than 100 percent of the Contract sum as security for the payment of all persons performing labor on the Project under the Contract, and furnishing materials in connection with this Contract.

The undersigned also agrees to furnish the required bonds and insurance certificates, and to execute the Contract within 15 days from and after the acceptance of this Bid, and further agrees to begin and complete all Work under the Contract within the time limit set forth in the Agreement.

Accompanying this Bid, as a guaranty that the undersigned will execute the Contract and furnish satisfactory bonds and insurance certificates, in accordance with the terms and requirements of the Contract Documents, is a bid security of the type specified in the Instructions to Bidders, made payable to the City of Crete, Nebraska, in the amount of \$ \_\_\_\_\_.

It is hereby agreed that, in case of failure of the undersigned either to execute the Contract, or to furnish bonds or insurance certificates, which are satisfactory to the Owner, within 15 days after issuance of Notice of Award, the amount of this Bid guaranty shall be forfeited to the City of Crete, Nebraska, as liquidated damages arising out of the failure of the undersigned to complete the above-stated. It is understood that, in case the undersigned is not awarded the Work, the Bid guaranty will be returned, as provided in the Bidding Documents.

The Owner reserves the right to award the Contract to the lowest, responsive, responsible Bidder, based on the sum of the total aggregate bid for the Work to be performed, start date, completion date, materials, and past performance on contracts with the Owner.

If awarded the Contract, our surety will be \_\_\_\_\_ of \_\_\_\_\_.

Bidders shall comply with Fair Labor Standards, as defined in Section 73-104-R.S., Nebraska Statutes, in pursuit of all business related to this Project, including execution of the Contract on this Work for which Bids are being submitted.

The undersigned has carefully checked the above Bid quantities against the Project Manual before preparing this Bid, and accepts the said quantities and amounts as correctly listing the complete Work to be done in accordance with the Project Manual.

The Bidder shall state below his intended starting date, date of Substantial Completion, and date of final Completion of all Work as specified in the Agreement. Dates of substantial and final completion as indicated by the Bidder in this Bid will be incorporated into the Agreement. Bidder's intended start date is \_\_\_\_\_

Bidder agrees that the Work will be Substantially Complete on or before

\_\_\_\_\_

Bidder agrees that the Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before

\_\_\_\_\_

The Owner reserves the right to reject any and all Bids and to waive any technicalities or informalities in bidding.

The terms used in this Bid have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

NOTE: Bidders shall not add any conditions or qualifying statements to this Bid as otherwise the Bid may be declared irregular as not being responsive to the Advertisement for Bids.

Bidders Business Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax No.: \_\_\_\_\_

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

SUBMITTED ON \_\_\_\_\_, 2022.

State Contractor's License No. \_\_\_\_\_ (If applicable)

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 of above signature (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 of above signature (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_  
(CORPORATE SEAL)

Attest \_\_\_\_\_

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: \_\_\_\_\_

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.)

## NOTICE OF AWARD

Date of Issuance:

Owner: City of Crete, Nebraska                      Owner's Contract No.: N/A  
Engineer: Gilmore & Associates, Inc.                      Engineer's Project No.: 226.350  
Project: Library Concrete Work 2022 - Crete, Nebraska                      Contract Name: Library Concrete Work 2022 - Crete, Nebraska

Bidder:

Bidder's Address:

### TO BIDDER:

You are notified that Owner has accepted your Bid dated \_\_\_\_\_, 2022 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

Library Concrete Work 2022  
Crete, Nebraska

The Contract Price of the awarded Contract is: \$ \_\_\_\_\_ and \_\_\_\_\_ Dollars ( \_\_\_\_\_ ).

3 unexecuted counterparts of the Agreement accompany this Notice of Award, and 3 copies of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

3 a set of the Drawings will be delivered separately from the other Contract Documents.

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

1. Deliver to Owner 3 counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security [e.g., performance and payment bonds] and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

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

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

---

Owner: CITY OF CRETE, NEBRASKA

Authorized Signature

By:

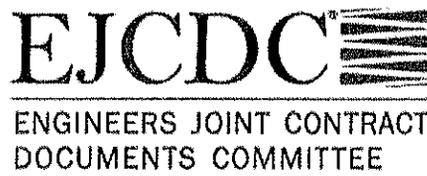
Title: Mayor

Copy: Engineer

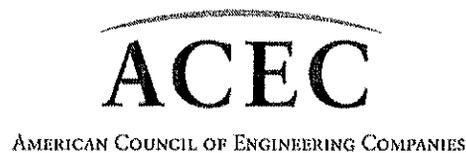
**NOTE:** This EJCDC Document has been modified as indicated herein: A ~~strike-out~~ indicates that language has been deleted from this EJCDC Document. An underline indicates that the language has been added to this EJCDC Document.

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

Prepared by



Issued and Published Jointly by



Endorsed by



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

THIS AGREEMENT is by and between The City of Crete, Nebraska ("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:

Library Concrete Work 2022  
Crete, Nebraska

**ARTICLE 2 – THE PROJECT**

The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Library Concrete Work 2022  
Crete, Nebraska

**ARTICLE 3 – ENGINEER**

- 3.01 The part of the Project that pertains to the Work has been designed by Gilmore & Associates, Inc.
- 3.02 The Owner has retained Gilmore & Associates, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

- 4.01 *Time of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Dates for Substantial Completion, Final Completion, and Final Payment as indicated by the Contractor in the Bid and incorporated herein:*
- A. The Work will be substantially completed on or before \_\_\_\_\_, 2022, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before \_\_\_\_\_, 2022.
- ~~B. Parts of the Work shall be substantially completed on or before the following Milestone(s):~~

**ARTICLE 5 – CONTRACT PRICE**

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

A. For all Work other than Unit Price Work, a lump sum of: \$                     .

~~All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.~~

~~B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item);~~

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

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

~~C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$~~

D. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit.

**ARTICLE 6 – PAYMENT PROCEDURES**

6.01 *Submittal and Processing of Payments*

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

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor’s Applications for Payment on or about the first and third Tuesday of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of

that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has correlated, obtained, and carefully studies (or assumes the responsibility for having done so) all additional or supplementary, examinations, investigations, explorations, tests, studies, and data concerning conditions, (surface, subsurface, and underground facilities) at or contiguous to the site; considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, 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.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer, through issued addendum or addenda is acceptable to Contractor. When said conflicts, errors, ambiguities, or discrepancies have not been resolved by Engineer because of insufficient time or otherwise, Contractor has included in the Bid the better quality of work, or compliance with the more stringent requirement resulting in a greater cost; and said greater cost is included in the contract price.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 10, inclusive).
  - 2. Performance bond (pages 1 to 3, inclusive).
  - 3. Payment bond (pages 1 to 3, inclusive).
  - 4. Other bonds.

### 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*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

## PERFORMANCE BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

City of Crete  
243 East 13th Street  
Crete, Nebraska 68333

### CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount: \$

Description *(name and location)*: Library Concrete Work 2022  
Crete, Nebraska

### BOND

Bond Number:

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

Amount:

Modifications to this Bond Form:  None  See Paragraph 16

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

### CONTRACTOR AS PRINCIPAL

### SURETY

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

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

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

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

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

#### 14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

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

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

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

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

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

16. Modifications to this Bond are as follows:

## PAYMENT BOND

CONTRACTOR *(name and address)*:

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

OWNER *(name and address)*:

City of Crete  
243 East 13<sup>th</sup> Street  
Crete, Nebraska 68333

### CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount: \$

Description *(name and location)*: Library Concrete Work 2022  
Crete, Nebraska

### BOND

Bond Number:

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

Amount:

Modifications to this Bond Form:  None  See Paragraph 18

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

### CONTRACTOR AS PRINCIPAL

### SURETY

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

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

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

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

#### 16. Definitions

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

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

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

Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

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

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

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

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

18. Modifications to this Bond are as follows:

**NOTICE TO PROCEED**

---

Owner:	City of Crete, Nebraska	Owner's Contract No.:	N/A
Contractor:		Contractor's Project No.:	
Engineer:	Gilmore & Associates, Inc.	Engineer's Project No.:	226.350
Project:	Library Concrete Work 2022 - Crete, Nebraska	Contract Name:	Library Concrete Work 2022 - Crete, Nebraska
		Effective Date of Contract:	

---

**TO CONTRACTOR:**

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on \_\_\_\_\_, 2022. *see Paragraph 4.01 of the General Conditions*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, the date of Substantial Completion is \_\_\_\_\_, 2022, and the date of readiness for final payment is \_\_\_\_\_, 2022 ~~or~~ [the number of days to achieve Substantial Completion is \_\_\_\_\_, and the number of days to achieve readiness for final payment is \_\_\_\_\_].

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

Paragraph 2.01.B of the General Conditions provides that the Contractor must deliver (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which you are required to purchase and maintain in accordance with the Contract Documents.  
*[Note any access limitations, security procedures, or other restrictions]*

---

Owner: CITY OF CRETE, NEBRASKA

Authorized Signature

By:

Title: Mayor

Date Issued:

Copy: Engineer

Date of Issuance:	Effective Date:
Owner: City of Crete, Nebraska	Owner's Contract No.: N/A
Contractor:	Contractor's Project No.:
Engineer: Gilmore & Associates, Inc.	Engineer's Project No.: 226.350
Project: Library Concrete Work 2022 - Crete, Nebraska	Contract Name: Library Concrete Work 2022 - Crete, Nebraska

The Contract is modified as follows upon execution of this Change Order:

Description:

Attachments:

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ _____	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED: GILMORE & ASSOCIATES, INC.

ACCEPTED: CITY OF CRETE, NEBRASKA

ACCEPTED:

By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

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









**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Owner:	City of Crete	Owner's Contract No.:	N/A
Contractor:		Contractor's Project No.:	
Engineer:	Gilmore & Associates, Inc.	Engineer's Project No.:	226.350
Project:	Library Concrete Work 2022 Crete, Nebraska	Contract Name:	Library Concrete Work 2022 Crete, Nebraska

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

- All Work  The following specified portions of the Work:

**Date of Substantial Completion**

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

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

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows:

Amendments to Owner's responsibilities:  None  
 As follows

Amendments to Contractor's responsibilities:  None  
 As follows:

The following documents are attached to and made a part of this Certificate:

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

EXECUTED BY ENGINEER: GILMORE & ASSOCIATES, INC.	RECEIVED: CITY OF CRETE, NEBRASKA	RECEIVED:
By: _____ (Authorized signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

	Page
Article 1 – Definitions and Terminology .....	1
1.01 Defined Terms .....	1
1.02 Terminology.....	5
Article 2 – Preliminary Matters.....	6
2.01 Delivery of Bonds and Evidence of Insurance .....	6
2.02 Copies of Documents.....	6
2.03 Before Starting Construction.....	6
2.04 Preconstruction Conference; Designation of Authorized Representatives .....	7
2.05 Initial Acceptance of Schedules.....	7
2.06 Electronic Transmittals.....	7
Article 3 – Documents: Intent, Requirements, Reuse .....	8
3.01 Intent .....	8
3.02 Reference Standards .....	8
3.03 Reporting and Resolving Discrepancies.....	8
3.04 Requirements of the Contract Documents .....	9
3.05 Reuse of Documents.....	10
Article 4 – Commencement and Progress of the Work.....	10
4.01 Commencement of Contract Times; Notice to Proceed .....	10
4.02 Starting the Work .....	10
4.03 Reference Points.....	10
4.04 Progress Schedule .....	10
4.05 Delays in Contractor’s Progress.....	11
Article 5 – Availability of Lands; Subsurface and Physical Conditions; Hazardous Environmental Conditions .....	12
5.01 Availability of Lands.....	12
5.02 Use of Site and Other Areas .....	12
5.03 Subsurface and Physical Conditions.....	13
5.04 Differing Subsurface or Physical Conditions.....	14
5.05 Underground Facilities .....	15

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

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

has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 – PRELIMINARY MATTERS

### 2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor's Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner's Insurance:* After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### 2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
  1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  2. a preliminary Schedule of Submittals; and

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

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

#### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

#### 3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
  - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
  - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

#### 3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
  - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
  2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

**ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK**

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

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

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

### **5.01 *Availability of Lands***

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### **5.02 *Use of Site and Other Areas***

- A. *Limitation on Use of Site and Other Areas:*
  - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

#### 5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
  2. is of such a nature as to require a change in the Drawings or Specifications; or
  3. differs materially from that shown or indicated in the Contract Documents; or
  4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
  - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
    - d. Contractor gave the notice required in Paragraph 5.05.B.
  - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
  - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

### 6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
  - 1. include at least the specific coverages provided in this Article.
  - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
  - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
  - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
  - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
  8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  12. include performance/hot testing and start-up.
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

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

### **7.01 *Supervision and Superintendence***

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

### **7.02 *Labor; Working Hours***

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

### **7.03 *Services, Materials, and Equipment***

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

#### 7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design,
      - 2) be similar in substance to that specified, and
      - 3) be suited to the same use as that specified.
    - b. will state:
      - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
      - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
      - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
    - c. will identify:
      - 1) all variations of the proposed substitute item from that specified, and

- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

7.09 *Taxes*

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

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

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

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;

exchanged between or among employers at the Site in accordance with Laws or Regulations.

#### 7.15 *Emergencies*

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

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

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

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

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

###### 1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal;
  6. the issuance of a notice of acceptability by Engineer;
  7. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

## **ARTICLE 8 – OTHER WORK AT THE SITE**

### **8.01 *Other Work***

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9 – OWNER'S RESPONSIBILITIES**

### **9.01 *Communications to Contractor***

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

### **9.02 *Replacement of Engineer***

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

### **9.03 *Furnish Data***

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

### **9.04 *Pay When Due***

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

### **9.05 *Lands and Easements; Reports, Tests, and Drawings***

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### **9.06 *Insurance***

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

### **9.07 *Change Orders***

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

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

10.05 *Shop Drawings, Change Orders and Payments*

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

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

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

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
  2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
  3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

#### 11.07 Execution of Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## **ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **13.01 Cost of the Work**

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
  1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
  1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

### 13.02 Allowances

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

## ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

### 14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

### 14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
  - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  - 3. by manufacturers of equipment furnished under the Contract Documents;
  - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

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

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

- a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

#### 15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and
  - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

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

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

**C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

**D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

### **16.02 *Owner May Terminate for Cause***

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses,

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17 – FINAL RESOLUTION OF DISPUTES**

### **17.01 *Methods and Procedures***

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
  2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
  2. agree with the other party to submit the dispute to another dispute resolution process; or
  3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18 – MISCELLANEOUS**

### **18.01 *Giving Notice***

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

### **18.02 *Computation of Times***

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

### **18.03 *Cumulative Remedies***

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

## SUPPLEMENTARY CONDITIONS

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

### ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

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

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

#### **SC-1.01.A.8**    *Change Order*

At the end of Paragraph 1.01.A.8 add the following new sentences:

The Change Order form to be used on this Project is EJCDC C-941.

#### **SC-1.01.A.28**    *Owner*

At the end of Paragraph 1.01.A.28 add the following new paragraph:

Whenever the word “Owner” appears in the Contract Documents, it shall actually refer to City of Crete, Nebraska. The Owner shall, in conjunction with the Engineer, be the final arbiter in all controversies concerning the fulfillment of this Contract. No changes in any of the details of the Drawings and Specifications shall be made without the approval of the Owner. No extras will be allowed that are not agreed to in writing. The Owner will approve final acceptance of the Work and payment to the Contractor.

#### **SC-1.01.A.48**    *Work Change Directive*

At the end of Paragraph 1.01.A.48 add the following new sentence:

A Work Change Directive cannot change Contract Price or Contract times without a subsequent Change Order.

#### **SC-1.01.A.49**    *Abnormal Weather Conditions*

Add the following new paragraph after Paragraph 1.01.A.48:

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

#### **SC-1.02.E**        *Furnish, Install, Perform, Provide*

Add the following new paragraph immediately after Paragraph 1.02.E.4:

5. The word “supply,” when used in connection with services, materials, or equipment, shall mean to furnish and install and incorporate in the Work said services, materials, or equipment, including all necessary labor, materials, equipment, and everything necessary to perform the Work indicated, unless specifically limited in the context.

**SC-4.03.A Reference Points**

Delete Paragraph 4.03.A in its entirety and replace it with the following:

- A. Contractor shall provide all staking for the project.

**SC-4.05.C.2 Delays in Contractor's Progress**

Delete Paragraph 4.05.C.2 in its entirety and replace it with the following:

- 2. Abnormal Weather Conditions;

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

**SC-5.01 Availability of Lands**

Add the following new paragraph immediately after Paragraph 5.01.C:

- D. The Contractor shall not enter private property, if any, within the Project limits for construction purposes until he has received official notification from the Owner that the necessary, temporary, or permanent easements have been obtained for the property in question. The Contractor shall hold and save the Owner and Engineer free and harmless from liability of any nature or kind arising from any use, trespass, or damage occasioned by his operation on premises of a third person, except where permanent facilities are shown on the Drawings or specified. All such areas so disturbed by the construction operation shall be restored by the Contractor to a condition equivalent to that existing prior to use by the Contractor.

**SC-5.06 Hazardous Environmental Conditions at Site**

Delete Paragraphs 5.06.A and 5.06.B in their entirety and replace them with the following:

- A. No reports or drawings relating to Hazardous Environmental Conditions, at or adjacent to the site, are known to Owner.
- B. Not Used.

**ARTICLE 6 – BONDS AND INSURANCE**

**SC-6.03 Contractor's Insurance**

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

- K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
  - 1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and 6.03.A.2 of the General Conditions:
 

a. State:	Statutory
b. Applicable Federal (e.g., Longshoreman's)	Statutory
c. Employer's Liability	\$1,000,000
d. Foreign voluntary worker compensation (if applicable)	Statutory

## ARTICLE 2 – PRELIMINARY MATTERS

### SC-2.02.A *Copies of Documents*

Delete the first sentence in Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Engineer shall furnish to Contractor two copies of the Contract Documents (Including one fully executed counterpart of the Agreement), if required by Contractor.

### SC-2.05.A *Initial Acceptance of Schedules*

Modify the first sentence of Paragraph 2.05.A by adding the following words to the beginning of the sentence:

If requested by the Owner or Engineer,

### SC-2.06.B *Electronic Submittals*

Delete Paragraph 2.06.B in its entirety and replace it with the term "Deleted".

## ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

### SC-3.01 *Intent*

Add the following new paragraphs immediately after Paragraph 3.01.E:

- F. The Specifications may vary in form, format, and style. Some articles and sections of the specifications may be written in varying degrees of streamlined or declarative style and some articles and sections may be relatively narrative by comparison. Omissions of such words and phrases as "the Contractor shall", "in conformity with", "as shown", or "as specified" are intentional in streamlined articles or sections. Omitted words and phrases shall be supplied by reference. Similar types of provisions may appear in various parts of an article or section within a part depending on the format of the article or section. The Contractor shall not take advantage of any variation of form, format, or style in making claims for extra Work.
- G. The cross referencing of specification articles or sections within each article or section of the Specifications is provided as an aid and convenience to the Contractor. The Contractor shall not rely on the cross referencing provided and shall be responsible to coordinate the entire Work under the Contract Documents and provide a complete Project whether or not the cross referencing is provided in each section or article or whether or not the cross referencing is complete.

## ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

### SC-4.01.A *Commencement of Contract Times; Notice to Proceed*

Delete the last sentence of Paragraph 4.01.A by striking out the following words:

In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever day is earlier.

Add the following sentence at the end of Paragraph 4.01.A:

The Owner reserves the right to terminate the Contract at no cost to Owner at any time prior to issuance of Notice to Proceed.

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

a.	General Aggregate (except Products—Completed Operations	\$2,000,000
b.	Products—Completed Operations Aggregate	\$1,000,000
c.	Personal and Advertising Injury (Per person/Organization)	\$1,000,000
d.	Each Occurrence (Bodily Injury and Property Damage)	\$1,000,000

3. Automobile Liability under Paragraph 6.03.D 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. Umbrella or Excess Liability under Paragraph 6.03.E of the General Conditions:

a.	Excess Liability	
	General Aggregate	\$2,000,000
	Each Occurrence	\$2,000,000

- ~~5. Contractors Pollution Liability Insurance coverage required by Paragraph 6.03.F of the General Conditions:~~

<del>a.</del>	<del>General Aggregate</del>	<del>\$2,000,000</del>
<del>b.</del>	<del>Each Occurrence (Bodily Injury and Property Damage)</del>	<del>\$1,000,000</del>

6. With respect to all insurance required by Paragraph 6.03, Contractor agrees to waive all rights of subrogation against Owner, Engineer, and each additional insured identified in the Supplementary Conditions.

7. Following is a list of other individuals or entities to be included on policies as additional insureds:

Owner:	City of Crete
Engineer:	Gilmore & Associates, Inc.

**SC-6.05** *Property Insurance*

- SC-6.05.A** Delete Paragraph 6.05.A in its entirety and insert the following in its place:

- A. Contractor shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof. Contractor shall be responsible for any deductible or self-insured retention. This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or loss payee;
2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss and damage to the Work, temporary buildings, falsework, and materials and equipment in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by these Supplementary Conditions.
3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
5. allow for partial utilization of the Work by Owner;
6. include testing and startup;
7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee; and
8. comply with the requirements of Paragraph 6.05.B of the General Conditions.

Add the following paragraph after Paragraph 6.05.F:

- G. Owner shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor, subcontractors, or others in the Work. Unless otherwise agreed to in writing between Owner and Contractor, and until final completion of the work and acceptance of the Work in accordance with paragraph 15.03 of the General Conditions, all risk of loss with no right of recovery against the Owner, Engineer, Engineer's consultants (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any them) will be borne by Contractor, subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage, each may purchase it and maintain it at the purchaser's own expense.

**SC-6.08**      ***Partial Utilization, Acknowledgment of Property Insurer***

Add the following new paragraphs immediately after Paragraph 6.07.C:

**SC-6.08**      ***Partial Utilization, Acknowledgment of Property Insurer***

- A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 6.05 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

- B. All insurance required by the Contract Documents, or by Laws and Regulations shall remain in full force and effect on all phases of the Work, whether or not the Work is occupied or utilized by Owner, until all Work included in the Agreement has been completed and final payment has been made.
- C. Nothing contained in the insurance requirements shall be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from his operations under the Agreement. Contractor agrees that Contractor alone shall be completely responsible for procuring and maintaining full insurance coverage as provided herein or as may be otherwise required by the Contract Documents. Any approval by Owner or Engineer shall not operate to the contrary.

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

##### **SC-7.04 "Or-Equals"**

**SC-7.04.A.1** Delete Paragraph 7.04.A.1 in its entirety and insert the following in its place:

1. If in Engineer's sole discretion an item of material or equipment proposed by Bidder or Supplier at least 15 days prior to the date for receipt of Bids or by Contractor after the Effective Date of the Agreement, 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 Article 7.04.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that: (i) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; (iii) has a proven record of performance and availability of responsive service, and;
- b. Contractor certifies that: (i) there is no increase in cost to the Owner or increase in Contract times; and (ii) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

**SC-7.04.B** Delete Paragraph 7.04.B in its entirety and insert the following in its place:

- B. *Contractor's, Bidder's, or Supplier's Expense:* Contractor, Bidder, or Supplier shall provide all data in support of any proposed "or-equal" item at Contractor's, Bidder's, or Supplier's expense.

##### **SC-7.05 Substitutes**

**SC-7.05.A** At the end of Paragraph 7.05.A and before Paragraph 7.05.A.1, add the following paragraph:

If in Engineer's sole discretion an item of material or equipment proposed by Bidder or Supplier at least 15 days prior to the date for receipt of Bids or by Contractor after the Effective Date of the Agreement does not qualify as an "or-equal" item under 7.04 of the General Conditions, it will be considered a proposed substitute item.

**SC-7.05.E** Delete Paragraph 7.05.E in its entirety and insert the following in its place:

- E. *Contractor's, Bidder's, or Supplier's Expense:* Contractor, Bidder, or Supplier shall provide all data in support of any proposed substitute item at Contractor's, Bidder's, or Supplier's expense.

**SC-7.08**      ***Permits***

Delete the first sentence of Paragraph 7.08 in its entirety and insert the following in its place:

Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses, including any fines or penalties assessed against Owner as a result of Contractor's failure to obtain the same or follow conditions contained therein.

**SC-7.09**      ***Taxes***

**SC-7.09.A**      Add the following new paragraph immediately after Paragraph 7.09.A:

- B.      The Project is not exempt from Nebraska State Sales and Use Taxes on materials and equipment to be incorporated in the Work.
- C.      The Contractor shall include in his Bid prices sales tax on any materials, equipment, and labor considered not exempt. The Owner will furnish the Successful Contractor with a Purchasing Agent Appointment and Exempt Sale Certificate form for those items considered to be exempt from the state sales and use tax. Said taxes shall not be included in the Contract price for any materials or equipment to be incorporated into the Work that are tax exempt. It shall be the responsibility of the Contractor to verify with the Nebraska Department of Revenue those items considered to be exempt.

**SC-7.10**      ***Laws and Regulations***

Add the following new section immediately after Paragraph 7.10.C:

- D.      "LB 403 Contract Provisions - NEW EMPLOYEE WORK ELIGIBILITY STATUS:

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1.      The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
2.      If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3.      The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the Contract

terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.”

**SC-7.16.D** *Engineer's Review*

**SC-7.16.D.9** Add the following new paragraphs immediately after Paragraph 7.16.D.8:

9. Shop Drawings and Sample submittals not conforming to the requirements of Paragraphs 7.16.A, 7.16.B, and 7.16.C shall be returned to Contractor without action for resubmittal and the resulting delay shall be entirely the responsibility of the Contractor.
10. Engineer's review and approval of Shop Drawing and Sample submittals shall not:
  - a. relieve the Contractor of the responsibility for any error in details, dimensions, or other information that may exist in such submittals;
  - b. constitute a blanket approval of dimensions, quantities, or details of the materials or equipment shown;
  - c. approve variations from additional details or instructions previously furnished by Engineer to Contractor;
  - d. shall not relieve the Contractor of the full responsibility of meeting all of the requirements of the Contract Documents.

**ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION**

**SC-10.02** *Visits to Site*

**SC-10.02.B** Add the following new paragraphs immediately after Paragraph 10.02.B:

- C. A special request by the Contractor to the Engineer for a visit to the Project Site shall be made at least 48 hours in advance.

Failure of the Contractor to have a representative who is in responsible charge of the Project, or who has been designated as the Contractor's representative, present at the construction site to accompany the Engineer in the visit will result in the issuance of a statement to the Contractor for the Engineer's time and expenses, based on the Engineer's current Schedule of Rates and Charges. The payment of these engineering charges will be due and payable within 30 days, and must be paid before subsequent progress estimates will be allowed.

**SC-10.03** *Project Representative*

**SC-10.03.B** Add the following new section immediately after Paragraph 10.03.A:

- B. A Resident Project Representative (RPR) will not be furnished by Engineer for this Project.

**SC-10.04** *Rejecting Defective Work*

**SC-10.04.A** Add the following new paragraph immediately after Paragraph 10.04.A

- B. The acceptance, at any time, of materials or equipment by or on behalf of Owner shall not be a bar to future rejection if they are subsequently found to be defective, inferior in quality or uniformity to material or equipment specified, or are not as represented to Engineer or Owner.

**ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION,  
REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

**SC -14.02**      *Tests, Inspections, and Approvals*

**SC-14.02.D**      Add the following new paragraph immediately after Paragraph 14.02.D.5

6. Contractor shall coordinate the services of the testing laboratories to perform all inspections, tests, or approvals required by the Contract Documents.

**ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION;  
CORRECTION PERIOD**

**SC-15.01.B**      *Applications for Payment*

**SC-15.01.B.1**      Modify the first sentence of Paragraph 15.01.B.1 by striking out the words "At least 20 days" and replacing them with the words "At least 10 days"

Amend the second sentence of Paragraph 15.01.B by striking out the following text:

"a bill of sale, invoice, or other"

**SC-15.01.B.3**      Add the following language at the end of Paragraph 15.01.B.3:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

**SC-15.01.B.4**      Add the following new paragraphs after Paragraph 15.01.B.3:

4. The Application for Payment form to be used on this Project is EJCDC C-620.

**SC-15.01.C**      *Review of Applications*

**SC-15.01.C.1**      Modify the first sentence of Paragraph 15.01.C.1 by striking out the words "Engineer will, within 10 days" and replacing them with the words "Engineer will, within 7 days"

**SC-15.01.D**      *Payment Becomes Due*

**SC-15.01.D.1**      Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

1. Thirty days after approval of the Application for Payment by Owner, 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.

**ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

**SC-16.02**      *Owner May Terminate for Cause*

**SC-16.02.A.1**      Modify Paragraph 16.02.A.1 by deleting the word "persistent"

ARTICLE 3  
GENERAL REQUIREMENTS  
INDEX

	<u>Page No.</u>
3.0 PROJECT DESCRIPTION	1
3.1 RIGHT OF ENTRY	1
3.2 EXISTING UTILITIES/SPRINKLER SYSTEMS	1
3.3 PROTECTION OF PROPERTY	2
3.4 OBSERVATION AND TESTING	2
3.5 TIME OF COMPLETION AND LIQUIDATED DAMAGES	3
3.6 APPLICABLE CODES, REGULATIONS, AND WORKMANSHIP	4
3.7 STORAGE OF MATERIALS AND EQUIPMENT	4
3.8 CONSTRUCTION FACILITIES BY CONTRACTOR	4
3.9 SAFETY REQUIREMENTS	4
3.10 SHOP DRAWINGS	5
3.11 MODIFIED DRAWINGS	5
3.12 INCIDENTAL WORK	5
3.13 MOBILIZATION	5
3.14 FUNCTION OF COMPLETED PROJECT	5
3.15 ONE-YEAR CORRECTION PERIOD	6
3.16 ELEVENTH-MONTH OBSERVATION	6
3.17 COORDINATION WITH OTHER CONTRACTORS	6
3.18 PROJECT SCHEDULING	6
3.19 AWARD OF CONTRACT	6
3.20 PEDESTRIAN CONTROL	6
3.21 ACCESS DURING CONSTRUCTION	7
3.22 SWPPP/BMP	7
3.23 CLEANUP	7

## **ARTICLE 3**

### **GENERAL REQUIREMENTS**

#### **3.0 - PROJECT DESCRIPTION**

This Project is located in Crete, Nebraska, as shown on the Drawings.

Drawings and Project Manual were prepared by Gilmore & Associates, Inc., Consulting Engineers of Columbus, Nebraska for the City of Crete, Nebraska, who is the Owner of the Project.

The work is comprised of two projects under one construction contract. The projects are described as follows:

West Project – Install new steps with handrails, construct new concrete and regrade and sod.

East Project – Concrete with synthetic turf.

The City of Crete will reserve the right to award one or more of the projects for construction based on available funding.

#### **3.1 - RIGHT OF ENTRY**

Representatives of the Owner and the Engineer shall have access to the Work wherever it is in preparation or progress. The Contractor shall provide proper facilities for such access and inspection.

#### **3.2 - EXISTING UTILITIES/SPRINKLER SYSTEMS**

The Contractor shall determine the actual location of all existing utilities prior to starting any work that may cause damage to such utilities or underground sprinkler lines and fixtures. The Contractor shall indemnify and hold harmless the Owner, Engineer, and their agents and employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising as a result of damage to existing utilities, including sprinkler systems caused, in whole or in part, by the Contractor or 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 it is caused in part by a party indemnified hereunder.

Any information concerning underground utilities and sprinklers shown on the Drawings is intended to be merely an aid to the Contractor. The accuracy of information furnished with respect to underground utilities/sprinkler systems is not guaranteed, and the Contractor must independently verify any such information in accordance with the previous paragraph of these General Requirements.

The Contractor shall notify all utility companies who may have installations in the area where the Work is to be performed and solicit their aid in locating utilities, including, but not limited to, water, gas or other fuel, electrical, and telephone installations. All utilities encountered must be kept in operation by the Contractor, and must be protected and/or repaired if damaged. The Contractor shall have the responsibility of negotiating with each utility having lines, wires, or other appurtenances in the construction area, an agreement which establishes the responsibilities for the repair of any utility damaged by the Contractor. Such agreements shall establish under what conditions the cost of the repair will be the Contractor's responsibility and under what conditions the cost will be the utility's responsibility.

#### **3.3 - PROTECTION OF PROPERTY**

The following provisions shall not limit the generality of other requirements in these Contract Documents.

The Contractor shall do all things necessary or expedient to properly protect underground sprinkler systems, existing trees, shrubs, concrete retaining walls, streets, power lines and other utilities, and

The Contractor shall obtain a testing laboratory and pay for soil investigation and tests, including soil proctors and density tests, to demonstrate compliance with the specification requirements. In order to verify compaction requirements of the backfill for sidewalk and step construction, the Contractor shall obtain a testing laboratory and pay for the furnishing of at least one proctor curve for the Project. Proctor curves shall be furnished for the soil profiles encountered on the Project and borrow sites. Contractor shall hire a soils laboratory approved by the Engineer, to perform all in-place compaction tests, in accordance with the following schedule:

Concrete Subgrade	1 per 500 Sq. Ft., or less
-------------------	----------------------------

Compaction test locations shall vary in horizontal reference to the Project centerline. Testing depths and locations shall be noted on the reports. The Contractor shall have the materials testing laboratory establish the optimum moisture content, range, and maximum dry density before beginning any tests for compaction. The contact name, telephone number, cellular phone number, and address of the testing laboratory and copies of all information shall be provided to the Engineer. The proctors and all in-place compaction tests shall be signed by a professional Engineer of the State of Nebraska prior to submittal. All costs associated with materials testing, as specified in this Project Manual, shall be the responsibility of the Contractor. In addition, the costs associated with all of the required submittal data and information shall also be the responsibility of the Contractor.

The Contractor shall give the Engineer 24 hours' notice before any segment is ready for testing so that the Engineer or his representative may be present to observe and select the test location. Approval of pay requests are subject to receipt of all testing information; thus, the Contractor shall coordinate his work accordingly.

### **3.5 - TIME OF COMPLETION AND LIQUIDATED DAMAGES**

The Owner would like to have the Work completed in the spring and summer of the 2022 construction season. Any project started shall be completed, including final grading, backfill, and cleanup prior to October 1, 2022.

Construction time will be figured in calendar days rather than working days. The Contractor shall state, on the Bid, his anticipated starting date and the anticipated completion date for construction of the Work. The Contractor shall note that his anticipated starting and completion dates, as stated in the Bid, will be given consideration in both the award of this Contract and the issuance of the Notice to Proceed. The award shall be made to the responsible Bidder(s) whose Bid is the most advantageous to the Owner, price and other factors considered. A Notice to Proceed will be issued based on the time of completion as indicated by the Contractor on his Bid.

The Contract time may be extended by the Owner in an amount equal to the time lost due to delays beyond the control of the Contractor, if he makes a claim, therefore, in accordance with the Standard General Conditions. Such delays shall include fire, flood, labor strikes, epidemics, or acts of God. No extension of time will be given for abnormal weather conditions, other than as specifically designated in the preceding sentence, or for subsoil conditions, unless requested in writing by the Contractor and agreed to by the Owner.

The parties hereby agree that damages occasioned the Owner by the Contractor's failure to complete the Work within the Contract time are difficult to measure. Therefore, failure of the Contractor to complete all Work under this Contract, as required herein above, shall result in the Contractor paying the Owner the following amounts per calendar day as agreed-upon liquidated damages accrued by the Owner as a result of not having 100 percent use of the facilities, and for administrative costs, professional services, and other overheads:

Upon Substantial Completion	\$750
Professional Engineering Services (Basic)	<u>\$750</u>
Total Liquidated Damages per Calendar Day	<u>\$1,500</u>

Said payment of liquidated damages at the daily rate stated above shall continue until all Work is satisfactorily completed, as specified, and so determined by the Engineer. The Owner shall have the

suppliers. In no case shall the number of copies submitted be less than five. Each submittal shall include a letter of transmittal, the form of which shall be provided for reproduction by the Contractor. Each transmittal shall be numbered consecutively in the space provided for "Transmittal No." This number will form a serial number for identifying each submittal. If initial submittal, indicate by checkmark; if resubmittal, indicate by inserting number of the previous submission of the same item. Where shop drawings consist of special drawings prepared by the Contractor, his Subcontractor, or suppliers, one reproducible paper sepia copy, and one print thereof may be submitted to the Engineer in lieu of the several copies specified above. The Contractor shall furnish additional copies of final corrected shop drawings upon request.

Shop drawings submittals shall include, but not be limited to:

Paving mix designs, aggregates, admixtures, certifications, curing and related items;  
Handrails, synthetic turf, adhesive, drain structures.

### **3.11 - MODIFIED DRAWINGS**

The Contractor shall maintain, at the construction Site, one complete set of Drawings suitably marked to show all deviations from the original set of Drawings and other information, as specified. Supplementary sketches shall be included, if necessary, to clearly indicate all Work as constructed. All Work shall be clearly shown and the modified Drawings shall be satisfactory to the Engineer in order to ensure that adequate information is indicated to show the actual construction. One complete set of the modified Drawings shall be furnished to the Engineer, prior to submittal of the final Application for Payment. Failure of the Contractor to maintain an up-to-date set of modified Drawings on the Project Site shall be reason to withhold payments. All underground lines shall be referenced to surface landmarks so the exact location can be determined from the record drawings.

### **3.12 - INCIDENTAL WORK**

All items and Work necessary to construct the Project in accordance with the Contract Documents, not called out on the Bid, such as, but not limited to, removal and replacement of street signs, mail boxes, fences, steel and concrete posts, and gravel resurfacing are considered incidental to the Contract price; unless noted or shown as a bid item and the Contractor shall adjust his Bid accordingly.

### **3.13 - MOBILIZATION**

This Work shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the Project Site; and for all other work and operations which must be performed or costs incurred before beginning Work at the Project Site.

The Contractor must include all costs that he/she expects to incur for all movements of his/her equipment and personnel. Additional payments will not be made should the Contractor elect to move his/her equipment and/or crew to another Project Site before the Contracted Work is complete or if the Contractor fails to adequately assess the actual cost of mobilization for the Contracted Work.

### **3.14 - FUNCTION OF COMPLETED PROJECT**

The intent of the Contract Documents is to provide a Project that is complete without additional Work being performed thereon. It will be the Contractor's obligation to provide such a Project and to complete all grading, backfilling, raking, repairs, and associated work prior to the final acceptance.

### **3.15 - ONE-YEAR CORRECTION PERIOD**

If, after approval of final payment, and prior to the expiration of one year after the date of substantial completion, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, the Contractor will promptly, without cost to the Owner and in accordance with the Owner's written instructions, either correct such defective Work, or if any Work has been rejected by the Owner, remove it from the Site and replace it with non-defective Work.

**3.21 - ACCESS DURING CONSTRUCTION**

Contractor shall maintain access to library during construction.

The Contractor will work with the library to minimize the loss of access as much as possible during the construction. The Contractor will coordinate with the Owner so that deliveries and customer patronage can continue during the construction.

**3.22 - SWPPP/BMP**

A SWPPP is not required for the project since it is less than 1 acre in size. However, the Contractor shall still use BMP's to prevent sediments and construction materials from entering the storm sewer system.

The Contractor shall use silt fencing and other approved methods contained in the SWPPP to prevent sediments from entering the storm sewer system. The use of gutter buddies or other approved materials will be required on inlets downstream from the construction to prevent sediment from entering the storm sewer system.

Inlets and open storm sewer pipes shall be protected from sediment intrusion during construction until the project has been completed.

**3.23 - CLEANUP**

At the completion of the Project, the Contractor shall remove all debris resulting from his construction Work on the Project, including the removal of all concrete, excess dirt, and other materials, leaving the Project Site in the same or better condition than existed prior to construction.

ARTICLE 4  
REMOVALS, EARTHWORK, AND SOD

INDEX

	<u>Page No.</u>
4.0 GENERAL	1
4.1 NPDES CONSTRUCTION SITE GENERAL PERMIT	1
4.2 CLEARING AND GRUBBING	1
Scope	1
Removal	1
Disposal	1
Measurement and Payment	1
Items of Work and Construction Details	1
4.3 STRIPPING AND TOPSOIL USAGE	2
Scope	2
Proof-rolling	2
4.4 EARTHEN EXCAVATION AND EMBANKMENT/FILL	2
Placing of Embankment/Fill	2
4.5 WATER FOR EMBANKMENT/FILL	3
4.6 AIR QUALITY AND DUST POLLUTION CONTROL	3
4.7 ENVIRONMENTAL PROTECTION AND CONTROLS	3
4.8 SOD	3

## ARTICLE 4

### REMOVALS, EARTHWORK, AND SOD

#### 4.0 - GENERAL

These Specifications are intended to cover the erosion and sediment control, NPDES Construction Site Permit applications, SWPPP, excavation, embankment/fill, general clearing and grubbing, seed/sod, and related work as shown on the Drawings. Additional earthwork requirements are stated in other articles of this Project Manual. The Contractor shall furnish all labor, tools, material, and equipment to perform the Work specified in this article.

All Specifications included in this Project Manual shall govern, except where special notations have been made on the Drawings or in the General Requirements, which shall have precedence, since these construction Specifications are general in nature and will not cover special structures or unusual conditions.

#### 4.1 - NPDES CONSTRUCTION SITE GENERAL PERMIT

An NPDES and SWPPP is not required for this project since the area disturbed is less than 1.0 acre. The CONTRACTOR is required to use Best Management Practices (BMP) to prevent sediment and construction debris from entering the storm sewer system. The CONTRACTOR will use silt fencing at the entrances of any exposed storm sewer pipes in the fill and seeding areas to prevent sediment from entering the storm sewer system. The CONTRACTOR will also use gutter buddies or other approved devices to protect storm inlets from sediment intrusion during construction.

#### 4.2 - CLEARING AND GRUBBING

##### 4.2.1 - Scope

The Work shall consist of the clearing and grubbing of designated areas by removal and disposal of trees, snags, logs, stumps, shrubs, large rocks, and rubbish.

##### 4.2.2 - Removal

All trees, snags, logs, brush, stumps, shrubs, large rocks, and rubbish shall be removed from within the construction limits of the Project area. Unless otherwise specified, all stumps, roots, and root clusters having a diameter of one-inch or larger shall be grubbed out.

##### 4.2.3 - Disposal

Unless otherwise specified, all materials removed from the cleared and grubbed areas shall be disposed of at a state-approved disposal facility or other approved site. Stumps shall be removed and properly disposed of by the Contractor.

##### 4.2.4 - Measurement and Payment

For items of Work for which specific lump sum prices are established in the Contract, payment for clearing, final grading and backfill, and grubbing, will be made at the Contract lump sum prices. Such payment shall constitute full compensation for all labor, equipment, tools, and all other items necessary and incidental to completion of the Work.

Compensation for any item of Work described in the Contract but not listed in the Bid Schedule will be considered incidental to the construction of the Project.

##### 4.2.5 - Items of Work and Construction Details

Items of Work to be performed in conformance with this Specification and the construction details therefore are:

#### 4.4.1 - Placing of Embankment/Fill

The earthen embankment/fill shall be placed in six-inch lifts and compacted in accordance with the paving subgrade requirements in the Specifications.

The Contractor will be required to complete all testing as called out in Article 8.2.2 of this Project Manual. It shall be noted that the Engineer will require the tests to be completed at various depths and locations throughout the Project.

#### **4.5 - WATER FOR EMBANKMENT/FILL**

The addition of water may or may not be required to obtain compaction. Water shall be provided by the Contractor. The Contractor must coordinate with the owner any use of city owned and operated water systems and water prior to any usage, and pay any costs for water to the city.

#### **4.6 - AIR QUALITY AND DUST POLLUTION CONTROL**

Dust control and air quality at the property boundary shall meet all federal, state, and local guidelines. The Contractor shall water down the Site to reduce dust, which may cause health or other safety concerns. The Contractor shall be responsible for providing the dust control when needed or at the Engineer's request.

#### **4.7 - ENVIRONMENTAL PROTECTION AND CONTROLS**

The Contractor shall minimize the pollution of air, water, or land; and shall control noise, the disposal of solid waste materials, and protection of deposits of historical or archaeological interest.

The Contractor shall plan and execute earthwork in a manner to minimize duration of exposure of unprotected soils. Erosion and sediment control shall be placed as necessary from rough grading to final paving and landscaping or longer as required. Construction entrances shall be properly rocked to reduce tracking of sediment onto public or private roadways.

Dust control shall include reasonable measures, such as frequent road cleaning, application of water, or application of chemical dust suppressants, to prevent particulate matter from becoming airborne so that it remains visible beyond the limits of construction. The Engineer/Owner will determine the effectiveness of the dust control program and may request the Contractor to provide additional measures at no additional cost to the Owner.

#### **4.8 - SOD**

All grassed areas disturbed by construction shall be re-sodded. Sod shall be a blue grass or other approved mixture by the City.

Areas to receive sod shall be loosened and the final grade set two-inches below walks and drives.

Fertilizer for new sod shall be 18-18-18 mixture or as recommended by the supplier.

ARTICLE 5

P.C. CONCRETE CONSTRUCTION, NDOT 47BD-4000

INDEX

	<u>Page No.</u>
5.0 DESCRIPTION OF THE WORK	1
5.1 EXCAVATION AND EMBANKMENT	1
5.2 SUBGRADE	1
Subgrade Compaction Requirements	1
Testing	2
Finish Grade	2
Protection of Subgrade	2
5.3 GRADING	3
Overexcavation	3
Final Grading	3
5.4 MATERIALS	3
Concrete	3
Portland Cement	3
Air-Entraining Agent	3
Aggregates	3
Water	4
Reinforcing Steel	4
Approval of Concrete Mixes	4
5.5 JOINTS	4
Expansion Joints	4
Contraction Joints or Construction Joints	4
Joint Sealing Compound	5
Metal Supports	5
Materials for Curing Concrete	5
5.6 MIXING AND PLACING	5
Batching	5
Proportioning Concrete	5
Compression Tests	6
Consistency	6
Workability	6
Job-Mixed Concrete	6
Time of Mixing	7
Ready-Mixed Concrete	7
Remixing	7
Measuring of Air Content	7
5.7 FORMS AND EQUIPMENT	7
Forms	7
Setting Forms	7
Grade and Alignment	8
Slip-Form Paving Equipment	8
Cold Weather Concreting	8

		<u>Page No.</u>
5.8	CONSOLIDATING AND FINISHING	8
	Final Surface Finish	8
5.9	CURING	8
	Moist Curing	9
	Liquid Membrane Curing Compound	9

## ARTICLE 5

### P.C. CONCRETE CONSTRUCTION, NDOT 47BD-4000 - (SLAG)

#### 5.0 - DESCRIPTION OF THE WORK

The Work covered by this section of the Project Manual consists of furnishing all labor, equipment, materials, and performing all operations in connection with the excavations, grading, preparation of subgrade, and construction of air-entrained Portland Cement concrete in strict accordance with this section of the Specifications and the applicable Drawings.

#### 5.1 - EXCAVATION AND EMBANKMENT

Excavation and embankment of every description, and of whatever substance encountered within the limits of this Project, shall be performed to the lines and grades indicated on the Drawings, or as directed by the Owner/Engineer. Except as otherwise permitted by the Engineer, all excavated areas shall be excavated in such a manner as would afford adequate drainage. No excavation material shall be considered to be property of the Contractor.

#### 5.2 - SUBGRADE

The bottom of the excavation for the concrete shall be known as the subgrade and shall conform to the grades shown on the Drawings.

All soft and yielding material, and other portions of the subgrade which will not compact readily when rolled or tamped, shall be removed as directed and replaced with suitable materials placed and compacted as specified herein.

The subgrade shall have uniform density and be compacted at, or slightly above, the optimum moisture content. The subgrade shall be thoroughly compacted with suitable equipment. The subgrade shall be finished in an acceptable condition at least one day in advance of the walk construction.

Concrete shall not be placed upon a soft, spongy or frozen subgrade, or other subgrade, the stability of which is, in the opinion of the Engineer, unsuitable for the placement of concrete.

The subgrade shall be in a moist condition at the time any concrete is placed. It shall be thoroughly wetted a sufficient time in advance of the placing of the concrete to insure that there will be no puddles or pockets of mud when the concrete is placed, but shall not be allowed to dry out before the concrete is placed.

Immediately prior to the placing of concrete, the subgrade shall be tested for conformity with the cross section shown on the Drawings, by means of an approved template riding on the side forms, if available. If necessary, material shall be removed or added, as required, to bring all portions of the subgrade to the correct elevations. It shall then be thoroughly compacted and again tested with the template. Concrete shall not be placed on any portion of the subgrade which has not been tested for correct elevation. The subgrade should also be cleared of any loose material which may have fallen upon it.

##### 5.2.1 - Subgrade Compaction Requirements

###### a. Flat Work/Stairs

The subgrade for cohesive soils with more than 10 percent passing the No. 200 sieve shall be compacted to a minimum of 95 percent, and not to exceed a maximum of 98 percent, of the maximum dry density of the standard proctor prior to the placement of any concrete. The maximum dry density and optimum moisture content of the subgrade shall be in accordance with ASTM D698, and in place density tests shall be in accordance with ASTM D2167, D2922, or D4564.

### **5.3 - GRADING**

#### **5.3.1 - Overexcavation**

The Contractor shall overexcavate, scarify, mix, and recompact a minimum of 8-inches below the bottom of the finished slab elevation.

This Work is considered incidental and shall be included in the appropriate Bid item.

#### **5.3.2 - Final Grading**

Contractor shall grade and backfill behind the walk in a neat workmanlike manner. All excess concrete and debris shall be removed from the excavation before backfilling. Material used for backfilling shall be suitable for seeding and shall not contain broken concrete, organic material, etc.

The Contractor shall not move heavy equipment on the new concrete within one week of placement without permission of the Owner/Engineer.

Objects and items removed during construction shall be replaced as part of the final grading.

### **5.4 - MATERIALS**

#### **5.4.1 - Concrete**

Concrete shall be composed of Portland Cement, aggregates, and water, and conform to the NDOT Standard Specifications for Highway Construction, 2017 Edition, Section 1002. Air entrainment shall be provided by the addition of an air-entraining agent to Portland Cement. These materials shall be furnished only from sources of supply approved by the Engineer before shipments are started. The basis for approval of such sources shall be the ability to produce materials of the quality and in the quantity required.

#### **5.4.2 - Portland Cement**

Portland cement shall conform to the requirements for Cement Type 1 or Cement Type I or Cement Type II in accordance with ASTM C150, Specification for Portland Cement including Table 2 (Maximum Equivalent Alkalis requirements only) and Table 3. When using Portland cement Type I or Type II it shall be combined with either Type "F" fly ash conforming to ASTM C618, Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete, unless otherwise pre-approved in writing by the Engineer or with Ground Granulated Blast Furnace Slag conforming to ASTM C989 Standard Specification for Slag Cement for Use in Concrete and Mortars. The maximum fly ash replacement shall be twenty-five percent (25%). The maximum slag cement replacement shall be forty percent (40%).

Blended hydraulic cements, Type IP or Type IS, shall conform to the requirements in accordance with ASTM C595, Standard Specification for Blended Hydraulic Cements. Type IP cement shall have a maximum Type "F" fly as replacement of twenty-five percent (25%). Type IS cement shall have a maximum slag cement replacement of forty percent (40%).

All cements to be used in the City of Crete shall be on the Nebraska Department of Transportation (NDOT) Qualified Product List.

#### **5.4.3 - Air-Entraining Agent**

Air-entraining admixtures shall conform to the requirements of ASTM C260 and NDOT Standard Specifications for Highway Construction, 2017 Edition, Section 1007.

#### **5.4.4 - Aggregates**

All aggregates shall meet the NDOT Standard Specifications for Highway Construction, 2017 Edition, Section 1033. Gradation limits of final aggregate, Class B, shall meet Table 1033.02A; and coarse

### 5.5.3 - Joint Sealing Compound

Sealing material for filling and leveling of all sidewalk expansion joints shall be Sika Corporation, Sikaflex-1C, self leveling, polyurethane elastomeric sealant, or approved equal. The sealant shall meet ASTM C920. The sealant shall dry in a concrete color, or as approved by the Owner and Engineer.

### 5.5.4 - Metal Supports

Metal chairs used to support tie bars or reinforcing bars shall be channel shaped, pressed out of sheet steel of not less than 12-gauge (U.S. STD.) metal, and conforming to details shown on the Drawings. Metal assembly used to support dowel bars shall be so constructed and of such strength that the bars shall be held in true alignment and plane at all times. Brick or concrete pieces will not be allowed as substitutes of metal supports.

### 5.5.5 - Materials for Curing Concrete

Curing compound shall be W.R. Meadows, Inc., Sealtight 1650 curing compound, or approved equal. The compound shall meet NDOT Standard Specifications for Highway Construction, 2017 Edition, Section 1010, ASTM C309, and AASHTO M 148. The Contractor shall use extreme care in placing of curing compound around buildings, signs, etc., and shall remove all excess curing from such locations. No curing compound shall be placed on areas that will have synthetic turf.

## 5.6 - MIXING AND PLACING

### 5.6.1 - Batching

Measurement and batching of cement and aggregates shall be by weight on scales accurate to within one-half of one percent. One sack of cement shall be considered to weigh 94 pounds net. Bulk cement and cement from fractional sacks shall be weighed.

### 5.6.2 - Proportioning Concrete

Proportions of cement, water, and aggregates shall conform to the standard proportions for pavement concrete of the Nebraska Department of Transportation 47BD-4000.

All concrete shall be air-entrained and the volume of air in the freshly mixed concrete shall be obtained by using an air-entraining admixture. For a method of measuring air content see Section 5.6.10. Air-entrained concrete shall have a total air content of 6 to 8-1/2 percent by volume of the plastic concreting, including natural entrained air found in Portland Cement.

#### a. 47BD-4000

The minimum cement and fly ash content shall not be less than six sacks (94 pounds per sack) per cubic yard of concrete. The maximum fly ash content shall be 98 pounds. The maximum size aggregate shall not exceed 1/4 of the slab thickness. The percent coarse aggregate to total aggregate shall be 30 percent, plus or minus 3 percent. The maximum water/cementitious ratio shall be 0.42. The Contractor is responsible to adjust the water/cementitious ratio so that the concrete supplied achieves the required compression strength without exceeding the maximum water/cementitious ratio. Compressive strengths shall be a minimum of 2800 psi at 7 days and 4000 psi at 28 days.

#### b. 47B-3500

The minimum cement and fly ash content shall not be less than six sacks (94 pounds per sack) per cubic yard of concrete. The maximum fly ash content shall be 98 pounds. The maximum size aggregate shall not exceed 1/4 of the slab thickness. The percent coarse aggregate to total aggregate shall be 30 percent, plus or minus 3 percent. The maximum water/cementitious ratio shall be 0.45. The Contractor is responsible to adjust the water/cementitious ratio so that the concrete supplied achieves the required compression

#### 5.6.7 - Time of Mixing

The mixing of each batch shall continue for not less than one minute after all materials, except water, are in the mixer. All mixing water shall be introduced in the drum before 1/4 of the mixing time has elapsed.

The mixer shall rotate at the rate recommended by its manufacturer. The mixer shall be provided with a batch timing device which shall be subject to inspection and adjustment by the Engineer at any time.

#### 5.6.8 - Ready-Mixed Concrete

Ready-mixed concrete shall be mixed and transported in accordance with the current ASTM Specification for Ready-Mixed Concrete (Designation C94). Any concrete which is not plastic and workable without adding water when it reaches the subgrade shall be rejected.

#### 5.6.9 - Remixing

Concrete or mortar that has stiffened but not set may be used after mixing, if it is plastic enough to be compacted in the forms. Water must not be added at time of remixing.

#### 5.6.10 - Measuring of Air Content

The air content of freshly mixed air-entrained concrete shall be checked at least three times daily. Concrete with air contents above or below the amount specified in Section 5.6.2 shall be corrected by adjustments in the mix design or quantities of air-entraining admixture being used.

The air content shall be measured in accordance with NDOT T121 or T152 and ASTM C231 or ASTM C173.

### **5.7 - FORMS AND EQUIPMENT**

#### 5.7.1 - Forms

Forms shall be made of metal or wood and shall have a depth equal to, or greater than, the prescribed edge thickness of the pavement slab. The minimum length of each section of form used shall be 10 feet. Each section of form shall be straight, clean, and free from bends or warps. The maximum deviation of the top surface of any section shall not exceed 1/8 inch, or the inside face not more than 1/4 inch from a straight line. The method of connection between sections shall be such that the joint thus formed shall be free from movement in any direction. Forms shall be of such cross section and strength and so secured as to resist the pressure of the concrete when placed, and the impact and vibration of any equipment which they support, without springing or settlement.

Each 10-foot length of form shall have at least 3 form braces and pin sockets, which shall be spaced at intervals of not more than 5 feet, having the end brace and socket not more than 6 inches from the end of the form, and shall have an adequate locking device. Approved flexible forms shall be used for construction where the radius is 150 feet or less.

#### 5.7.2 - Setting Forms

The subgrade under the forms shall be compacted and cut to grade so that the form, when set, will be uniformly supported for its entire length at the specified elevation. Forms shall be jointed neatly and in such a manner that the joints are free from play or movement in any direction. Forms shall be set, as herein specified, for at least one day's construction ahead of the actual placing of the concrete. The supply of forms shall be sufficient to permit their remaining in place for at least 12 hours after the concrete has been placed. All forms shall be cleaned and oiled each time they are used.

### 5.9.1 - Moist Curing

Moist curing shall be accomplished by covering of burlap, cotton mats, or other approved fabric mat used singly or in combination.

Curing mats shall be thoroughly wet when applied and kept continuously wet and in intimate contact with the pavement surface for the duration of the moist curing period. Other fabric mats shall conform in design and shall provide a curing medium at least equal to cotton mats. Cotton mats, other fabric mats, and burlap strips shall be furnished in the widths or lengths, after shrinkage, required to cover the entire width and edges of the pavement lane. Mats or burlaps shall be lapped at joints between adjacent sheets to prevent drying of this location. Moist curing, when used as initial curing, shall be continued for not less than 24 hours.

### 5.9.2 - Liquid Membrane Curing Compound

Pigmented liquid, non-bituminous membrane curing compound shall meet the Specifications under Section 5.5.5. The curing compound must be applied to cover the surface completely and uniformly at a rate which will achieve the performance requirement specified in AASHTO Specifications M 148, Type 2. The minimum rate of coverage shall be one gallon for 20 square yards. This method of curing shall be applied immediately behind final finishing operation, or after the initial curing, when a combination of methods is used. Failure to provide complete and uniform coverage at the required rate will be cause for discontinuance of this method of curing and the substitution of one of the other approved methods. The compound shall be kept agitated to prevent the pigment from settling. Special care shall be taken to apply the curing compound to the pavement edges immediately after the forms have been removed. Curing compound shall not be allowed to enter or cover any sawed joint. Should this occur, the joint shall be resawed to remove all traces of the compound.

ARTICLE 6  
ALUMINUM HANDRAILS  
INDEX

	<u>Page No.</u>
6.0 GENERAL	1
Summary	1
Definitions	1
References	1
Performance Requirements	1
Submittals	2
Quality Assurance	2
6.1 PRODUCTS	2
Materials	2
Finishes	3
6.2 EXECUTION	3
Installation, General	3
Cleaning	3
Protection	3

**ARTICLE 6**  
**ALUMINUM HANDRAILS**

**6.0 – GENERAL**

6.0.1 – Summary

- a. Section Includes: Aluminum handrail.

6.0.2 – Definitions

- a. Railings: Guards, handrails, and similar devices used for protection of occupants at open-sided floor areas and for pedestrian guidance and support, visual separation, or wall protection.

6.0.3 – References

- a. ANSI/CABO A117.1 – American national Standard for Building and Facilities ; Providing Accessible and Usable Building and Facilities ; Council of American Building Officials.
- b. ASTM B 221 – Standard Specification for Aluminum and Aluminum – Alloy Extruded Bars, Rods, Wire, Shapes, and Tubes.
- c. ASTM E 935 – Standard Test Methods for Performance of Permanent Metal Railing Systems and Rails for Building.
- d. ASTM E 985 – Specification for Permanent Metal Railing and Rails for Buildings.
- e. ASNI Z 07.1 – Glazing Material used in Building Safety Performance Specifications and method of test.
- f. ASTM E 894 – Anchorage of Permanent Metal Railing Systems and Rails for buildings.
- g. Section 1607.7 of 2018 International Building Code (IBC)
- h. AAMA – 2604-13 Voluntary, Performance Requirements and test procedures for high performance organic coatings on aluminum extrusions and panels.
- i. Americans with Disabilities Act Accessibility Guidelines (ADA).
- j. American Society for Testing and Materials (ASTM) E 935 - Standard Test Method for Performance of Permanent Metal Railing Systems and Rails for Buildings.
- k. American Society for Testing and Materials (ASTM) E 985 - Standard Specification for Permanent Metal Railing Systems and Rails for Buildings.
- l. AAMA – 2604-13 Voluntary, Performance Requirements and test procedures for high performance organic coatings on aluminum extrusions and panels.

6.0.4 – Performance Requirements

- a. Structural Requirements:

durability properties of alloy and temper designated below for each aluminum form required.

- a. Extruded Bar and Tube: ASTM B 221 (ASTM B 221 M), alloy 6063-T5/T52
- b. Extruded Structural Pipe and Tube: ASTM B 429, alloy 6063-T832.
- c. Plate and Sheet: ASTM B 209 (ASTM B 209M), alloy 6061-T6.
- d. Die and Hand Forgings: ASTM B247 (ASTM B 247 M), alloy 6061-T6.
- e. Castings: ASTM B 26/B 26M, alloy A356-T6.

b. Physical dimensions of aluminum railing components:

- 1. [As indicated on the Drawings].
- 2. Height: 36"
- 3. Rails: Circular shaped 1-1/2" in diameter.

#### 6.1.2 – Finishes

a. Appearance of Finished Work:

- 1. Variations in appearance of abutting or adjacent units are acceptable if they are within one-half of the range of approved samples. Noticeable variations in the same unit are not acceptable.
- 2. Variations in appearance of other components are acceptable if they are within the range of approved samples and are assembled or installed to minimize contrast.

### 6.2 – EXECUTION

#### 6.2.1 – Installation, General

- a. Install Hand Rail in locations shown in compliance with manufacturer's written instructions. During installation, aluminum components shall be carefully handled and stored to avoid contact with abrasive surfaces. Install components in sequence as recommended by railing manufacturer.

#### 6.2.2 – Cleaning

- a. Remove all traces of dirt and soiled areas.
- b. Clean by washing thoroughly with clean water and soap, rinsing with clean water, and wiping dry.

#### 6.2.3 – Protection

- a. Protect railings from damage during construction period with temporary protective coverings. Remove protective coverings at time of Substantial Completion.
- b. Restore finishes damaged during installation and construction period so no evidence remains of correction work. Return items that cannot be refinished in the field.

ARTICLE 7  
SYNTHETIC TURF  
INDEX

	<u>Page No.</u>
7.0 GENERAL	1
7.1 SYNTHETIC TURF	1
7.2 SPECIFICATIONS	1
7.3 ADHESIVE	1
7.4 INSTALLATION	1

**ARTICLE 7**  
**SYNTHETIC TURF**

**7.0 – GENERAL**

This article covers the furnishing and installation of the synthetic turf for the project. Turf shall be installed per the manufacturers requirements using only materials approved and recommended by the turf manufacturer/supplier

**7.1 – SYNTHETIC TURF**

Synthetic turf shall be similar to Synthetic Turf International systems. The turf is to be installed outdoors over a concrete base. The type of synthetic turf shall be similar to SoftLawn SP-250. Local retailer is Diamond Cut Lawns of Omaha, Nebraska, diamondcutlawns.net, (402) 933-6282, other types of synthetic turf must be approved by the Owner. Samples shall be provided to both Owner and Engineer for any proposed turf substitution.

**7.2 – SPECIFICATIONS**

Synthetic turf shall meet the following requirements:

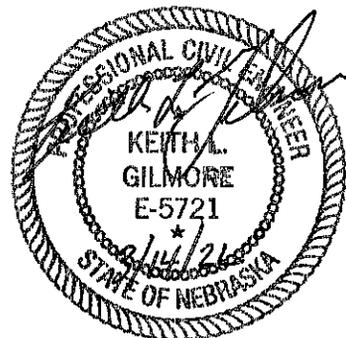
- |                                 |  |
|---------------------------------|--|
| 1. Primary/Stalk Yarn Polymer   | Polyethylene   |
| 2. Secondary/Thach Yarn Polymer | Polypropylene  |
| 3. Yarn Cross Section           | Polyethylene Monofilament/<br>Textured Polypropylene |
| 4. Standard Colors              | Field/Olive & Forest/Olive                           |
| 5. UV Stabilized                | Yes  |
| 6. Fabric Construction          | Tufted   |
| 7. Primary Backing              | Dual Layered Woven Polypropylene                     |
| 8. Coating                      | SilverBack Polyurethane                              |
| 9. Perforations                 | Yes  |
| 10. Infill                      | 2-3 pounds Silica Sand                               |
| 11. Pile Height                 | 1-1/2 inches   |
| 12. Total Weight                | 102 oz   |

**7.3 – ADHESIVE**

Adhesive shall be that recommended by the manufacturer/supplier for the installation on a concrete subbase.

**7.4 – INSTALLATION**

Turf shall be installed per the manufacturer recommendations. Turf is to be installed so as not to provide a tripping hazard. Sub-base shall be recessed per installer requirements to prevent tripping hazard.



# LIBRARY CONCRETE WORK CRETE, NEBRASKA 2022



**BIDDING DOCUMENTS NOTE:**

Complete sets of Bidding Documents as issued by Gilmore and Associates, Inc. or Quilley & Co., must 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, or copies of Bidding Documents obtained in electronic media form, Internet print rooms or other Internet sites, or copies of Bidding Documents obtained from any source other than Gilmore and Associates, Inc.

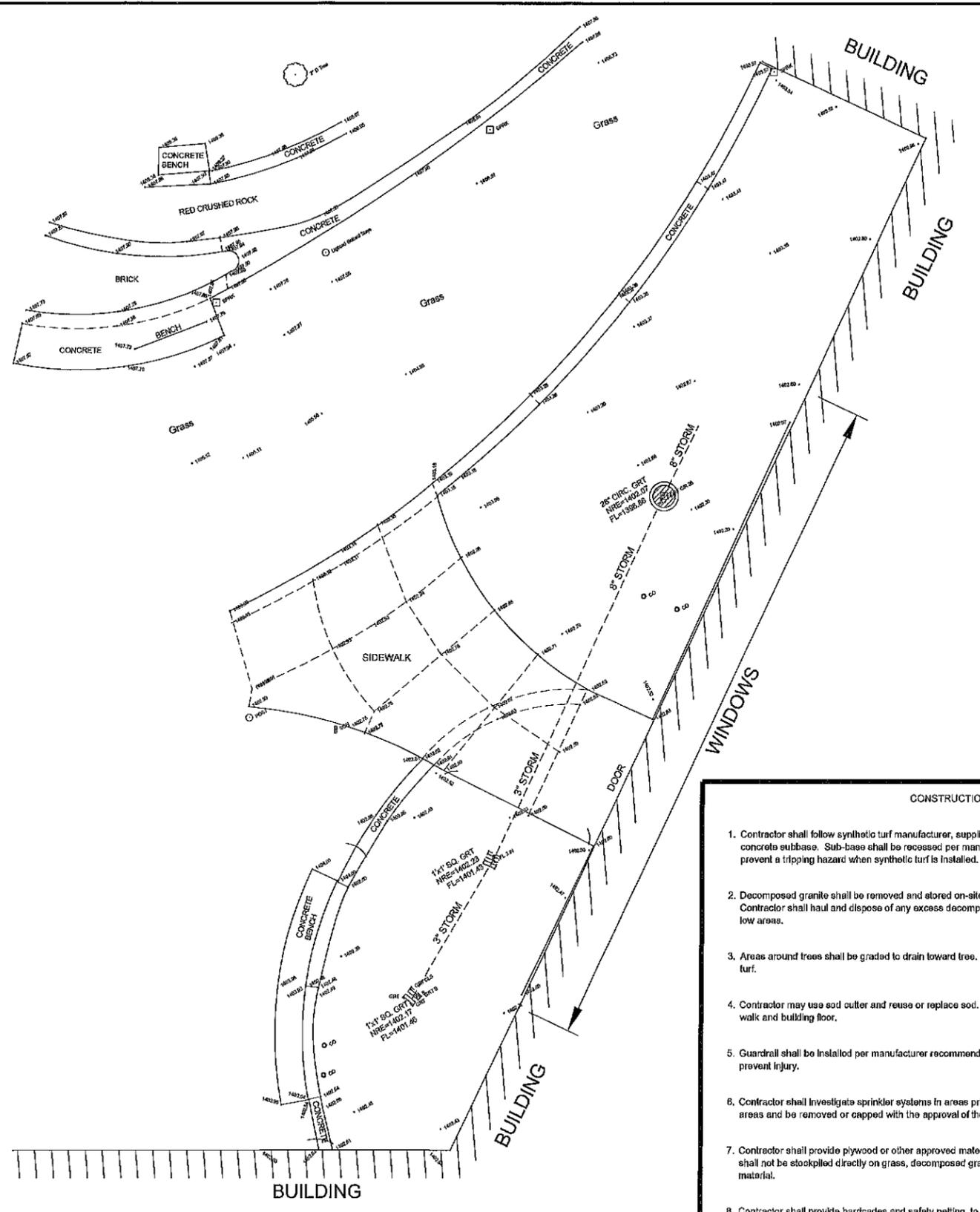


**ENGINEER'S CERTIFICATE**

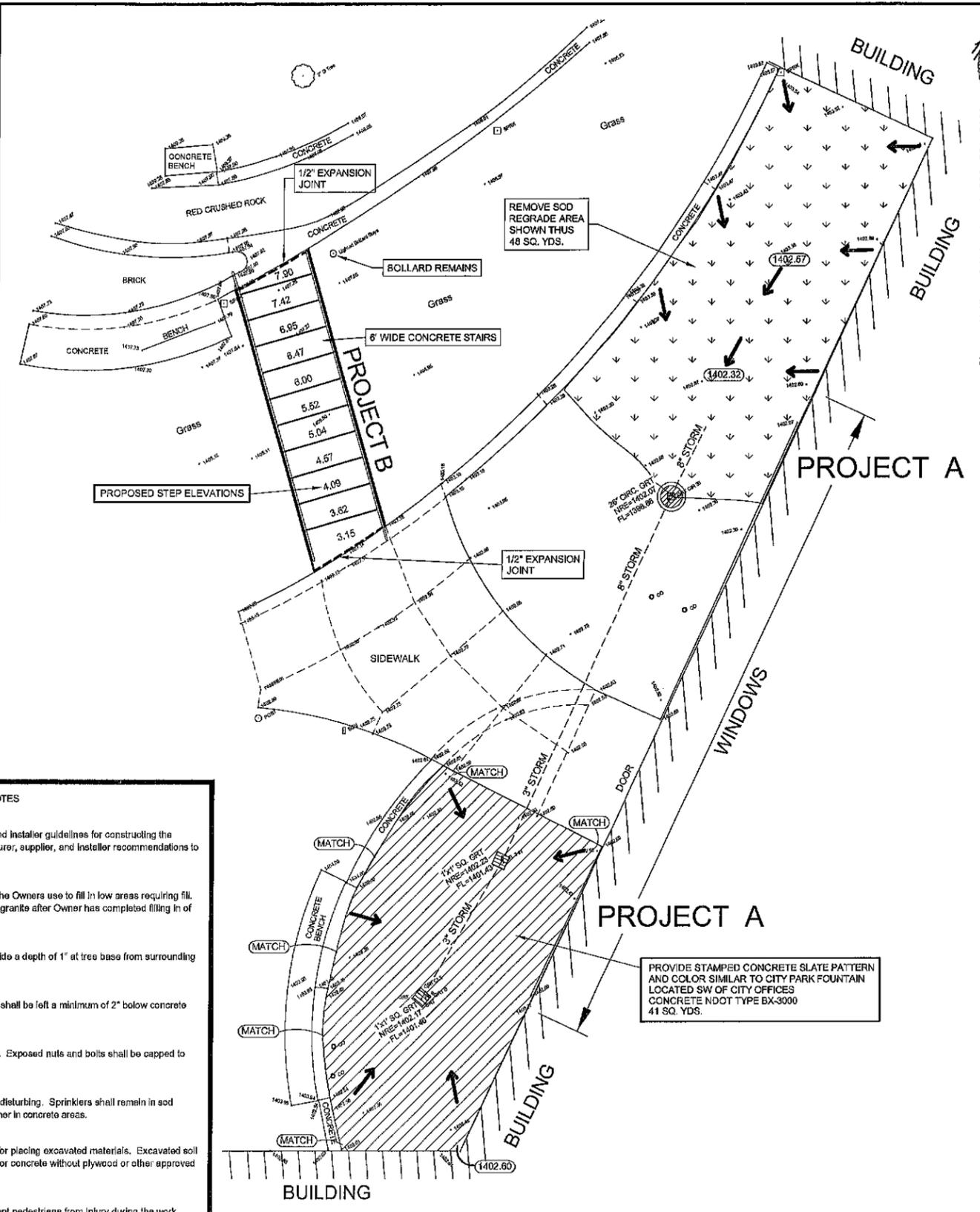
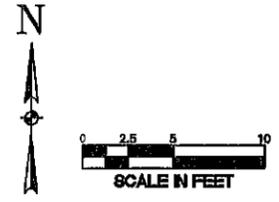
I, Keith L. Gilmore, hereby certify that this document was prepared by me or under my direct supervision, and that I am a duly registered professional engineer under the laws of the State of Nebraska.

*Keith L. Gilmore*  
Keith L. Gilmore, Nebr. PE No. E-5721

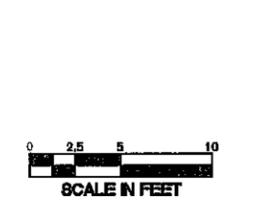
\\SERVER15\Drawings\226350\DRAWINGS\226350.dwg, 1, 3/30/2022 11:16:51 AM, 12



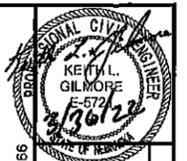
**PROJECTS A & B  
EXISTING SITE**



**PROJECTS A & B  
SITE PLAN**



- CONSTRUCTION NOTES**
1. Contractor shall follow synthetic turf manufacturer, supplier, and installer guidelines for constructing the concrete subbase. Sub-base shall be recessed per manufacturer, supplier, and installer recommendations to prevent a tripping hazard when synthetic turf is installed.
  2. Decomposed granite shall be removed and stored on-site for the Owners use to fill in low areas requiring fill. Contractor shall haul and dispose of any excess decomposed granite after Owner has completed filling in of low areas.
  3. Areas around trees shall be graded to drain toward tree. Provide a depth of 1" at tree base from surrounding turf.
  4. Contractor may use sod outler and reuse or replace sod. Sod shall be left a minimum of 2" below concrete walk and building floor.
  5. Guardrail shall be installed per manufacturer recommendation. Exposed nuts and bolts shall be capped to prevent injury.
  6. Contractor shall investigate sprinkler systems in areas prior to disturbing. Sprinklers shall remain in sod areas and be removed or capped with the approval of the Owner in concrete areas.
  7. Contractor shall provide plywood or other approved materials for placing excavated materials. Excavated soil shall not be stockpiled directly on grass, decomposed granite, or concrete without plywood or other approved material.
  8. Contractor shall provide barricades and safety netting, to prevent pedestrians from injury during the work. Pedestrian control is the responsibility of the Contractor.
  9. Access to the building shall be maintained during construction.
  10. Damages to adjacent walks, patios, lawns, lighting, etc., caused by the Contractor, shall be repaired and restored to the same condition as prior to construction, at the Contractor's expense.
  11. Contractor is to verify utilities in the project area, and prevent damage during the work. Utilities damaged during the course of the construction will be restored to their original condition, or better.
  12. Contractor shall coordinate with the Owner access to the building for scheduled events.



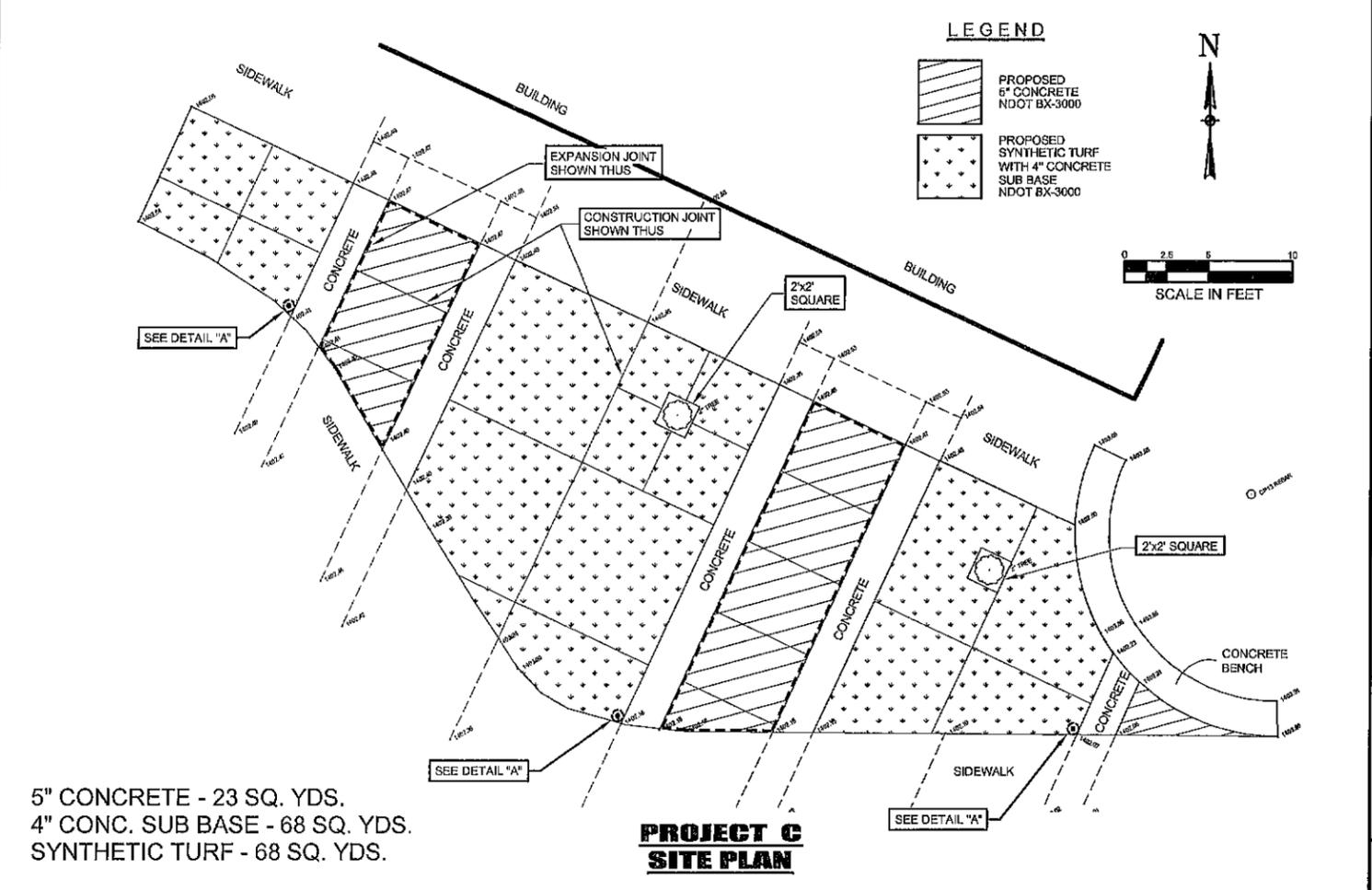
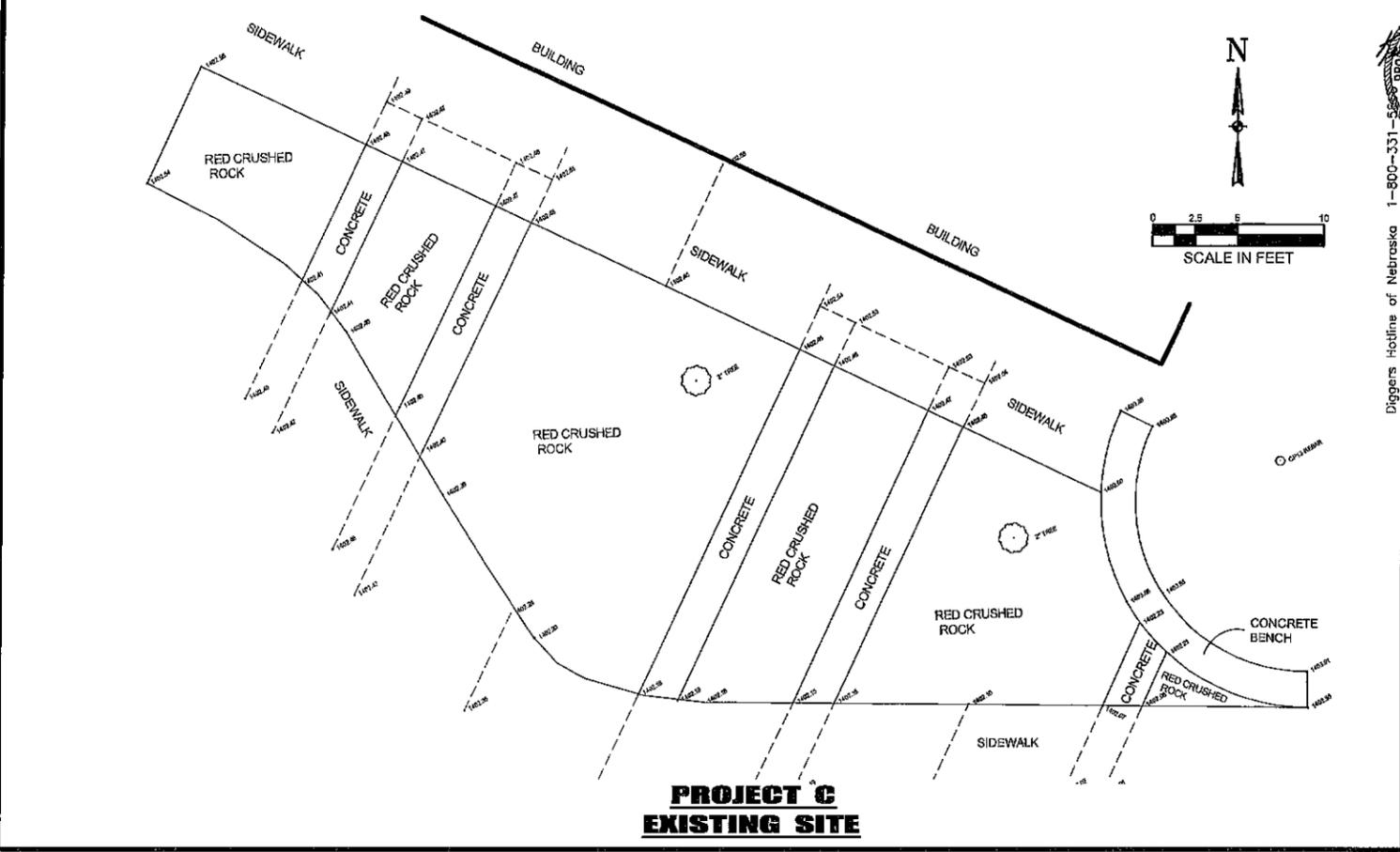
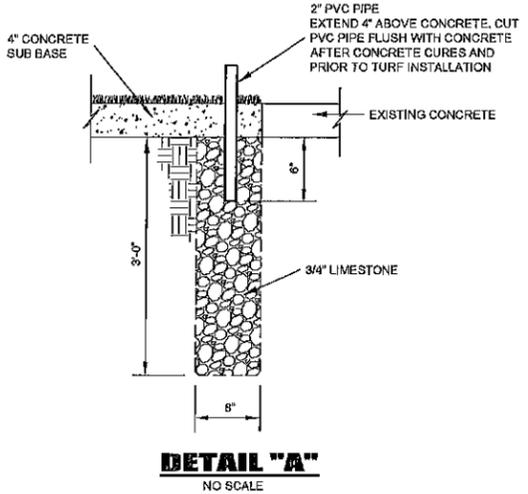
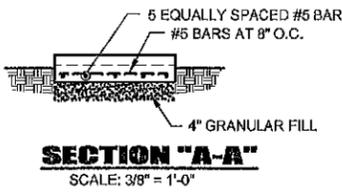
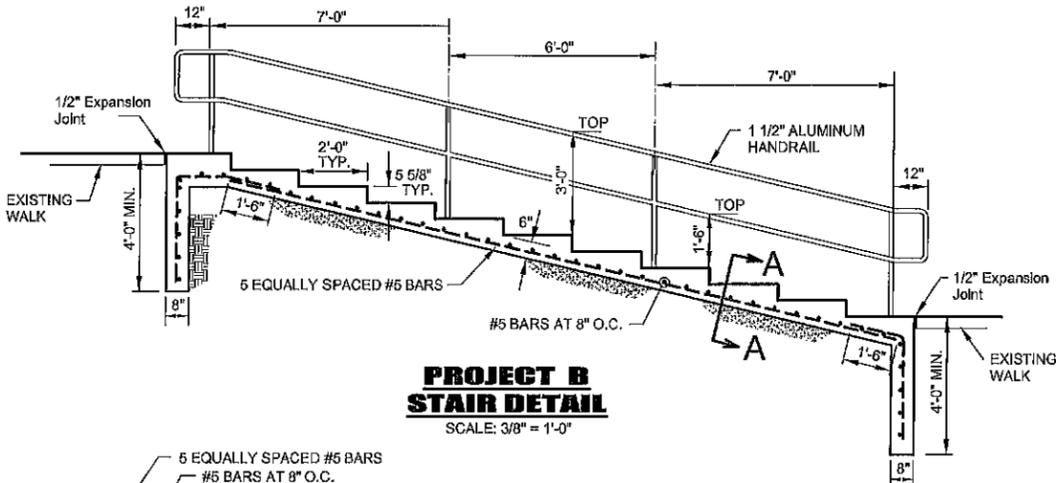
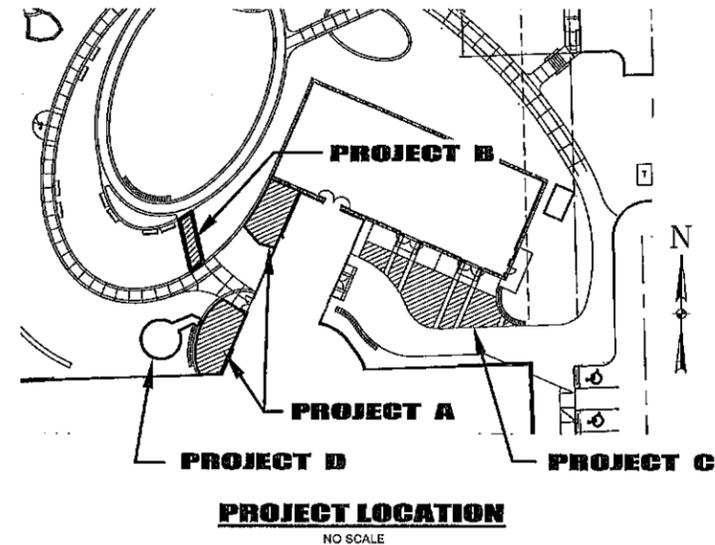
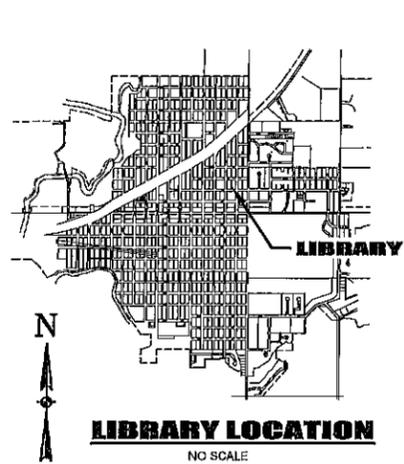
Diggers Hotline of Nebraska 1-800-331-5666

Phone (402) 394-2987  
Fax (402) 394-2987  
E-mail: k.gilmore@gilmoreinc.com  
Web: www.gilmoreinc.com  
Columbus, Nebraska 68602-0285

**GILMORE & ASSOCIATES INC.**  
Engineers - Surveyors

**LIBRARY CONCRETE WORK 2022  
CRETE, NEBRASKA  
PROJECTS A & B**

DRN BY: QRK / RTK  
DATE: 3-11-2022  
SCALE: AS SHOWN  
PROJ.: 226.350  
SHEET: 1 of 3



5" CONCRETE - 23 SQ. YDS.  
 4" CONC. SUB BASE - 68 SQ. YDS.  
 SYNTHETIC TURF - 68 SQ. YDS.



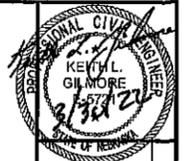
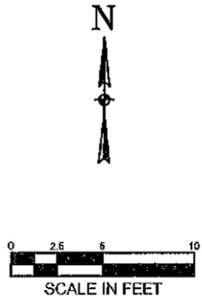
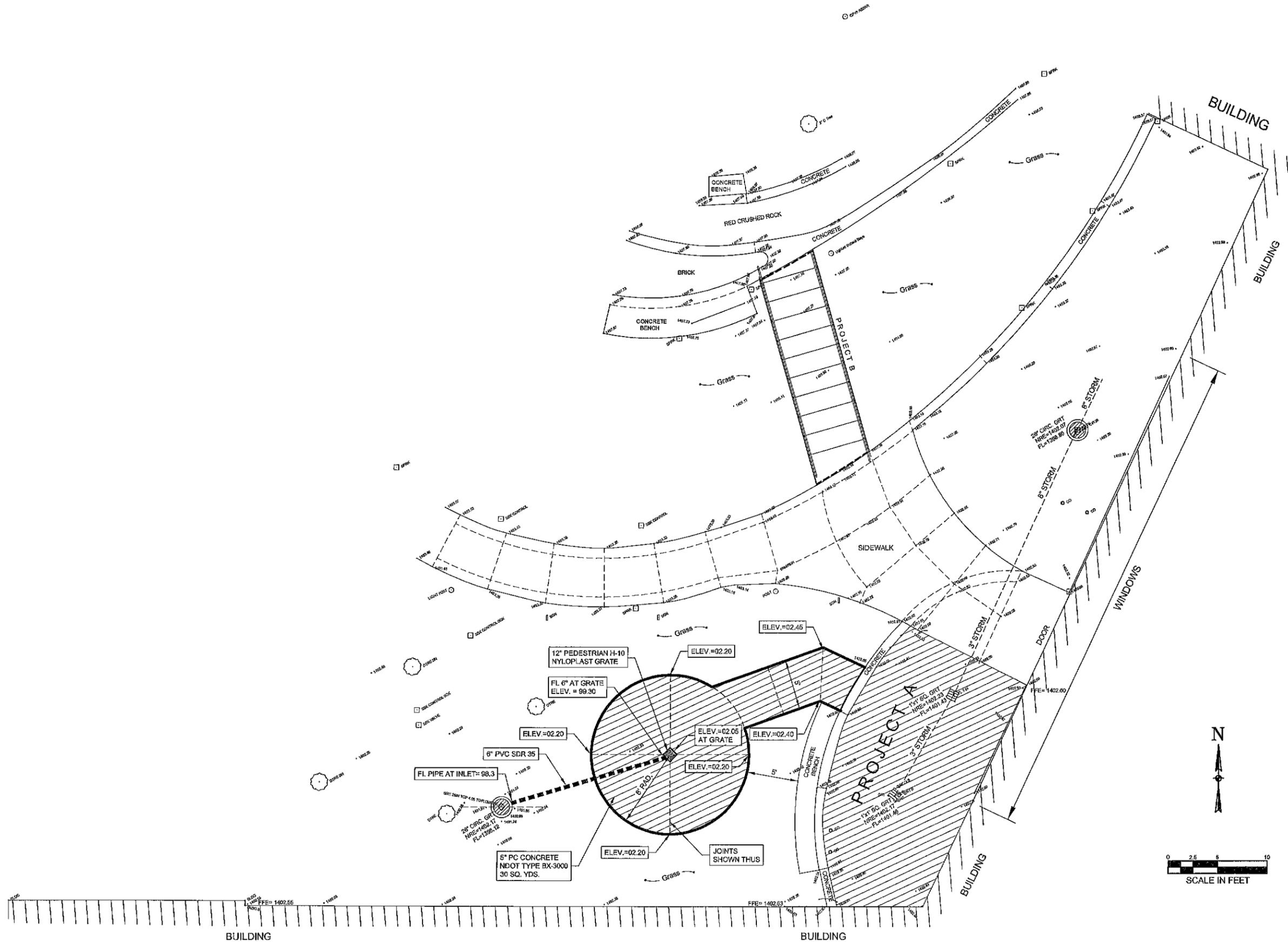
Diggers Hotline of Nebraska 1-800-331-3333  
 Phone (402) 944-3807  
 Fax (402) 944-3807  
 2000 S. 26th Ave., Lincoln, Nebraska 68502-0505

**GILMORE & ASSOCIATES INC.**  
 Engineers - Surveyors

**LIBRARY CONCRETE WORK 2022**  
**CRETE, NEBRASKA**  
**DETAILS AND PROJECT C**

DRN BY: GRK / RTK  
 DATE: 2-23-2022  
 SCALE: AS SHOWN  
 PROJ: 226.350  
 F.B.:  
 SHEET: 2 of 3

\\SERVER15\Drawings\226350A\DRAWING\MUSIC\CIRCLE.dwg, PROJECT D, 3/20/2022 11:18:59 AM, 12



Diggers Hotline of Nebraska 1-800-331-5666

Phone (402) 944-2807  
 Fax (402) 944-2802  
 Email Ken.Gilmore@ga-inc.com  
 Columbus, Nebraska 68402-4385

**GILMORE & ASSOCIATES INC.**  
 Engineers - Surveyors

**LIBRARY CONCRETE WORK 2022  
 CRETE, NEBRASKA  
 PROJECT D**

DRN BY RTK  
 DATE 3/29/2022  
 SCALE AS SHOWN  
 PROJ. 226.350A  
 F.B. -  
 SHEET 3 of 3

March 30, 2022

Ref: 226.350

Honorable Mayor and City Council  
City of Crete  
P.O. Box 86  
243 East 13<sup>th</sup> Street  
Crete, NE 68333-0086

Library Concrete Work 2022 - Crete, Nebraska

Enclosed is a copy of the project manual and drawings regarding the above-referenced project. Prior to advertising for bids, the City Council will need to approve the project manual and drawings as provided and authorize advertising for bids.

It is our recommendation that the advertisement be published at least three weeks prior to the selected bid opening date. You will need to contact our office and inform us of the selected bid date so that we may separately send out advertisements to contractors known to be interested in the work.

In accordance with the Nebraska State Statutes, we are submitting an estimate of cost for this project:

Library Concrete Work	\$40,000
-----------------------	----------

Since this is a statutory requirement, we suggest that at your next meeting, by a vote of the City Council, you approve the estimate specifying or setting out the amount in your minutes.

Respectfully submitted,

Keith L. Gilmore, P.E.  
GILMORE & ASSOCIATES, INC.

KLK:va

Enclosures

pc: Tom Ourada, City Administrator  
Jerry Wilcox, City Clerk/Treasurer

## ADVERTISEMENT FOR BIDS

The City of Crete will receive Bids for the construction of Library Concrete Work 2022 until \_\_\_\_:\_\_\_\_ a.m., \_\_\_\_\_, 2022 at the City Office, 243 East 13th St., Crete, Nebraska, 68333. At that time, all bids will be opened and publicly read aloud.

The construction work contemplated in this project includes the following principal features:

### **A. WEST PROJECT**

Removals, concrete work, grading, sod, and related work.

### **B. STEPS AND RAILS**

Removals, concrete work, hand rails, grading, and related work.

### **C. EAST PROJECT**

Remove decomposed granite and install concrete work, synthetic turf and related work.

### **D. MUSIC PAD**

1. Removals, concrete work, drain grate, drain pipping, grading, and related work.
2. Remove existing sprinklers and install new sprinkler heads, pipping valve and related work.

The Bid shall be an aggregate bid on all Work to be performed, broken down in such a manner as will accurately reflect unit prices for estimated quantities set out herein. Details of construction, materials to be used, and methods of installation for this Project are given in the Drawings and Project Manual. A Contract will be awarded to the low, responsive, responsible Bidder, whose Bid is most advantageous to the Owner, based on the aggregate bid for the Work, construction time schedule, begin and end construction dates, materials, and past performance on contracts with the Owner.

One contract will be awarded for the projects.

Bidding Documents, including Drawings and Project Manual, are on file at City Office, 243 East 13th St., Crete, Nebraska. These documents may be downloaded in electronic portable document format (pdf) for bidding purposes from [QuestCDN](http://www.questcdn.com), at [www.questcdn.com](http://www.questcdn.com), Project # 8145638 for \$15.00. No refund will be issued to the Bidder(s).

Complete sets of Bidding Documents as issued by QuestCDN and/or the Issuing Office must 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 or Bidding Documents obtained from any source other than QuestCDN or the Issuing Office.

Each Bid shall be accompanied in a separate sealed envelope by a certified check drawn on a solvent bank in the State of Nebraska, or Bid Bond in an amount not less than five percent of the total Bid, and shall be made payable to the City of Crete, Nebraska, as security that the Bidder to whom the Contract will be awarded will enter into a Contract to build the improvements in accordance with this notice, and give bond in the sum as hereinafter provided for construction of the improvements. Checks and bonds accompanying Bids not accepted shall be returned to the Bidder in accordance with the terms contained in the Instructions to Bidders.

No Bids shall be withdrawn after the opening of Bids without consent of the City of Crete, Nebraska, for a period of 45 days after the scheduled time of opening Bids.

The Successful Bidder will be required to furnish satisfactory Performance and Payment Bonds in the sum of the full amount of the Contract. Said bonds, to be executed by a responsible corporate surety, shall guarantee: the faithful performance of the Contract; the terms and conditions therein contained; and payment for all labor and materials used in connection with the Work.

The City of Crete, Nebraska, reserves the right to reject any and all bids and to waive any technicalities in bidding.

Dated at Crete, Nebraska, this \_\_\_ day of \_\_\_\_\_ 2022, by order of the Mayor and City Council of Crete, Nebraska.

CITY OF CRETE, NEBRASKA

Dave Bauer, Mayor