

**Parks and Recreation Committee Meeting**  
**Tuesday, September 6, 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 plans, specifications, and cost estimate from Gilmore & Associates for the south drive of the City Park project and set a bid letting date.

**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**

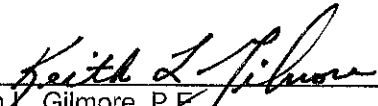
- The Council may enter into closed session to discuss any matter on this agenda when it is determined that a closed session is clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual (if such individual has not requested a public 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).

CITY OFFICE SOUTH DRIVE  
CRETE, NEBRASKA



226.343D

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.

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

1000 ft. 1000 ft.

1000 ft. 1000 ft.

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## ADVERTISEMENT FOR BIDS

The City of Crete will receive Bids for the construction of City Office South Drive until \_\_:00 \_\_.m., \_\_\_\_\_, 2022, at the City Office, P.O. Box 86, 243 East 13<sup>th</sup> Street, Crete, NE 68333-0086. At that time, all bids will be opened and publicly read aloud. The construction work contemplated in this project includes the following principal features:

|                                          |     |          |
|------------------------------------------|-----|----------|
| Remove Concrete Paving                   | 683 | Sq. Yds. |
| Remove Concrete Walk                     | 216 | Sq. Yds. |
| Remove Inlet                             | 1   | Each     |
| Construct 7" PC Concrete Paving          | 838 | Sq. Yds. |
| Construct 5" PC Concrete Walk            | 110 | Sq. Yds. |
| Construct Open Throat Inlet              | 1   | Each     |
| Construct Grate Inlet                    | 1   | Each     |
| Construct Combination Inlet/Junction Box | 1   | Each     |
| Construct 12" Storm Sewer Pipe           | 61  | L.F.     |
| Pavement Marking                         |     | JOB      |
| ADA Detectable Panel                     | 1   | Each     |
| SWPPP and Inlet Protection               |     | JOB      |
| Fill Material (Estimated 120 Cu. Yds.)   |     | JOB      |
| Final Grading/Sod                        |     | JOB      |

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, based on the aggregate bid for the Work, construction time schedule, materials, and past performance on contracts with the Owner.

Bidding Documents, including Drawings and Project Manual, are on file at City Office, 243 East 13<sup>th</sup> Street, Crete, Nebraska. These documents may be down loaded in electronic portable document format (pdf) for bidding purposes from QuestCDN, at [www.questcdn.com](http://www.questcdn.com), Project #8287634 for \$15.00. A hard copy of these documents for bidding purposes may be obtained from the Engineer and Issuing Office, Gilmore & Associates, Inc., P.O. Box 565, Columbus, Nebraska 68602-0565, telephone - (402) 564-2807, upon payment of \$40, none of which will be refunded. No refund will be issued to the Successful 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 60 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 \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2022, by order of the Mayor and City Council of Crete, Nebraska.

CITY OF CRETE, NEBRASKA

Dave Bauer, Mayor

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.

## INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

Prepared By



Endorsed By



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# INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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## ARTICLE 1—DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office*—The office from which the Bidding Documents are to be issued, and which registers plan holders – Gilmore & Associates, Inc. and [www.questcdn.com](http://www.questcdn.com).

## ARTICLE 2—BIDDING DOCUMENTS

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.03 ~~Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.~~
- 2.04 Bidder may register as a plan holder and obtain complete sets of Bidding Documents, in the number and format stated in the Advertisement or invitation to bid, from the Issuing Office. Bidders may rely that sets of Bidding Documents obtained from the Issuing Office are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.
- 2.05 Plan rooms (including construction information subscription services, and electronic and virtual plan rooms) may distribute the Bidding Documents, or make them available for examination. Those prospective bidders that obtain an electronic (digital) copy of the Bidding Documents from a plan room are encouraged to register as plan holders from the Bidding Documents Website or Issuing Office. Owner is not responsible for omissions in Bidding Documents or other documents obtained from plan rooms, or for a Bidder's failure to obtain Addenda from a plan room.
- 2.06 *Electronic Documents*
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.
1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) ~~that is readable by Adobe Acrobat Reader Version or later.~~ It is the intent of the Engineer

and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.06.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

### ARTICLE 3—QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within 7 days of Owner's request, Bidder must submit the following information:

- A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.
- B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
- C. Bidder's state or other contractor license number, if applicable.
- D. Subcontractor and Supplier qualification information.
- E. Other required information regarding qualifications.

3.02 ~~Prospective Bidders must submit required information regarding their qualifications by [insert deadline for prequalification submittals]. Owner will review the submitted information to determine which contractors are qualified to bid on the Work. Owner will issue an Addendum listing those contractors that Owner has determined to be qualified to construct the project. Bids will only be accepted from listed contractors. The information that each prospective Bidder must submit to seek prequalification includes the following:~~

- ~~A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.~~
- ~~B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.~~
- ~~C. Prospective Bidder's state or other contractor license number, if applicable.~~
- ~~D. Subcontractor and Supplier qualification information.~~
- ~~E. Other required information regarding qualifications.~~

- 3.03 ~~Bidder is to submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work:~~
- ~~A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.~~
  - ~~B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.~~
  - ~~C. Bidder's state or other contractor license number, if applicable.~~
  - ~~D. Subcontractor and Supplier qualification information.~~
  - ~~E. Other required information regarding qualifications.~~
- 3.04 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.05 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

#### **ARTICLE 4—PRE-BID CONFERENCE**

- 4.01 A pre-bid conference will not be conducted for this Project.
- 4.02 ~~A non-mandatory pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference; however, attendance at this conference is not required to submit a Bid.~~
- 4.03 ~~A mandatory pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. Proposals will not be accepted from Bidders who do not attend the conference. It is each Bidder's responsibility to sign in at the pre-bid conference to verify its participation. Bidders must sign in using the name of the organization that will be submitting a Bid. A list of qualified Bidders that attended the pre-bid conference and are eligible to submit a Bid for this Project will be issued in an Addendum.~~
- 4.04 ~~Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.~~

#### **ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE**

- 5.01 *Site and Other Areas*
- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any 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.



## 5.02 Existing Site Conditions

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

1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
  - a. ~~Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.~~
  - b. ~~Those drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.~~
  - 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/Geotechnical Data Report: The Bidding Documents contain a Geotechnical Baseline Report (GBR) and Geotechnical Data Report (GDR).~~
  - a. ~~As set forth in the Supplementary Conditions, 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.~~
  - b. ~~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.~~
  - c. 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.
  - d. ~~As set forth in the Supplementary Conditions, the GDR is a Contract Document containing data prepared by or for the Owner in support of the GBR.~~

- B. *Underground Facilities:* Underground Facilities that are known to Engineer are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Other Site-related Documents*

- ~~A. In addition to the documents regarding existing Site conditions referred to in Paragraph 5.02.A, the following other documents relating to conditions at or adjacent to the Site are known to Owner and made available to Bidders for reference:~~

~~1. [List of other Site-related documents].~~

~~Owner will make copies of these other Site-related documents available to any Bidder on request.~~

- ~~B. Owner has not verified the contents of these other Site-related documents, and Bidder may not rely on the accuracy of any data or information in such documents. Bidder is responsible for any interpretation or conclusion Bidder draws from the other Site-related documents.~~

- ~~C. The other Site-related documents are not part of the Contract Documents.~~

- ~~D. Bidders are encouraged to review the other Site-related documents, but Bidders will not be held accountable for any data or information in such documents. The requirement to review and take responsibility for documentary Site information is limited to information in (1) the Contract Documents and (2) the Technical Data.~~

- E. No other Site-related documents are available.

5.04 *Site Visit and Testing by Bidders*

- A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.

- ~~B. A Site visit is scheduled following the pre-bid conference. Maps to the Site will be available at the pre-Bid conference.~~

- ~~C. A Site visit is scheduled for [designate, date, time and location]. Maps to the Site will be made available upon request.~~

- D. Bidders visiting the Site are required to arrange their own transportation to the Site.

- E. All access to the Site other than during a regularly scheduled Site visit must be coordinated through the following Owner or Engineer contact for visiting the Site: **[provide contact information]**. Bidder must conduct the required Site visit during normal working hours.

- F. Bidder is not required to conduct ~~any subsurface testing, or~~ exhaustive investigations of Site conditions.

- G. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns,

or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

- H. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- I. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

**5.05 Owner's Safety Program**

- A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

**5.06 Other Work at the Site**

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

**ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS**

**6.01 Express Representations and Certifications in Bid Form, Agreement**

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

**ARTICLE 7—INTERPRETATIONS AND ADDENDA**

- 7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 7.02 ~~Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing. Contact information and submittal procedures for such questions are as follows:~~
  - ~~A. Submit questions to Keith Gilmore P.E., Gilmore & Associates, Inc. PO Box 565, Columbus, NE, 68602-0565. Telephone Number: (402) 564-2807, E-mail address: keithg@gilmore-engineering.com.~~

- 7.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven days prior to the date for opening of Bids may not be answered.
- 7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

#### **ARTICLE 8—BID SECURITY**

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates and additions) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

#### **ARTICLE 9—CONTRACT TIMES**

- 9.01 ~~The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.~~
- 9.02 Bidder must set forth in the Bid the time by which Bidder must achieve Substantial Completion, subject to the restrictions established in Paragraph 13.07 of these Instructions. The Owner will take Bidder's time commitment regarding Substantial Completion 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 within the time such Bidder has designated in the Bid. Bidder must also set forth in the Bid its commitments regarding the achievement of Milestones and readiness for final payment. 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.

- 9.03 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 10—SUBSTITUTE AND “OR EQUAL” ITEMS

- 10.01 ~~The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or “or-equal” items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or “or-equal” item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.~~

- 10.02 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 within 10 days of the issuance of the Advertisement for Bids or invitation to Bidders. Each such request must comply with the requirements of Paragraphs 7.05 and 7.06 of the General Conditions, and the review of the request will be governed by the principles in those paragraphs. 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 registered Bidders. Bidders cannot 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 Contractor after the Effective Date of the Agreement and consideration by Engineer is set forth in SC-7.05 and SC-7.06 of the Supplementary Conditions.

- 10.03 All prices that Bidder sets forth in its Bid will 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.

#### **ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

- 11.01 ~~A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.~~
- 11.02 ~~The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed for the following portions of the Work within five days after Bid opening:~~
- 11.03 If required by the Bid Documents, the apparent successful bidder, and any other Bidder so requested, shall within 5 days after Bid opening, submit to Owner a list of the Subcontractors, individuals, entities, or Suppliers proposed for the Work If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 11.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.

#### **ARTICLE 12—PREPARATION OF BID**

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
- B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the

Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

- 12.03 A Bid by a corporation must 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 must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must 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 official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder's name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.
- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

#### **ARTICLE 13—BASIS OF BID**

##### **13.01 *Lump-Sum***

~~A.—Bidders must submit a Bid on a lump sum basis as set forth in the Bid Form.~~

##### **13.02 *Base Bid with Alternates***

~~A.—Bidders must submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.~~

~~B.—In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form.~~

### 13.03 *Sectional Bids*

- A. ~~Bidders may submit a Bid on any individual section or any combination of sections, as set forth in the Bid Form.~~
- B. ~~Submission of a Bid on any section signifies Bidder's willingness to enter into a Contract for that section alone at the price offered.~~
- C. ~~If Bidder submits Bids on individual sections and a Bid based on a combination of those sections, such combined Bid need not be the sum of the Bids on the individual sections.~~
- D. ~~Bidders offering a Bid on one or more sections must be capable of completing the Work covered by those sections within the time period stated in the Agreement.~~

### 13.04 *Cost-Plus-Fee Bids*

- A. ~~Bidders must submit a Bid on the Contractor's fee, which must be in addition to compensation for Cost of the Work. Such fee must be either (1) a fixed fee, (2) percentages of specified categories of costs, or (3) a percentage applicable to the Cost of the Work as a whole, as set forth in the Bid Form.~~
- B. ~~If the Contractor's fee, as set forth in the Bid Form, is to be based on percentages of categories of cost, or on a percentage applicable to the Cost of the Work as a whole, then Bidders must enter a maximum amount limiting the total fee if required by the Bid Form to do so.~~
- C. ~~Bidders must submit a Bid on the Guaranteed Maximum Price, setting a maximum amount on the compensable Cost of the Work plus Contractor's fee, if required by the Bid Form to do so.~~

### 13.05 *Unit Price*

- A. Bidders must 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.

### 13.06 *Allowances*

- A. ~~For cash allowances the Bid price must 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.~~



### 13.07 ~~Price-Plus-Time Bids~~

- ~~A. The Owner will consider the time of Substantial Completion commitment made by the Bidder in the comparison of Bids.~~
- ~~B. Bidder must designate the number of days required to achieve Substantial Completion of the Work and enter that number in the Bid Form as the total number of calendar days to substantially complete the Work.~~
- ~~C. The total number of calendar days for Substantial Completion designated by Bidder must be less than or equal to a maximum of [number], but not less than the minimum of [number]. If Bidder purports to designate a time for Substantial Completion that is less than the allowed minimum, or greater than the allowed maximum, Owner will reject the Bid as nonresponsive.~~
- ~~D. The Agreement as executed will contain the Substantial Completion time designated in Successful Bidder's Bid, and the Contractor will be assessed liquidated damages at the rate stated in the Agreement for failure to attain Substantial Completion within that time.~~
- ~~E. Bidder must also designate the time in which it will achieve Milestones, and achieve readiness for final payment. Such time commitments must be consistent with the "Time of Substantial Completion" to which Bidder commits. The Agreement as executed will contain, as binding Contract Times, Successful Bidder's time commitments regarding Milestones, as applicable, and readiness for final payment.~~

## ARTICLE 14—SUBMITTAL OF BID

- 14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

## ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted

prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.

- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 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, the Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

#### **ARTICLE 16—OPENING OF BIDS**

- 16.01 ~~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.~~
- 16.02 Bids will be opened privately.

#### **ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

- 17.01 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 18—EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.03 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, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 18.05 *Evaluation of Bids*
  - A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, additions, substitutions, 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.
  - ~~B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, Owner will announce~~

~~to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.~~

- ~~C. For determination of the apparent low Bidder(s) when sectional bids are submitted, Bids will be compared on the basis of the aggregate of the Bids for separate sections and the Bids for combined sections that result in the lowest total amount for all of the Work.~~
- ~~D. 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.~~
- ~~E. For the determination of the apparent low Bidder when cost-plus-fee bids are submitted, Bids will be compared on the basis of the Guaranteed Maximum Price set forth by Bidder on the Bid Form.~~
- ~~F. 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.~~
  - ~~1. The method for calculating the lowest bid for comparison will be the summation of the Bid price shown in the Bid Form plus the product of the Bidder-specified time of Substantial Completion in calendar days times the rate for liquidated damages [or other Owner-designated daily rate] in dollars per day.~~
  - ~~2. This procedure is only used to determine the lowest bid for comparison and contractor selection purposes. The Contract Price for compensation and payment purposes remains the Bid price shown in the Bid Form.~~

18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

## **ARTICLE 19—BONDS AND INSURANCE**

19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any),

and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.

- 19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

#### **ARTICLE 20—SIGNING OF AGREEMENT**

- 20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions and as may be modified in the Supplementary Conditions.

#### **ARTICLE 21—SALES AND USE TAXES**

- 21.01 Owner is not exempt from Nebraska state sales and use taxes on materials and equipment to be incorporated in the Work. Said taxes must be included in the Bid. Refer to Paragraph SC-7.10 of the Supplementary Conditions for additional information.

#### **ARTICLE 22—CONTRACTS TO BE ASSIGNED**

#### **ARTICLE 23 – RETAINAGE**

- 23.01 The amount of retainage on pay requests to be withheld shall be ten (10) percent and shall be in accordance with the Construction Prompt Payment Act.

#### **ARTICLE 24 – EMPLOYMENT UNDER PUBLIC CONTRACTS, LB 403, APPROVED BY THE GOVERNOR APRIL 8, 2009**

- 24.01 The following language is required and will be included in all Contracts made with Contractors and is a pass through requirement for his or her Subcontractors.

“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:

- a. 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);

- b. 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; and
- c. 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."

BID

\_\_\_\_\_, 2022

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: City Office South Drive  
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

##### **CITY OFFICE SOUTH DRIVE**

| Item No. | Description                              | Estimated Quantity | Unit Price | Total Price |
|----------|------------------------------------------|--------------------|------------|-------------|
| 1.       | Remove Concrete Paving                   | 683 Sq. Yds.       | \$ _____   | \$ _____    |
| 2.       | Remove Concrete Walk                     | 216 Sq. Yds.       | _____      | _____       |
| 3.       | Remove Inlet                             | 1 Each             | _____      | _____       |
| 4.       | Construct 7" PC Concrete Paving          | 838 Sq. Yds.       | _____      | _____       |
| 5.       | Construct 5" PC Concrete Walk            | 110 Sq. Yds.       | _____      | _____       |
| 6.       | Construct Open Throat Inlet              | 1 Each             | _____      | _____       |
| 7.       | Construct Grate Inlet                    | 1 Each             | _____      | _____       |
| 8.       | Construct Combination Inlet/Junction Box | 1 Each             | _____      | _____       |
| 9.       | Construct 12" Storm Sewer Pipe           | 61 L.F.            | _____      | _____       |
| 10.      | Pavement Marking                         | 1 JOB              | LUMP SUM   | _____       |

**CITY OFFICE SOUTH DRIVE - CONT'D**

| Item No. | Description                            | Estimated Quantity | Unit Price | Total Price |
|----------|----------------------------------------|--------------------|------------|-------------|
| 11.      | ADA Detectable Panel                   | 1 Each             | \$ _____   | \$ _____    |
| 12.      | SWPPP and Inlet Protection             | 1 JOB              | LUMP SUM   | _____       |
| 13.      | Fill Material (Estimated 120 Cu. Yds.) | 1 JOB              | LUMP SUM   | _____       |
| 14.      | Final Grading/Sod                      | 1 JOB              | LUMP SUM   | _____       |

TOTAL AGGREGATE BASE BID, CITY OFFICE SOUTH DRIVE, Item Nos. 1 through 14, inclusive:

DOLLARS (\$) )

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 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.)

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.

## BID BOND (PENAL SUM FORM)

Prepared By



Endorsed By



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## BID BOND (PENAL SUM FORM)

|                                                                                                                                                                                                               |                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Bidder</b><br>Name: _____<br>Address <i>(principal place of business)</i> : _____                                                                                                                          | <b>Surety</b><br>Name: _____<br>Address <i>(principal place of business)</i> : _____                                                                      |
| <b>Owner</b><br>Name: City of Crete<br>Address <i>(principal place of business)</i> :<br>PO Box 86<br>Crete, NE 68333-0086                                                                                    | <b>Bid</b><br>Project <i>(name and location)</i> : City Office South Drive<br>305 E 13 <sup>th</sup> Street<br>Crete, NE 68333<br><br>Bid Due Date: _____ |
| <b>Bond</b><br>Penal Sum: _____<br>Date of Bond: _____                                                                                                                                                        |                                                                                                                                                           |
| Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative. |                                                                                                                                                           |
| Bidder                                                                                                                                                                                                        | Surety                                                                                                                                                    |
| _____<br><i>(Full formal name of Bidder)</i>                                                                                                                                                                  | _____<br><i>(Full formal name of Surety) (corporate seal)</i>                                                                                             |
| By: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                        | By: _____<br><div style="text-align: center;"><i>(Signature) (Attach Power of Attorney)</i></div>                                                         |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                               | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                           |
| Title: _____                                                                                                                                                                                                  | Title: _____                                                                                                                                              |
| Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                    | Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                               | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                           |
| Title: _____                                                                                                                                                                                                  | Title: _____                                                                                                                                              |
| Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.                                             |                                                                                                                                                           |

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
  - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2. All Bids are rejected by Owner, or
  - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

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.

## NOTICE OF AWARD

Prepared By



Endorsed By





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## NOTICE OF AWARD

Date of Issuance:

Owner: City of Crete

Owner's Project No.: NA

Engineer: Gilmore & Associates, Inc.

Engineer's Project No.: 226.343D

Project: City Office South Drive – Crete, Nebraska

Contract Name: City Office South Drive – Crete, Nebraska

Bidder:

Bidder's Address:

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

City Office South Drive  
Crete, Nebraska

The Contract Price of the awarded Contract is \$ \_\_\_\_\_. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

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

4 sets of 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 receipt of this Notice of Award:

1. Deliver to Owner 3 counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):
4. 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 10 days after you comply with the above conditions, Owner will return to you one fully signed 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

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: Owner \_\_\_\_\_

Copy: Engineer

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.

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

Prepared By



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

This Agreement is by and between the City of Crete, Nebraska ("Owner") and \_\_\_\_\_  
("Contractor").

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

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:

City Office South Drive  
Crete, Nebraska

## **ARTICLE 2—THE PROJECT**

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

City Office South Drive  
Crete, Nebraska

## **ARTICLE 3—ENGINEER**

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

## **ARTICLE 4—CONTRACT TIMES**

- 4.01 *Time is 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, and final completion and readiness for final payment as indicated by the Contractor in the Bid and incorporated herein:*
- A. The Work will be substantially complete on or before \_\_\_\_\_, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before \_\_\_\_\_.

#### 4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$100.00 for each day that expires after such time until the Work is completed and ready for final payment.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

#### 4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

### 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 \$[number].~~

~~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) \$[number].~~

- 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 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 Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with the

Contract. The amount of retainage on pay requests to be withheld shall be in accordance with the Construction Prompt Payment Act.

- a. 90 percent of the value of the Work completed (with the balance being retainage).
  - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 125 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

#### 6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, as provided in said Paragraph 15.06.

#### 6.04 *Consent of Surety*

A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

#### ~~6.05—Interest~~

~~A. All amounts not paid when due will bear interest at the rate of [number] percent per annum.~~

### ARTICLE 7—CONTRACT DOCUMENTS

#### 7.01 *Contents*

- A. The Contract Documents consist of all of the following:
  - 1. This Agreement.
  - 2. Bonds:
    - a. Performance bond (together with power of attorney).
    - b. Payment bond (together with power of attorney).
  - 3. General Conditions.
  - 4. Supplementary Conditions.
  - 5. Specifications as listed in the table of contents of the project manual ~~(copy of list attached).~~



6. Drawings (not attached but incorporated by reference) consisting of a cover sheet and sheets numbered 1 through 7, inclusive sheets with each sheet bearing the following general title: City Office South Drive – Crete, Nebraska
7. Addenda (numbers \_\_\_\_ to \_\_\_\_, inclusive).
8. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid (pages 1 to 6 inclusive)
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Change Orders.
  - d. Field Orders.
  - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## **ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

### **8.01 Contractor's Representations**

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
  1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
  2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Contractor has 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 Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. 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.
8. 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.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. 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.

#### 8.02 *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 8.02:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), 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.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

Owner:

CITY OF CRETE, NEBRASKA

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title: Owner

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

\_\_\_\_\_  
\_\_\_\_\_

Phone:

Email:

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

\_\_\_\_\_  
\_\_\_\_\_

Phone:

Email:

License No.:

(where applicable)

State:

\_\_\_\_\_  
\_\_\_\_\_

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.

## PERFORMANCE BOND

Prepared By



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## PERFORMANCE BOND

|                                                                                                                                                                                                                                                    |                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contractor</b><br>Name: _____<br>Address (principal place of business): _____<br><br>                                                                                                                                                           | <b>Surety</b><br>Name: _____<br>Address (principal place of business): _____<br><br>                                                                                                                       |
| <b>Owner</b><br>Name: City of Crete<br>Mailing address (principal place of business):<br>PO Box 86<br>Crete, Nebraska 68333                                                                                                                        | <b>Contract</b><br>Description (name and location):<br>City Office South Drive<br>305 E 13 <sup>th</sup> Street<br>Crete, Nebraska 68333<br><br>Contract Price: _____<br>Effective Date of Contract: _____ |
| <b>Bond</b><br>Bond Amount: _____<br>Date of Bond: _____<br><i>(Date of Bond cannot be earlier than Effective Date of Contract)</i><br>Modifications to this Bond form:<br><input type="checkbox"/> None <input type="checkbox"/> See Paragraph 16 |                                                                                                                                                                                                            |
| Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.                  |                                                                                                                                                                                                            |
| Contractor as Principal                                                                                                                                                                                                                            | Surety                                                                                                                                                                                                     |
| <i>(Full formal name of Contractor)</i>                                                                                                                                                                                                            | <i>(Full formal name of Surety) (corporate seal)</i>                                                                                                                                                       |
| By: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                                                             | By: _____<br><div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>                                                                                                           |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                                                                    | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                            |
| Title: _____                                                                                                                                                                                                                                       | Title: _____                                                                                                                                                                                               |
| Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                                                         | Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                 |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                                                                    | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                            |
| Title: _____                                                                                                                                                                                                                                       | Title: _____                                                                                                                                                                                               |
| <i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>                                |                                                                                                                                                                                                            |

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
  - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
  - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
  - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
  - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
  - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
  - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:



- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
  - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- 6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
- 7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
  - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
  - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
  - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- 8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
- 9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
- 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
- 11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within 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 will be applicable.
- 12. Notice to the Surety, the Owner, or the Contractor must 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 will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will 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 will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: **[Describe modification or enter "None"]**

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## PAYMENT BOND

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## PAYMENT BOND

|                                                                                                                                                                                                                                                    |                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contractor</b><br>Name: _____<br>Address (principal place of business): _____<br><br>                                                                                                                                                           | <b>Surety</b><br>Name: _____<br>Address (principal place of business): _____<br><br>                                                                                                                   |
| <b>Owner</b><br>Name: City of Crete<br>Mailing address (principal place of business):<br>PO Box 86<br>Crete, Nebraska 68333                                                                                                                        | <b>Contract</b><br>Description (name and location):<br>City Office South Drive<br>305 E 13 <sup>th</sup> Street<br>Crete, Nebraska 68333<br>Contract Price: _____<br>Effective Date of Contract: _____ |
| <b>Bond</b><br>Bond Amount: _____<br>Date of Bond: _____<br><i>(Date of Bond cannot be earlier than Effective Date of Contract)</i><br>Modifications to this Bond form:<br><input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18 |                                                                                                                                                                                                        |
| Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.                          |                                                                                                                                                                                                        |
| <b>Contractor as Principal</b>                                                                                                                                                                                                                     | <b>Surety</b>                                                                                                                                                                                          |
| <i>(Full formal name of Contractor)</i>                                                                                                                                                                                                            | <i>(Full formal name of Surety) (corporate seal)</i>                                                                                                                                                   |
| By: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                                                             | By: _____<br><div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>                                                                                                       |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                                                                    | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                        |
| Title: _____                                                                                                                                                                                                                                       | Title: _____                                                                                                                                                                                           |
| Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                                                                         | Attest: _____<br><div style="text-align: center;"><i>(Signature)</i></div>                                                                                                                             |
| Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                                                                    | Name: _____<br><div style="text-align: center;"><i>(Printed or typed)</i></div>                                                                                                                        |
| Title: _____                                                                                                                                                                                                                                       | Title: _____                                                                                                                                                                                           |
| <i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>                                |                                                                                                                                                                                                        |

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
  - 5.1. Claimants who do not have a direct contract with the Contractor
    - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
    - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
  - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
  - 7.2. Pay or arrange for payment of any undisputed amounts.
  - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will 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 will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will 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:
    - 16.1.1. The name of the Claimant;
    - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
    - 16.1.3. 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;
    - 16.1.4. A brief description of the labor, materials, or equipment furnished;

- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
  - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
  - 16.1.7. The total amount of previous payments received by the Claimant; and
  - 16.1.8. 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 is 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 will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: **[Describe modification or enter "None"]**



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## NOTICE TO PROCEED

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## NOTICE TO PROCEED

Owner: City of Crete, Nebraska Owner's Project No.: NA  
Engineer: Gilmore & Associates, Inc. Engineer's Project No.: 226.343D  
Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
Project: City Office South Drive – Crete, Nebraska  
Contract Name: City Office South Drive – Crete, Nebraska  
Effective Date of Contract: \_\_\_\_\_

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

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement:

The date by which Substantial Completion must be achieved is \_\_\_\_\_, and  
the date by which readiness for final payment must be achieved is \_\_\_\_\_.

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

**[Note any access limitations, security procedures, or other restrictions]**

Owner: CITY OF CRETE, NEBRASKA  
By (signature): \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Title: Owner  
Date Issued: \_\_\_\_\_  
Copy: Engineer

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## CHANGE ORDER

Prepared By



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EJCDC® C-941, Change Order.

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**CHANGE ORDER NO.: [Number of Change Order]**

|                |                                           |                                 |          |
|----------------|-------------------------------------------|---------------------------------|----------|
| Owner:         | City of Crete, Nebraska                   | Owner's Project No.:            |          |
| Engineer:      | Gilmore & Associates, Inc.                | Engineer's Project No.:         | 226.343D |
| Contractor:    |                                           | Contractor's Project No.:       |          |
| Project:       | City Office South Drive – Crete, Nebraska |                                 |          |
| Contract Name: | City Office South Drive – Crete, Nebraska |                                 |          |
| Date Issued:   |                                           | Effective Date of Change Order: |          |

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

Description:

Attachments:

| <b>Change in Contract Price</b>                                                                                                         | <b>Change in Contract Times<br/>[State Contract Times as either a specific date or a number of days]</b>                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original Contract Price:<br>\$ _____                                                                                                    | Original Contract Times:<br>Substantial Completion: _____<br>Ready for final payment: _____                                                                                                   |
| <b>[Increase] [Decrease]</b> from previously approved Change Orders No. 1 to No. <b>[Number of previous Change Order]</b> :<br>\$ _____ | <b>[Increase] [Decrease]</b> from previously approved Change Orders No.1 to No. <b>[Number of previous Change Order]</b> :<br>Substantial Completion: _____<br>Ready for final payment: _____ |
| Contract Price prior to this Change Order:<br>\$ _____                                                                                  | Contract Times prior to this Change Order:<br>Substantial Completion: _____<br>Ready for final payment: _____                                                                                 |
| <b>[Increase] [Decrease]</b> this Change Order:<br>\$ _____                                                                             | <b>[Increase] [Decrease]</b> this Change Order:<br>Substantial Completion: _____<br>Ready for final payment: _____                                                                            |
| Contract Price incorporating this Change Order:<br>\$ _____                                                                             | Contract Times with all approved Change Orders:<br>Substantial Completion: _____<br>Ready for final payment: _____                                                                            |

|                                              |       |                                                   |       |
|----------------------------------------------|-------|---------------------------------------------------|-------|
| <b>Recommended by Engineer (if required)</b> |       | <b>Accepted by Contractor</b>                     |       |
| By: _____                                    | _____ | _____                                             | _____ |
| Title: _____                                 | _____ | _____                                             | _____ |
| Date: _____                                  | _____ | _____                                             | _____ |
| <b>Authorized by Owner</b>                   |       | <b>Approved by Funding Agency (if applicable)</b> |       |
| By: _____                                    | _____ | _____                                             | _____ |
| Title: _____                                 | _____ | _____                                             | _____ |
| Date: _____                                  | _____ | _____                                             | _____ |

|                    |                                           |                                  |          |
|--------------------|-------------------------------------------|----------------------------------|----------|
| <b>Owner:</b>      | City of Crete, Nebraska                   | <b>Owner's Project No.:</b>      |          |
| <b>Engineer:</b>   | Gilmore & Associates, Inc.                | <b>Engineer's Project No.:</b>   | 226.343D |
| <b>Contractor:</b> |                                           | <b>Contractor's Project No.:</b> |          |
| <b>Project:</b>    | City Office South Drive - Crete, Nebraska |                                  |          |
| <b>Contract:</b>   | City Office South Drive - Crete, Nebraska |                                  |          |

Application No.: \_\_\_\_\_ Application Date: \_\_\_\_\_  
Application Period: From \_\_\_\_\_ to \_\_\_\_\_

|                                                                                                                        |    |   |
|------------------------------------------------------------------------------------------------------------------------|----|---|
| 1. Original Contract Price                                                                                             |    |   |
| 2. Net change by Change Orders                                                                                         | \$ | - |
| 3. Current Contract Price (Line 1 + Line 2)                                                                            | \$ | - |
| 4. Total Work completed and materials stored to date<br>(Sum of Column G Lump Sum Total and Column J Unit Price Total) | \$ | - |
| 5. Retainage                                                                                                           |    |   |
| a. 10% X \$ - Work Completed =                                                                                         | \$ | - |
| b. X \$ - Stored Materials =                                                                                           | \$ | - |
| c. Total Retainage (Line 5.a + Line 5.b)                                                                               | \$ | - |
| 6. Amount eligible to date (Line 4 - Line 5.c)                                                                         | \$ | - |
| 7. Less previous payments (Line 6 from prior application)                                                              |    |   |
| 8. Amount due this application                                                                                         | \$ | - |
| 9. Balance to finish, including retainage (Line 3 - Line 4 + Line 5.c)                                                 | \$ | - |

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

|                                                     |  |                                            |  |
|-----------------------------------------------------|--|--------------------------------------------|--|
| Recommended by Engineer: Gilmore & Associates, Inc. |  | Approved by Owner: City of Crete, Nebraska |  |
| By: _____                                           |  | By: _____                                  |  |
| Title: _____                                        |  | Title: _____                               |  |
| Date: _____                                         |  | Date: _____                                |  |
| Approved by Funding Agency                          |  |                                            |  |
| By: _____                                           |  | By: _____                                  |  |
| Title: _____                                        |  | Title: _____                               |  |
| Date: _____                                         |  | Date: _____                                |  |

Progress Estimate - Unit Price Work

|             |                                           |                                      |          |
|-------------|-------------------------------------------|--------------------------------------|----------|
| Owner:      | City of Crete                             | Contractor's Application for Payment |          |
| Engineer:   | Gilmore & Associates, Inc.                | Owner's Project No.:                 | 226.343D |
| Contractor: | City Office South Drive - Crete, Nebraska | Contractor's Project No.:            |          |
| Project:    | City Office South Drive - Crete, Nebraska |                                      |          |
| Contract:   | City Office South Drive - Crete, Nebraska |                                      |          |

| Application No.:                                                                      |  |                                          |     | Application Period:  |       |                 |                                | From                                        |                                              | to                                         |                                                          | Application Date:              |                                |  |  |  |
|---------------------------------------------------------------------------------------|--|------------------------------------------|-----|----------------------|-------|-----------------|--------------------------------|---------------------------------------------|----------------------------------------------|--------------------------------------------|----------------------------------------------------------|--------------------------------|--------------------------------|--|--|--|
| A                                                                                     |  | B                                        |     | C                    | D     | E               | F                              | G                                           | H                                            | I                                          | J                                                        | K                              | L                              |  |  |  |
| Bid Item No.                                                                          |  | Description                              |     | Contract Information |       | Unit Price (\$) | Value of Bid Item (C X E) (\$) | Work Completed                              |                                              | Materials Currently Stored (not in G) (\$) | Work Completed and Materials Stored to Date (H + I) (\$) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) (\$) |  |  |  |
|                                                                                       |  |                                          |     | Item Quantity        | Units |                 |                                | Estimated Quantity Incorporated in the Work | Value of Work Completed to Date (E X G) (\$) |                                            |                                                          |                                |                                |  |  |  |
| PARK PLACE 10th ADDITION                                                              |  |                                          |     |                      |       |                 |                                |                                             |                                              |                                            |                                                          |                                |                                |  |  |  |
| DIVISION I – SANITARY SEWER, WATER, AND STORM SEWER                                   |  |                                          |     |                      |       |                 |                                |                                             |                                              |                                            |                                                          |                                |                                |  |  |  |
| SECTION A – SANITARY SEWER                                                            |  |                                          |     |                      |       |                 |                                |                                             |                                              |                                            |                                                          |                                |                                |  |  |  |
| 1                                                                                     |  | Remove Concrete Paving                   | 683 | Sq. Yds.             |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 2                                                                                     |  | Remove Concrete Walk                     | 216 | Sq. Yds.             |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 3                                                                                     |  | Remove Inlet                             | 1   | Each                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 4                                                                                     |  | Construct 7" PC Concrete Paving          | 838 | Sq. Yds.             |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 5                                                                                     |  | Construct 5" PC Concrete Walk            | 110 | Sq. Yds.             |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 6                                                                                     |  | Construct Open Throat Inlet              | 1   | Each                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 7.                                                                                    |  | Construct Grate Inlet                    | 1   | Each                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 8.                                                                                    |  | Construct Combination Inlet/Junction Box | 1   | Each                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 9.                                                                                    |  | Construct 12" Storm Sewer Pipe           | 61  | L.F.                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 10.                                                                                   |  | Pavement Marking                         | 1   | JOB                  |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 11.                                                                                   |  | ADA Detectable Panel                     | 1   | Each                 |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 12.                                                                                   |  | SWPPP and Inlet Protection               | 1   | JOB                  |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 13.                                                                                   |  | Fill Material (estimated 120 Cu. Yds.)   | 1   | JOB                  |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| 14.                                                                                   |  | Final Grading/Sod                        | 1   | JOB                  |       |                 | \$                             |                                             |                                              |                                            | \$                                                       |                                | \$                             |  |  |  |
| TOTAL AGGREGATE BASE BID, CITY OFFICE SOUTH DRIVE, Item Nos. 1 through 14, Inclusive: |  |                                          |     |                      |       |                 | \$                             | -                                           | \$                                           |                                            | \$                                                       | -                              | \$                             |  |  |  |



Progress Estimate - Unit Price Work

Contractor's Application for Payment

|           |                                           |
|-----------|-------------------------------------------|
| Owner:    | City of Crete                             |
| Engineer: | Gilmore & Associates, Inc.                |
| Project:  | City Office South Drive - Crete, Nebraska |
| Contract: | City Office South Drive - Crete, Nebraska |

|                           |          |
|---------------------------|----------|
| Owner's Project No.:      | 226.343D |
| Engineer's Project No.:   |          |
| Contractor's Project No.: |          |

| Application No.: _____ to _____         |             |                      |       |                 |                                             |                                |                                              |   |                                            |                                                          |                                |                                |
|-----------------------------------------|-------------|----------------------|-------|-----------------|---------------------------------------------|--------------------------------|----------------------------------------------|---|--------------------------------------------|----------------------------------------------------------|--------------------------------|--------------------------------|
| Application Period: From _____ to _____ |             |                      |       |                 |                                             |                                |                                              |   |                                            |                                                          |                                |                                |
| Application Date: _____                 |             |                      |       |                 |                                             |                                |                                              |   |                                            |                                                          |                                |                                |
| A                                       | B           | C                    | D     | E               | F                                           | G                              | H                                            | I | J                                          | K                                                        | L                              |                                |
| Bid Item No.                            | Description | Contract Information |       |                 |                                             | Value of Bid Item (C X E) (\$) | Work Completed                               |   | Materials Currently Stored (not in G) (\$) | Work Completed and Materials Stored to Date (H + I) (\$) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) (\$) |
|                                         |             | Item Quantity        | Units | Unit Price (\$) | Estimated Quantity Incorporated in the Work |                                | Value of Work Completed to Date (E X G) (\$) |   |                                            |                                                          |                                |                                |
| Change Orders                           |             |                      |       |                 |                                             |                                |                                              |   |                                            |                                                          |                                |                                |
|                                         |             |                      |       |                 |                                             |                                |                                              |   |                                            |                                                          |                                |                                |
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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.

## CERTIFICATE OF SUBSTANTIAL COMPLETION

Prepared By



Endorsed by



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# CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: City of Crete, Nebraska Owner's Project No.:  
Engineer: Gilmore & Associates. Inc. Engineer's Project No.: 226.343D  
Contractor: Contractor's Project No.:  
Project: City Office South Drive – Crete, Nebraska  
Contract Name: City Office South Drive – Crete, Nebraska

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

**[Describe the portion of the work for which Certificate of Substantial Completion is issued]**

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 Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

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 must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: ☐ None ☐ As follows:

**[List amendments to Owner's Responsibilities]**

Amendments to Contractor's Responsibilities: ☐ None ☐ As follows:

**[List amendments to Contractor's Responsibilities]**

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

**[List attachments such as punch list; other documents]**

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 Documents.

Engineer

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

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



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# **GUIDELINES FOR USE OF EJCDC® C-700, STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT**

## **1.0 PURPOSE AND INTENDED USE OF THE DOCUMENT**

EJCDC® C-700, Standard General Conditions of the Construction Contract (2018), is the foundation document for the EJCDC Construction Series. The General Conditions define the basic rights, responsibilities, risk allocations, and contractual relationship of the Owner and Contractor, and establish how the Contract is to be administered.

## **2.0 OTHER DOCUMENTS**

EJCDC documents are intended to be used as a system and changes in one EJCDC document may require a corresponding change in other documents. Other EJCDC documents may also serve as a reference to provide insight or guidance for the preparation of this document.

These General Conditions have been prepared for use with either EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price), or EJCDC® C-525, Agreement Between Owner and Contractor for Construction Contract (Cost-Plus-Fee) (2018 Editions). The provisions of the General Conditions and the Agreement are interrelated, and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018).

The full EJCDC Construction series of documents is discussed in the EJCDC® C-001, Commentary on the 2018 EJCDC Construction Documents (2018).

## **3.0 ORGANIZATION OF INFORMATION**

All parties involved in a construction project benefit significantly from a standardized approach in the location of subject matter throughout the documents. Experience confirms the danger of addressing the same subject matter in more than one location; doing so frequently leads to confusion and unanticipated legal consequences. Careful attention should be given to the guidance provided in EJCDC® N-122/AIA® A521, Uniform Location of Subject Matter (2012 Edition) when preparing documents. EJCDC® N-122/AIA® A521 is available at no charge from the EJCDC website, [www.ejcdc.org](http://www.ejcdc.org), and from the websites of EJCDC's sponsoring organizations.

If CSI MasterFormat™ is used for organizing the Project Manual, consult CSI MasterFormat™ for the appropriate document number (e.g., under 00 11 00, Advertisements and Invitations), and accordingly number the document and its pages.

## **4.0 EDITING THIS DOCUMENT**

Remove these Guidelines for Use. Some users may also prefer to remove the two cover pages.

Although it is permissible to revise the Standard EJCDC Text of C-700 (the content beginning at page 1 and continuing to the end), it is common practice to leave the Standard EJCDC Text of C-700 intact and unaltered, with modifications and supplementation of C-700's provisions set forth in EJCDC® C-800, Supplementary Conditions of the Construction Contract (2018). If the Standard Text itself is revised, the



user must comply with the terms of the License Agreement, Paragraph 4.0, Document-Specific Provisions, concerning the tracking or highlighting of revisions. The following is a summary of the relevant License Agreement provisions:

1. The term "Standard EJCDC Text" for C-700 refers to all text prepared by EJCDC in the main body of the document. Document covers, logos, footers, instructions, or copyright notices are not Standard EJCDC Text for this purpose.
2. During the drafting or negotiating process for C-700, it is important that the two contracting parties are both aware of any changes that have been made to the Standard EJCDC Text. Thus, if a draft or version of C-700 purports to be or appears to be an EJCDC document, the user must plainly show all changes to the Standard EJCDC Text, using "Track Changes" (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.
3. If C-700 has been revised or altered and is subsequently presented to third parties (such as potential bidders, grant agencies, lenders, or sureties) as an EJCDC document, then the changes to the Standard EJCDC Text must be shown, or the third parties must receive access to a version that shows the changes.
4. Once the document is ready to be finalized (and if applicable executed by the contracting parties), it is no longer necessary to continue to show changes to the Standard EJCDC Text. The user may produce a final version of the document in a format in which all changes are accepted, and the document at that point does not need to include any "Track Changes," redline/strikeout, highlighting, or other indication of additions and deletions to the Standard EJCDC Text.

## **5.0 LICENSE AGREEMENT**

This document is subject to the terms and conditions of the **License Agreement, 2018 EJCDC® Construction Series Documents**. A copy of the License Agreement was furnished at the time of purchase of this document, and is available for review at [www.ejcdc.org](http://www.ejcdc.org) and the websites of EJCDC's sponsoring organizations.

# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  5. *Bidder*—An individual or entity that submits a Bid to Owner.
  6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
  7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
  8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
  9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*
    - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the

requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
  - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
  - d. 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), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations 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 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. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
  - 21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the



recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *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.
24. *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.
- a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
  - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
  - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *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 or areas furnished by Owner which are designated for the use of Contractor.
39. *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.
40. *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.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *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 of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, 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.
46. *Technical Data*
- a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
  - b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
  - c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
49. *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.
50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:* The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:* The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:* The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - 1. does not conform to the Contract Documents;
  - 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
  - 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  - 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means 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. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. 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 Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), 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 signed 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 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
  - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

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

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
  - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
  - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
  - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
  - 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

## ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document 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 versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will 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.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will 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.
- G. Nothing in the Contract Documents creates:
  - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
  - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

### 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, means 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, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer 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 or Engineer 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, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

#### B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
  - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

### 3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.



- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 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 versions, 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 precludes 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 30th 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 60th day after the day of Bid opening or the 30th 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 may 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.
  - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  - 2. Abnormal weather conditions;
  - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
  - 4. Acts of war or terrorism.

- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
  2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
  3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
  2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
  3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
  4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
  5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

## **ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

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

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing 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, or to improvements, structures, utilities, or similar facilities located at such adjacent lands 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 7.13, 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 in a court of competent jurisdiction; 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 by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
  - C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment

and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

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

### 5.03 *Subsurface and Physical Conditions*

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

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
3. Technical Data contained in such reports and drawings.

- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

- C. *Reliance by Contractor on Technical Data:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

#### 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:

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;
2. is of such a nature as to require a change in the Drawings or Specifications;
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 whether it is necessary for Owner to obtain 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; 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. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, 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,
  - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
    - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
    - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
  3. 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, then any such adjustment will be set forth in a Change Order.
  4. 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, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
  2. complying with applicable state and local utility damage prevention Laws and Regulations;

3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
  4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
  5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
  2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
  3. obtain any pertinent cost or schedule information from Contractor; 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
  4. 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. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- F. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown



or indicated on the Drawings, 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. 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;
  - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
  - c. 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, then any such adjustment will 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, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
  4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

#### 5.06 *Hazardous Environmental Conditions at Site*

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

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures

- of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- 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, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, 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. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- 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, 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 obligates 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 obligates 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.

## **ARTICLE 6—BONDS AND INSURANCE**

### **6.01 *Performance, Payment, and Other Bonds***

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or

Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

#### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages 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, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by

Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages 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, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. 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, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
  - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
  - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain 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.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) 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 will be adjusted accordingly.

- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, 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 and Engineer.

#### 6.03 *Contractor's Insurance*

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
  - 1. include at least the specific coverages required;
  - 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
  - 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, 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;
  - 4. apply with respect to the performance of the Work, whether such performance is 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; and
  - 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds:* The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
  - 1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
  - 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
  - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);

4. not seek contribution from insurance maintained by the additional insured; and
5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

#### 6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur:* Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities:* Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- 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 advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. 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 6.04, it may do so at Contractor's expense.

#### 6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against

Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
  2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.



6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the 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 6.04 shall maintain such proceeds in a segregated account, and 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, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

**ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *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.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *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 maintain good discipline and order at the Site.

- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. 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 will 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.

#### 7.04 *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 must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

#### 7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
      - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

- 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
  - 3) has a proven record of performance and availability of responsive service; and
  - 4) is not objectionable to Owner.
- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
  - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

#### 7.06 Substitutes

- A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material 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 equipment or material under the circumstances described below. To the extent possible such requests must 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 equipment or material from anyone other than Contractor.
  2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.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 equipment or material that Contractor seeks to furnish or use. The application:
  - a. will 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 the item specified; and
    - 3) be suited to the same use as the item 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 the item specified; and
    - 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

#### 7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. 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 or Suppliers 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 or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, 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 or Supplier, whether initially or as a replacement, will 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 solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

#### 7.08 *Patent Fees and Royalties*

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

#### 7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

#### 7.10 *Taxes*

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

#### 7.11 *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. 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 is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written 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 written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.12 *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.

### 7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.



- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

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

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 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 by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

- 1. Before submitting a Shop Drawing or Sample, Contractor shall:
  - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determine and verify:
    - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
    - 2) 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
    - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
  - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must 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 Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
1. *Shop Drawings*
    - a. Contractor shall submit the number of copies required in the Specifications.
    - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
  2. *Samples*
    - a. Contractor shall submit the number of Samples required in the Specifications.
    - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
  3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
  4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will

document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
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.C.4.

*D. Resubmittal Procedures for Shop Drawings and Samples*

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 Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

*E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
  - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
  - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
  - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.

- d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
- 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

**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 is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
  - 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
  - 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  - 1. abuse, or improper modification, 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.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
  - 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. The end of the correction period established in Paragraph 15.08;
  - 8. Any inspection, test, or approval by others; or

9. Any correction of defective Work by Owner.

- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### 7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, 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 losses, damages, costs, and judgments (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 from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### 7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
  - 1. Checking for conformance with the requirements of this Paragraph 7.19;
  - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
  - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## **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 third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. 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.

- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, 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.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

#### 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

#### 8.03 *Legal Relationships*

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
  2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. 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 will 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.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

## **ARTICLE 10—ENGINEER’S STATUS DURING CONSTRUCTION**

### **10.01 *Owner’s Representative***

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

### **10.02 *Visits to Site***

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer’s visits and observations are subject to all the limitations on Engineer’s authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer’s visits or observations of Contractor’s Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

### **10.03 *Resident 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 the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer’s consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

### **10.04 *Engineer’s Authority***

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer’s authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer’s authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner’s delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer’s authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *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.

10.06 *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.

10.07 *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, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

## ARTICLE 11—CHANGES TO THE CONTRACT

### 11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

### 11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  - 1. Changes in 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 11.05, (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 that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

### 11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

B. If Owner has issued a Work Change Directive and:

1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

- A. 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.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *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. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work 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 must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates 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.

11.06 *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.C.2.

11.07 *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 must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must 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);
  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 11.07.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 basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
  2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
    - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
    - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
    - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
    - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
    - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
    - f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

#### 11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

#### 11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.
- B. *Change Proposal Procedures*
  - 1. *Submittal:* Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
  - 2. *Supporting Data:* 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.
    - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
    - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must 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.

- 3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
- 4. *Engineer's Full Review and Action on the Change Proposal:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must 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.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

C. *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 in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

#### 11.10 *Notification to Surety*

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

### ARTICLE 12—CLAIMS

#### 12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
  3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
  4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge



and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will 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 will 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 will 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 will be incorporated in a Change Order or other written document 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. When needed 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 will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will 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 in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
  3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
  4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
  5. Other costs consisting of the following:
    - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
    - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

- 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
  - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
  - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will 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 does not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 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. The cost of purchasing, renting, or furnishing small tools and hand tools.
- 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 5. 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.
- 6. Expenses incurred in preparing and advancing Claims.
- 7. 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*

- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
  - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.
  - b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
    - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
    - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change

Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. *Documentation and Audit:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

### 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.
- B. *Cash Allowances:* Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
  2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance:* Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

### 13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision

thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
  - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
  - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

**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 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 with such procedures and programs 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 will 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 will 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 will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs,

losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

#### 14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- 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, 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 will 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 defective Work as required by Engineer, then Owner may, after 7 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 include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

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

**15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments*
  - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
  - 2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation

establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

*C. Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
  - a. the Work has progressed to the point indicated;
  - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 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;
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; 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
  - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

*D. Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

*E. Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

- b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. The Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. The Contract Price has been reduced by Change Orders;
  - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
  - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
  - l. Other items entitle Owner to a set-off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will 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 will be treated as an amount due as determined by Paragraph 15.01.D.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 7 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 will 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 7 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.
  - E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
  - F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without

significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

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

#### 15.06 *Final Payment*

##### A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must 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 duly pending Change Proposals and Claims; 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 Final Application and Recommendation of Payment:* 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 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will 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. 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. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *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 and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

#### 15.07 Waiver of Claims

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim,

appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such adjacent areas;
  - 2. correct such defective Work;
  - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay 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 correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.



- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to 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 directly attributable to any such suspension. Any Change Proposal seeking such adjustments must 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) 10 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) written 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 7 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, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### 16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

#### 16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The

provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 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, pursuant to Article 12; and
  - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise 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;
  - 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 requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
  - 1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
  - 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
  - 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

### **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.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

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

18.08 *Assignment of Contract*

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

18.09 *Successors and Assigns*

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

18.10 *Headings*

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

## **SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2018 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.30     *Owner***

At the end of Paragraph 1.01.A.30 add the following new paragraph:

Whenever the word “Owner” appears in the Contract Documents, it shall actually refer to the 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.50     *Work Change Directive***

At the end of Paragraph 1.01.A.50 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.51     *Abnormal Weather Conditions***

Add the following new paragraph after Paragraph 1.01.A.50:

*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.

## 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 one copy of the Contract Documents.

### **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.G:

- H. 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.
- I. 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.

**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-5.03      *Subsurface and Physical Conditions***

Add the following new paragraphs immediately after Paragraph 5.03.B:

- C.      No drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) are known to Owner:

**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.D**      Add the following new paragraph immediately after Paragraph 6.03.C

- 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
  - 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:
  - a. General Aggregate \$2,000,000
  - b. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000
5. 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.
6. Following is a list of other individuals or entities to be included on policies as additional insureds:
 

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

**SC-6.04      *Builder's Risk and other Property Insurance***

**SC-6.04.A**      Delete Paragraph 6.04.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 6.02.N of the General Conditions.

Add the following paragraph after Paragraph 6.03.C:

- D. 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-6.07      *Partial Utilization, Acknowledgment of Property Insurer***

Add the following new paragraphs immediately after Paragraph 6.06.C:

**SC-6.07      *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 6.04 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-7.05        "Or-Equals"**

#### **SC-7.05.A.1    Delete Paragraph 7.05.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 7.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that: (i) it is at least equal in 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-7.05.B        Delete Paragraph 7.05.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-7.06        Substitutes**

#### **SC-7.06.A        At the end of Paragraph 7.06.A and before Paragraph 7.06.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-7.06.E        Delete Paragraph 7.06.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-7.09      *Permits***

Delete the first sentence of Paragraph 7.09 in its entirety and insert the following in its place:

Unless otherwise provided in the Contract Documents, Contactor shall obtain and pay for all construction permits, licenses, and certificates of occupancy, 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-7.10      *Taxes***

**SC-7.10.A**      Add the following new paragraph immediately after Paragraph 7.10.A:

- B.      The Project is not exempt from Nebraska State Sales and Use Taxes on materials and equipment to be incorporated in the Work. The Contractor shall include in his Bid prices sales tax on any materials, equipment, and labor considered not exempt.

**SC-7.11      *Laws and Regulations***

Add the following new section immediately after Paragraph 7.11.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.C.8:

9.      Shop Drawings and Sample submittals not conforming to the requirements of Paragraphs 7.16.A and 7.16.B, 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.C** Add the following new section immediately after Paragraph 10.03.B:

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

### **SC-10.04      *Engineer's Authority***

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

- E. 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”

**SC-15.01.B.4**   Add the following language at the end of Paragraph 15.01.B.4:

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.5**   Add the following new paragraphs after Paragraph 15.01.B.4:

5.       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”

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## **ARTICLE 3**

### **GENERAL REQUIREMENTS**

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

This Project is located in south and east section of the City Offices in Crete, Nebraska, as shown on the Drawings.

The Project consists of the construction of P.C. concrete paving, concrete walks, storm sewer, and related work.

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

#### **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**

The Contractor shall determine the actual location of all existing utilities prior to starting any work that may cause damage to such utilities. 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 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 shown on the Drawings is intended to be merely an aid to the Contractor. The accuracy of information furnished with respect to underground utilities 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, fences, power lines, and other utilities, and any and all property of others from damage. In the event that any such property is damaged during the course of construction of the Project, the Contractor shall restore, or make arrangements to have restored, any and all of such damaged property immediately to as good a state as before such damage occurred. All costs associated with the repair or restoration of any damaged property shall be the responsibility of the Contractor, unless prior arrangements or agreements have been made in accordance with Article 3.2, Existing Utilities. All fences, which are necessarily opened or moved during the construction of the Project, shall be replaced in as good condition as they were

found. The Contractor shall be responsible for all loss of, or damage to, property, whether on or off the right-of-way, caused by the construction of the Project.

The Project, from the commencement of Work to acceptance or termination by the Owner, shall be under the charge and control of the Contractor. During such period of control by the Contractor, all risks in connection with the construction of the Project and the materials to be used therein shall be borne by the Contractor. The Contractor shall make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Contractor, by reason of any act of God, or other casualty or cause, whether or not the same shall have occurred by reasons of the Contractor's negligence.

### **3.4 - OBSERVATION AND TESTING**

All Work performed and all material and equipment furnished by the Contractor shall strictly conform to the Contract Documents. Competent labor, mechanics, and tradesmen shall be used on all Work.

The acceptance at any time of the materials by or in behalf of the Owner shall not bar the Owner from future rejection if they are subsequently found to be defective or inferior in quality or uniformity to the material specified.

Whenever any material shall be rejected by the Engineer, such material shall be removed at once from the line of Work at the Contractor's expense, and shall not be brought back. Work rejected by the Engineer shall be replaced with approved Work at the expense of the Contractor.

The Engineer shall have the right to observe and witness routine testing of all Work and materials covered by the Specifications. He shall have the right to approve the manner in which special or requested tests are conducted.

The Contractor shall be required to perform all of the testing required by the Contract Documents and to furnish material certificates for quality assurance on all materials furnished, as specified in the Contract Documents.

The Contractor shall be required to pay for all tests and other related documents and information required to be performed or submitted by the Contract Documents. The number of tests for each of the several parts of the Work shall be as stated in the Contract Documents. Results of all tests and material certificates shall be submitted to the Engineer on a timely basis. The Contractor shall also be responsible for the cost of any retesting by coring of hardened concrete required because of failure of original tests. No separate payment will be made to the Contractor for such testing, as such costs shall be considered subsidiary to Work for which payment is made. All tests required to be performed by the Specifications shall be performed by an approved independent testing laboratory, and the costs thereof shall be paid by the Contractor unless otherwise specifically stated in the Project Manual.

The Contractor shall furnish, at his own expense, such materials and facilities as the Engineer may reasonably require for the purpose of project observation. This shall not include the expense of the Engineer's representative. Work rejected by the Engineer shall be replaced with approved Work at the expense of the Contractor.

Any inspection, tests, or approval of waiver of test shall not in any way relieve the Contractor of full responsibility for furnishing apparatus, equipment, and all materials meeting the guaranteed performance and requirements of the Contract.

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 sanitary sewer and water trenches, and paving subgrade 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:

|                    |                                          |
|--------------------|------------------------------------------|
| Paving Subgrade    | 1 per 1,000-square feet segment, or less |
| Storm Sewer Trench | 1 per 1,000-square feet segment, or less |

The Engineer shall randomly select the location and depth of the compaction tests. Compaction test locations shall vary in depth and 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**

The Owner would like to have the Work completed as soon as possible in the 2023 construction season.

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 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.

### **3.6 - APPLICABLE CODES, REGULATIONS, AND WORKMANSHIP**

All Work shall conform to the requirements of all national, state, and local laws, ordinances, building codes, or other regulations that are in effect at the place of Work. Workmanship shall be of the best known to the trades. No makeshifts will be permitted anywhere in the Work. Whenever any Work is rejected by the Engineer, such rejected Work shall be removed at once from the Project and shall be replaced with Work conforming to the requirements of the Contract Documents.

### **3.7 - STORAGE OF MATERIALS AND EQUIPMENT**

Limited storage space for materials and equipment will be available at the Site. The Contractor shall store materials and equipment in a manner which will preserve quality and fitness. Storage areas shall be subject to approval of the Owner and Engineer.

### **3.8 - CONSTRUCTION FACILITIES BY CONTRACTOR**

The Contractor shall provide and maintain suitable sanitary facilities for construction personnel for duration of Work, and remove upon completion of Work. The Contractor shall provide fence, barricades, and/or watchmen to prevent access of unauthorized persons to the Site where Work is in

progress. The Contractor shall remove all construction facilities upon completion of Work, and clean up areas disturbed by construction to a machine finish.

### **3.9 - SAFETY REQUIREMENTS**

The Contractor shall be solely and exclusively responsible for providing temporary ladders, guard rails, shoring, bracing, dewatering, if required, warning signs, night lights, and other safeguards desirable or required, and shall comply with all federal, state, and municipal safety requirements. The Contractor shall be responsible for protecting the Work and stored materials until completion and acceptance of the Work by the Owner. It shall be the sole and exclusive responsibility of the Contractor to provide a safe place to work for all laborers, mechanics, and other persons employed on, or in connection with, the Project, and nothing in these Contract Documents shall be construed to give any of such responsibility to the Owner or the Engineer.

The Contractor shall, in accordance with the above and at his own expense, erect suitable barriers around all excavations, obstructions, or dangerous areas, and shall place and maintain sufficient lighting during the night for this purpose on or near the Work. The Contractor will, at all times, until its completion and final acceptance, protect his Work, apparatus, and material from accidental or other damage and shall make good any damages thus occurring at his own expense.

The Contractor will be held solely responsible for the safety, proper construction, and perfection of the entire Work, until the same has been finally accepted and paid for by the Owner. The Contractor shall be solely responsible for conducting his Work in compliance with the latest requirements of the "Occupational Safety and Health Act," the Nebraska State Department of Labor and Safety, and requirements of such other agencies that have jurisdiction over such operations. The Engineer shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. He shall not be responsible for the Contractor's failure to carry out the Work in accordance with the requirements of the Contract.

### **3.10 - SHOP DRAWINGS**

The Contractor shall submit to the Engineer for review, in accordance with the accepted schedule of shop drawing submissions, copies of all shop drawings, as specified in this section. The data shown on the shop drawings shall be complete with respect to dimensions, design criteria, materials of construction and the like to enable the Engineer to review the information as required. Within 14 days after the Notice to Proceed has been issued, the Contractor shall submit to the Engineer six copies of a schedule of shop drawing submittals, which shall indicate the date the Engineer can expect to receive the shop drawings on the various equipment and construction details. Schedules to assure completion within the contract period will be the sole responsibility of the Contractor; however, the Contractor shall submit shop drawings on an earlier date than indicated on the schedule if requested to do so by the Engineer.

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

- Storm sewer pipe, inlet grates, and inlet protectors; and
- Paving mix designs, aggregates, admixtures, certifications, curing and related items.

The Contractor shall check and verify all field measurements, all dimensions on shop and setting drawings, and all schedules required for the Work of all the various trades. All shop and setting drawings, certificates, concrete mix designs, and required design computations must be approved by the Contractor prior to submission to the Engineer. Shop drawings shall be submitted in sufficient number of copies to provide the Engineer with four copies and as many extra copies as may be desired by the Contractor, his Subcontractors, and/or Suppliers. In no case shall the number of copies submitted be less than six. 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 the transmittal number of the previous submission of the same item.

The review of shop drawings by the Engineer is for the purpose only of checking for general conformance with the design concept of the Project and for general compliance with the information given in the Contract Documents. Any action taken on shop drawings by the engineer does not

relieve the Contractor of responsibility for proper dimensioning, for detailing of connections, and incorporating into the work satisfactory materials and equipment meeting the requirements of the Contract Documents. If errors in shop drawings are not detected in the Engineer's review, the Contractor is not relieved from the responsibility to comply with the Contract Documents and the Engineer's review shall never be construed as permitting the Contractor to proceed in error. It is understood that where a shop drawing is submitted for review for compliance with a performance specification, it is impossible to determine with certainty whether the item or process covered by the shop drawing will conform to the requirements of the Contract Documents. Regardless of any information contained or not contained in the shop drawings, the requirements of the Drawings and Specifications and other Contract Documents must be followed and are not waived or superseded in any way by the shop drawing review.

Shop drawings shall be submitted covering all equipment and structural details proposed by the Contractor and for such other items required by the Specifications or requested by the Engineer. 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.

The Contractor will also submit to the Engineer for review, with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and deemed to have been approved by the Contractor, identified clearly as to material, manufacturer, pertinent catalog number, and the use for which intended.

At the time of each submission, the Contractor shall, in writing, call the Engineer's attention to any deviations that the shop drawings or sample may have from the requirements of the Contract Documents.

Any action taken on a separate item as such will not indicate that the same action applies to the assembly in which the item functions. The Contractor will make any corrections required by the Engineer, will return the required number of corrected copies of shop drawings, and resubmit new samples until the Engineer does not take exception to them. The Contractor shall direct specific attention in writing on resubmitted shop drawings to revisions other than the corrections called for by the Engineer on previous submissions. The Contractor's submission of shop drawings or samples shall constitute a representation to the Owner and Engineer that the Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalogue number and similar data, or he assumes full responsibility for doing so, and that he has reviewed or coordinated each shop drawing or sample with the requirements of the Work and the Contract Documents. The Contractor's submission of shop drawings shall constitute a representation to the Owner and the Engineer that the Contractor certified the items submitted meet the latest requirements of the Occupational Safety and Health Act of 1970, and current applicable revisions thereof; including any standards or regulations established by the U.S. Secretary of Labor in the administration of said act.

No Work requiring a shop drawing or sample submission shall be commenced until the submission has been reviewed by the Engineer. A copy of each reviewed shop drawing and each sample shall be kept in good order by the Contractor at the Site, and shall be available to the Engineer or Project representative.

The Engineer's review of shop drawings or samples shall not relieve the Contractor from his responsibility for any deviations from the requirements of the Contract Documents, unless the Contractor has, in writing by separate letter, called the Engineer's attention to such deviation at the time of submission, and the Engineer has given written approval to the specific deviation. Nor shall any action taken by the Engineer relieve the Contractor from responsibility for errors or omissions in the shop drawings.

### **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, dewatering, removal and replacement of culverts, street signs, mail boxes, fences, steel and concrete posts, sodding, and gravel resurfacing are considered incidental to the Contract price; 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 in the unit prices listed in the bid schedule. 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.

Mobilization is considered incidental work for this Project.

### **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.

It shall be the duty of the Contractor to notify the Owner, in writing, within 30 days prior to the expiration of the one-year period to make the final observation of the Work. Unless the Contractor shall furnish such notices, the obligation to maintain the Work shall continue in force until such notices have been furnished, the Work observed, and any required corrections made.

### **3.16 - ELEVENTH-MONTH OBSERVATION**

It shall be the duty of the Contractor to notify the Owner and Engineer, in writing, of the expiration of 11 months from the date of completion or final acceptance of the Project, in order that an observation of the Work can be conducted.

At the time of the 11th-month observation, if there is any Work found to be defective, the Contractor will promptly, without cost to the Owner and with the Owner's written instructions, either correct such deficient Work; or if any Work has been rejected by the Owner, remove it from the Site and replace it with non-deficient Work.

Unless the Contractor shall furnish such notices, the obligation to conduct this observation shall continue, in force, until such notices have been furnished, the Work observed, and required corrections made.

### **3.17 - COORDINATION WITH OTHER CONTRACTORS**

The progress of the Work may be affected by coordination of other Work being performed by the Owner or other Contractor in this Project area or adjacent to this Project area, and the Contractor shall investigate such a possibility and make allowances therefore. Should the Contractor sustain any damage through any act or omission of any other Contractor having a contract with the Owner, the Contractor shall have no claim against the Owner for such damage, but shall have a right of action against the other Contractor to recover the damages sustained by reason of the acts or omissions of such Contractor.

If, through acts of neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on their Work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor sues the Owner and/or Engineer on account of any damage alleged to have been so sustained, the Owner and/or Engineer shall notify the Contractor, who shall defend and hold harmless the Owner and the Engineer at such proceedings, at the Contractor's expense. If any judgment against the Owner and/or Engineer arises therefrom, the Contractor shall pay or satisfy it, including all attorneys' fees and court costs which may accrue against the Owner and/or the Engineer.

### **3.18 - PROJECT SCHEDULING**

It will be the responsibility of the Contractor(s) of this Project to coordinate construction schedules.

### **3.19 - EASEMENTS**

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.

### **3.20 - SERVICE FACILITIES**

Water, electricity, compressed air, and other services shall be furnished by the Contractor to meet his own requirements.

### **3.21 - SITE GRADING**

Finish grading of all areas within the Project, including excavated and filled sections and adjacent transition areas, shall be reasonably smooth and free from irregular surface changes and suitably prepared for paving, crushed rock surfacing, seeding or sodding where indicated on the Drawings or required in the Specifications.

Protect all newly graded areas from erosion or damage from other sources. Any settlement or erosion that occurs prior to acceptance of the Work shall be repaired without additional cost to the Owner.

### **3.22 - AWARD OF CONTRACT**

The Contractor shall note that the Owner reserves the right to award the contract in each division to the Bidder whose Bid is the most advantageous to the Owner, based on the total aggregate bid for the Work, start date, completion date, length of construction time, materials, and past performance on contracts with the Owner.

The Owner reserves the right to award any combination of base bid, alternates, and/or additions, if any.

### **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 broken pipe, concrete, excess dirt, and other materials, leaving the Project Site in the same or better condition than existed prior to construction.

### **3.24 - TRAFFIC SIGNAGE/BARRICADES**

Traffic signs shall conform to the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Street and Highways (MUTCD) and NDOT Standard Highway Signs.

These signs are regulatory, warning, guide, object markers, and information signs composed of a flat aluminum blank surfaced with reflective sheeting. The message shall be either directly applied or screened on the sign face, in the colors, size, and layout specified in the plans and Standard Highway Signs. All blanks shall be new aluminum meeting ASTM Specifications B209, Alloy 5052-H38 of the sizes as shown in the Standard Highway Signs and the MUTCD. The gauges shall be as follows. Signs less than 4 square feet shall be 0.063 inches thick, 4 square feet to less than 9 square feet shall be 0.08 inches thick, and 9 square feet or greater shall be 0.10 inches thick.

Reflective background sheeting for all signs shall meet the requirements of ASTM D4956. Adhesive shall conform to Class 1.

Posts shall be Telespar 3/4" square breakaway, engineering grade, or approved equal.

### **3.25 - TRAFFIC AND PEDESTRIAN CONTROL**

The Contractor will be permitted to block off a portion of a public street on which work is in progress. The Contractor shall provide access to abutting property at all times.

The construction of the storm sewer, access drive, and related construction shall conform to the requirements of the Owner. The traveling public shall be protected from the activities of the Contractor within the public rights-of-way by means of signs, flagmen, and traffic control devices as outlined in the "Manual of Uniform Traffic Control Devices." The Contractor shall be responsible for securing all necessary equipment and personnel to provide protection to the traveling public. Vehicles and equipment when not in use for actual construction within the public rights-of-way, shall be kept a minimum of fifteen (15) feet from the traveled way.

The Contractor shall follow all requirements of Owner, AASHTO, and MUTCD. All traffic control devices shall be located according to and meet all requirements prescribed in the MUTCD. Failure of the Contractor to erect and maintain traffic protective devices shall be reason to temporarily suspend the Work. Type A, B, and C barricade lights shall be on the NDOT Approved Products List.

The Contractor shall maintain a stock of spare lights, signs, devices, and repair parts at the Project Site for immediate emergency replacement or repairs. The Contractor shall mow or trim vegetation to insure that the complete visibility of signs, barricades, and other warning devices is maintained at all times.

The Contractor shall, at the preconstruction conference, provide the Engineer with the names and telephone numbers of personnel who will be available on a 24-hours-per-day, 7-days-per-week basis. These people shall be responsible for repair, correction, replacement, and maintenance of the traffic control devices.

The Contractor shall inspect traffic control devices at least once every day the devices are in use, but shall provide more frequent inspections during or following periods of inclement weather or at other times when more frequent inspections are warranted.

All lights shall be turned on from sunset to sunrise or when visibility is less than 1/4 mile. Lenses shall be kept clean, and light intensity shall be such that the device is visible for at least 1,000 feet in all conditions.

The Contractor may be given notice, either written or verbal, of failure to install, replace, remove, or maintain a traffic control device. Upon notification by the Engineer, the Contractor shall respond to any Site within four hours and take immediate steps to correct the deficiency.

The Owner shall reserve the right at any time to correct a traffic control deficiency and bill the Contractor for all costs necessary to correct the problem.

The Contractor shall immediately notify the Engineer of any hazard or changed roadway condition that is not identified in the Drawings.

The Contractor is responsible to restore the property to its original condition. The property shall be left free of any excess dirt and construction materials, and all signs, culverts, fencing, or monuments that may have been removed for construction purposes shall be reset.

The Contractor shall erect and maintain such barricades, construction signs, detour signs, torches, red lanterns, traffic signs, flag persons, and guards as may be required by the Owner to protect persons from injury and to avoid property damage during construction. The Contractor shall notify the Owner at least 48 hours in advance of any planned street closings and shall comply with all applicable traffic regulations, and related Owner requirements.

ARTICLE 4  
SITE WORK, SODDING, AND SWPPP  
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## ARTICLE 4

### SITE WORK, SODDING, AND SWPPP

#### 4.0 - DESCRIPTION OF THE WORK

This article covers the specifications for erosion and sediment control, NPDES Construction Site Permit applications, SWPPP, general clearing and grubbing, seeding, sodding, removals, and miscellaneous and related construction as indicated on the Drawings. The Contractor shall furnish all labor, tools, equipment, and services in order to perform the work specified. Sites less than 1.0 acres do not require a SWPPP or NPDES permit. However, the Contractor is still required to provide sediment and erosion control to prevent silt and soil runoff from the project site and into storm sewers. Silt fencing and storm sewer inlet protection will be required.

#### 4.1 - CLEARING AND GRUBBING

##### 4.1.1 - Scope

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

##### 4.1.2 - Removal

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

##### 4.1.3 - 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.

##### 4.1.4 - Measurement and Payment

For items of Work for which specific lump sum prices are established in the Contract, payment for clearing 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.

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

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

- a. This item shall consist of the clearing and grubbing of the construction area or areas as required for construction.
- b. Any indications on the Drawings of the number or size of trees to be removed are estimates only.

The Contractor shall not be allowed any additional compensation for removing more or larger trees than may be indicated on the Drawings. The Contractor shall make his own determination as to the extent of tree removal and clearing and grubbing required within the Project limits in preparing his bid.

- c. All trees and residue required to be removed, shall be removed and disposed of prior to the construction of the earthwork.
- d. The preferred method of disposal of trees and residue shall consist of placement in a state approved tree disposal area of a landfill.

## **4.2 - STRIPPING AND TOPSOIL USAGE**

### **4.2.1 - Scope**

The Work shall consist of stripping the top one foot of topsoil from all vegetative areas that are to be re-seeded. The material that is stripped shall be stockpiled and re-used in the top foot of fill for those areas to be re-seeded. Objectionable or unsuitable materials which are encountered during the excavation shall be removed from the Project Site.

### **4.2.2 – Proof-rolling**

Following the stripping of the topsoil, all areas which are set to receive paving or utility construction shall be proof-rolled. Any soft or unstable areas shall be over-excavated and re-compacted.

## **4.3 – REMOVALS**

The Contractor shall remove and properly dispose of all materials and structures as shown on the Drawings. The Contractor shall remove all other miscellaneous structures encountered to at least four feet below finished ground elevation. All proper fill of voids shall be included in the appropriate removal Bid item, if listed in the bid schedule, otherwise removals and fill of voids shall be considered incidental work.

Concrete and asphalt pavement to be left in place shall be sawed to a true vertical and horizontal line or removed to a joint as determined by the Engineer.

## **4.4 - SODDING**

Established lawns disturbed by construction shall be re-sodded. Sod shall be Nebraska approved Kentucky Bluegrass species. The sod shall be considered commercial performance in the industry, strong fiber root systems, and containing no more than 5 weeds per 1,000 square feet. The sod shall be cut to a minimum depth of 3/4".

Sod shall be laid within 24 hours from time of stripping and shall not be laid dormant. Sod shall be laid with tight joints, butted ends and sides, no overlapping, and staggered strips in accordance with typical and standard sod industry laying procedures. Sod shall be watered per supplier's recommendations and as overseen by the Contractor.

Watering and weeding shall be the responsibility of the property owner after the sodding work has been accepted by the Owner.

## **4.5 - EARTHEN EXCAVATION, BORROW FILL, AND EMBANKMENT**

The Contractor shall construct all excavation, borrow fill, and embankment shown on the Drawings in accordance with the Project Manual. The Contractor shall make any auxiliary investigations of the Site soil and groundwater conditions necessary to accomplish the excavation, borrow fill, and embankment, and the means and construction methods necessary to accomplish this Work.

It shall be the Contractor's responsibility to compute and verify the quantity of material to be excavated, borrowed, hauled, transported, and placed for embankment or stockpiling as required for the Project and as shown on the Drawings, and incorporate the cost of said Work in his lump sum bid for the respective earthwork Bid item. No additional payment will be made for more or less material handled, nor for Site or saturated soil conditions that may or may not hamper the Contractor's means or methods of excavation and embankment.

Earthen material for use in the paving subgrade and other fill areas shall be obtained from a Contractor located and tested borrow site(s). The Contractor shall be responsible for all testing of the borrow site(s). Embankments shall be constructed with non-frozen materials. Fill shall not be placed in sub-freezing temperatures without the expressed approval of the geotechnical engineer. All loose frozen material shall be removed from the embankment each day before any additional fill is placed on the embankment.

Excess excavation is the property of the Owner.

#### 4.5.1 - Placing of Embankment

The earthen embankment 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 3.4 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.

### 4.6 - WATER FOR EMBANKMENT

The addition of water may or may not be required to obtain compaction. Water shall be provided by the Contractor; however, for the Contractor's information, there are nearby city fire hydrants. The Contractor must coordinate with the city any use of city owned and operated water systems and water prior to any usage.

### 4.7 – NPDES SPECIFICATIONS

#### 4.7.1 - General

These Specifications cover the work generally and directly related to soil erosion and sediment control on both a temporary and permanent basis. The Contractor shall furnish all labor, tools, materials, and equipment to perform the work specified in this article, including an NPDES Construction Site General Permit or requested waiver.

#### 4.7.2 - NPDES Construction Site General Permit

The Contractor shall be responsible for obtaining, completing, and following all guidelines of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Sites, NER210000. The Contractor shall verify, revise, complete, and obtain the signature of the Owner on the NPDES forms, when applicable. All forms shall be submitted by the Contractor electronically online at [www.deq.ne.gov](http://www.deq.ne.gov).

Contractor shall become a co-permittee, along with the Owner, to the Nebraska Department of Environment and Energy NPDES General Permit for Storm Water Discharges from Construction Sites on this Project.

If the city or county in which the construction project is located has obtained authority from the NDEE to inspect such sites for compliance and enforcement purposes as a Municipal Separate Storm Sewer System (MS4), the Contractor shall also submit a Notice of Intent to such local agency.

A copy of the all forms and attachments, including any resubmitted forms, shall be forwarded to the Owner and Engineer upon submittal to the NDEE and prior to any work or other services to be provided on the Project.

#### 4.7.2.1 - Storm Water Pollution Prevention Plan (SWPPP)

The NPDES permit will require that a Storm Water Pollution Prevention Plan (SWPPP) be designed by a professional engineer or landscape architect registered in the State of Nebraska. The SWPPP designer contact information is required as part of the Construction Storm Water Notice of Intent (CSW-NOI) Section A, Subsection I, application. Contractor shall provide the required SWPPP and pay for all

professional services and all other costs related or associated with the design and implementation of the SWPPP. Contractor shall be legally bound to comply with the Clean Water Act to ensure compliance with the terms and conditions of the Storm Water Pollution Prevention Plan developed under the NPDES permit and the terms of the NPDES permit.

The Contractor is required to provide and maintain the SWPPP plan on the Project Site; conduct all work, services, inspections, and reports noted; update the SWPPP and Best Management Practices (BMP) as needed; and notify the Engineer of any revisions required to maintain compliance with the NPDES permit.

#### 4.7.2.2 - Notification and Enforcement Deadlines

Within seven calendar days after submission of the CSW-NOI, the NDEE will notify the Contractor of any deficiencies. Within seven calendar days of submission by the Contractor of the complete and accurate CSW-NOI to the NDEE, the construction site is then deemed covered by the general permit. The SWPPP shall be the first work implemented on the Project site by Contractor.

The Contractor shall notify the NDEE, via form CSW-NOT, within 30 calendar days after 95% stabilization with permanent protective cover, such as paving, rock, seeding, control measures, etc., has been achieved on all portions of the site for which the Contractor is responsible. The NPDES permit continues for a period lasting at least 180 days after the site has been stabilized.

A responsible and properly trained party of the Contractor shall conduct a bi-weekly SWPPP inspection and record such review in the plan. These reports do not need to be forwarded to the NDEE unless otherwise requested by the NDEE; however, a copy shall be forwarded to the Owner and Engineer.

Sampling and additional reporting may be required by the NDEE which will require timely notifications for work and services such as, but not limited to, quantitative monitoring, qualitative monitoring, and storm event monitoring.

#### 4.7.2.3 - Waivers of NPDES Permit Requirements

If the disturbed soils of the Project are below 1.0 acres, the Contractor shall provide written correspondence to the Owner and Engineer stating that the NPDES permit and SWPPP are not required per the NPDES requirements. The disturbed soils area shall include, in total, the construction site, staging area, storage area, access roads, etc. This waiver does not preclude the Contractor from following all of the requirements of the federal Clean Water Act and/or state and local regulations.

#### 4.7.2.4 - Failure to Obtain or Comply with NPDES Permit

The Contractor is solely responsible for all requirements in this section. Contractor will hold Owner and Engineer harmless for all damages or fines arising as a result of noncompliance with the terms and conditions of the storm water permits and authorizations associated with work on this Project. The Owner reserves the right to withhold payment to the Contractor until the NPDES permit and notifications are obtained, the SWPPP plan is implemented and updated as required, and the BMP's are being conducted.

If the Contractor fails to conduct the work and services required, the Owner reserves the right to conduct the work and services required to meet the NPDES requirements. The Owner shall have the right to collect damages and costs by deducting the amount of the work and services from funds payable to the Contractor, or by such other means available.

#### 4.7.3 - 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 or Owner's request.

#### 4.7.4 - Silt Fence

Sediment control fabric silt fence construction shall be low porosity Mirafi 140N woven fabric or approved equal with grab tensile strength meeting test method ASTM D-4632, ultraviolet stability meeting test method ASTM D-4355, and water flow rate meeting test method ASTM D-4491.

Posts shall be wooden or steel, at least two inches in diameter, and on all four corners of excavated areas, placement at inlets, junction boxes, and flared end sections. Fence shall be three feet in height, reinforced on top, and tensioned with a high strength industrial belt.

#### 4.7.5 - Inlet Protector

Furnish, place, maintain, and remove upon NPDES permit termination, curb inlet drain filters at all on-site and affected off-site locations receiving runoff from the Project.

The inlet protector shall be placed a minimum of one foot beyond the end of the opening or grate and be of adequate height approximately nine inches in diameter. The protector shall be maintained by removing debris as required. Upon completion of project streets and avenues all inlets shall have curb filters.

Curb drain filters shall have a high flow rate, wrapped of durable high-strength geotextile material, and environmentally friendly. Curb drain filters shall be SWP-CI "Big Red" b ASP Enterprises, Gutterbuddy by ACF Environment, or approved equal.

#### 4.7.6 - Erosion Control Blanket

Erosion Control Blanket, if required, shall be constructed of agricultural straw evenly distributed across the entire blanket, covered with a short term photodegradable polypropylene durable net having an approximate 0.5 x 0.5 inch net opening, a mass per unit area of 0.40 lbs/sy. Blanket shall be North American Green S150, or approved equal.

If, during required inspections, erosion or undermining beneath the blanket is observed, the blanket shall be pulled back and any lost soil shall be replaced and the area shall be reseeded. After reseeding, the blanket shall be reinstalled as detailed above. Maintenance shall be completed within twenty-four (24) hours of inspection if site conditions are conducive.

#### 4.7.7 - Stabilized Construction Entrance/Exits

Anti-tracking pads shall be constructed and shall consist of crushed rock or stone at all construction Site entrances and exits to prevent the off-site transport of sediment. Thus, the number of construction entrances and exits should be limited. Security fencing may be required at each entrance and exit to direct traffic to and over the anti-tracking pads.

Anti-tracking pads shall consist of, at a minimum, crushed rock or stone varying from two inches to three and a half inches in diameter for a minimum of 50 feet from the paved surface. The crushed material shall be placed over a temporary geotextile filter fabric meeting a grab tensile strength of 250 lbs. per ASTM D4462 to reduce the mitigation of sediment from the underlying soil. The pad shall be intentionally constructed with a rough surface to vibrate the construction equipment and vehicles and encourage the sediment to drop on the anti-tracking pad.

The stabilized construction pad shall be maintained as required and removed upon project completion.

#### **4.8 - 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.

Prior to the start of any construction activities, the Contractor shall submit to the Engineer a copy of the NPDES permit for storm water discharges from construction activities, a copy of the SWPPP, if applicable.

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 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.

ARTICLE 5  
STORM SEWER SPECIFICATIONS  
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## ARTICLE 5

### STORM SEWER SPECIFICATIONS

#### 5.0 - GENERAL

This section of the Project Manual covers the Work generally and directly related to the construction of storm sewers, including standard storm sewer structures. The Contractor shall furnish all labor, tools, material, and equipment to perform the Work specified in this article.

All Specifications included in this construction Project Manual shall govern, except where special notations have been made on the Drawings or in the General Requirements, which shall have precedence, since this construction Project Manual is general in nature and will not cover special structures or unusual conditions. If there are any unusual conditions where structures are allowed for, they will be noted in Article 3, General Requirements.

#### 5.1 - EXCAVATION AND BACKFILL

The Contractor shall do all excavation of whatever substances encountered to depth shown on Drawings. Excavated materials not required for fill or backfill shall be removed from the Site, as directed by the Engineer, and disposed of by the Contractor.

Excavation for manholes, junction boxes, inlets, and other appurtenances shall have 12-inch minimum, and 24-inch maximum clearance on all sides. Excavation shall not be carried below the required level. Excess excavation below the required level shall be backfilled at the Contractor's expense with sand, gravel, or concrete, as directed by the Engineer, and thoroughly tamped.

Ground adjacent to all excavation shall be graded to prevent water running in. The Contractor shall remove, by pumping or other means approved by the Engineer, any water accumulated in the excavation. Large rock, boulders, and large stones encountered in the excavation shall be removed so none exist within four inches below and on each side of all pipe. Backfill to proper grade with tamped, granular bedding material. Backfill material shall be free from boulders, frozen clods, large roots, excessive sod, or other vegetation.

##### 5.1.1 - Trench Excavation

Banks of trenches shall be vertical, except for areas when unstable or running soil conditions are encountered in the trench walls; sloping of the trench walls will then be required. Width of the trench shall have a six-inch minimum clearance on each side of the pipe, and shall have a maximum width of 1.25 times the outside diameter of the pipe, plus one foot. The bottom of the trench shall be rounded so that an arc of the circumference equal to 0.6 of the outside diameter of the pipe rests on the undisturbed soil.

It is the intent of the foregoing to limit the width of the trench to the minimum necessary for proper laying of the pipe and to also permit adequate clearance for proper compaction of backfill material at the sides of the pipe. Excavation of a trench to a greater width than previously specified will not be permitted without written authorization of the Engineer.

##### 5.1.2 - Bracing and Shoring

The Contractor shall do all bracing, sheathing, and shoring necessary to perform and protect all excavations. Any sheathing or shoring used below the pipe invert shall be cut off and left in place to an elevation of 1.5 feet above the top of the conduit so as not to disturb pipe bedding.

##### 5.1.3 - Pipe Bedding

- a. RCP - It may be necessary to bed some of the storm sewer lines with crushed rock, due to the possibility of encountering wet soil conditions during excavation. The need for this bedding will be determined by the Engineer; however, it will be the responsibility of the Contractor to notify the Engineer when soil conditions are encountered that warrant the use of this type of bedding material.



Granular bedding shall extend the full width of the trench and shall extend upward from the bottom of the pipe to such level as will assure full support of the lower one-half of the pipe circumference. The minimum depth between the bottom of the trench and the lowest point of the pipe shall be as designated by the Engineer to achieve adequate pipe support. Bedding material will be crushed rock or crushed gravel meeting the requirements of ASTM C33, gradation 67, or coarse aggregate Class E, as stated in Table 1033.03A of the 2017 NDOT Standard Specifications for Highway Construction.

If a Bid item is provided in the Bid, the Contractor shall include in his Bid a price per lineal foot for the granular material and will be paid only for the material used. If no Bid item is shown, a price for this material will be negotiated by the Owner, Contractor, and Engineer and approved by change order prior to the incorporation of any of this material in the Project. The Contractor will be responsible for obtaining weight tickets or other documentation to substantiate his claim for bedding material.

- b. HDPE - Pipe bedding for HDPE pipe shall be in accordance with ASTM D2321, with soil classification in accordance with test method ASTM D2486. Bedding material shall be Class I, II, or III. The Contractor shall obtain an on-site soil classification test from a certified soils testing laboratory and forward a copy to the Engineer prior to installation. Bedding for HDPE pipe shall be included in the Bid on the pipe and will not be paid for as a separate item. The Contractor shall be responsible for investigating the on-site soil classification and need for borrow material prior to Bidding this Work.

Prior to pipe installation, the Contractor shall carefully bring the bedding material to grade along the entire length of pipe to be installed. The Contractor shall provide a uniformly compacted bedding to properly support the pipe, and to prevent any differential settlement of the pipe. The Contractor shall excavate the trench six inches below the pipe grade, and replace and compact the bedding material using hand or mechanical tamping. The bedding material shall be compacted to a minimum of 95 percent Standard Proctor Density. The bedding shall be brought to the proper grade after compacting.

#### 5.1.4 - Backfilling, Compaction, Moisture Control, and Testing

- a. RCP and HDPE - Backfill material shall be placed evenly and carefully around and over the pipe in 6-inch maximum layers. Each layer shall be thoroughly and carefully tamped to a 12-inch depth above the top of the pipe. The Contractor, after obtaining one foot of cover over the pipe, shall place the succeeding material in 12-inch lifts for pipes not located in street rights-of-way, and 8-inch lifts for pipes located in street rights-of-way, with each lift mechanically tamped.

The Contractor shall compact the backfill material from the bottom of the trench to a plane 24 inches below the existing ground surface, to not less than 95 percent of the maximum dry density. In areas where the ground will be covered with Portland cement or asphaltic concrete pavement, the top 24 inches of backfill material in the subgrade shall be compacted to 98 percent of the maximum dry density. In areas where the ground will have sidewalks constructed, the top 24 inches of backfill material shall be compacted to 95 percent of the maximum dry density. In all other areas, the top 24 inches of backfill material shall be compacted to 95 percent of the maximum dry density. However, in no case shall the degree of compaction of the trench backfill be less than the density of the original soil. Non-cohesive soils with less than 10 percent passing through No. 200 sieve, crushed rock pipe bedding, or granular pipe bedding, whichever may be specified for RCP pipe, shall be compacted to a minimum of 90 percent standard proctor density. This requirement is not a Bid item, but shall be included in the Bid on the piping.

The maximum dry density and optimum moisture content of the backfill material will be determined in accordance with ASTM D698. The Contractor shall adjust the moisture content of the backfill material to not more than four percent above, or two percent below, the optimum moisture content.

Compaction tests shall be made in accordance with ASTM D2166. A retest shall be required for every compaction test that does not meet the minimum requirements for moisture and compaction after the trench has been recompacted.

The Contractor shall perform all Work necessary to recompact the trench. Two density and moisture tests will initially be run on the trench backfill on each 150-foot increment of pipe trench backfill. Each density test initially run shall be considered representative of the 150-foot length, as above described. In the event of a failing test, the trench backfill shall be recompacted by the Contractor. If, however, a test indicates the density at any one test location is very close to the specified density, then the Contractor will be permitted to pay for additional tests to determine if any part of the representative section of trench backfill is in compliance with the specified density. The Engineer will be the sole judge in determining the number of additional tests required, and the acceptability of any part of the trench backfill when the Contractor elects to pay for additional moisture and density tests. The above conditions notwithstanding, the very minimum amount of trench backfill that must be recompacted by the Contractor will extend from the point of each failing test to the mid-point of the length of pipe between such failing test, and the point where the next density test has been performed. If compaction tests are required, the Contractor shall obtain the services of a testing laboratory, acceptable to the Owner and Engineer, to perform all compaction testing. The cost of all compaction tests shall be the responsibility of the Contractor, and shall be included in his Bid as he deems necessary. The Engineer will select the frequency, location, and depth of all compaction tests. Depths shall vary vertically throughout the trench backfill.

It will be the Contractor's option as to the type of mechanical tamping equipment he uses to attain the specified soil densities; however, the tamping equipment shall be sized and used in such a manner as to not disturb or damage the pipe. Use of high force hammer equipment, gravity or hydraulic type, will not be permitted until compacted backfill is in place to a minimum of 3-1/2 feet above the top of pipe.

Approval of pay requests is subject to receipt and acceptance of all testing information.

- b. HDPE - Backfilling for HDPE pipe shall be in accordance with ASTM D2321 with soil classification in accordance with test method ASTM D2486. Backfill material shall be Class I, II, or III. The Contractor shall obtain an in-situ soil classification test from a certified soils testing laboratory and forward a copy to the Engineer prior to installation. Backfill for HDPE pipe shall be included in the Bid on the pipe and will not be paid for as a separate item. The Contractor shall be responsible for investigating the in-situ soil classification and need for borrow material prior to Bidding this Work.

#### 5.1.5 - Payment

All material excavated for Site preparations, structures, or trenches shall be classified as earth excavation and will be included in the unit prices of storm sewer main per foot or appurtenances complete in place. The Contractor, in making his Bid, shall satisfy himself from such information as shown on the Drawings and from personal examination of the Site, as to the presence and the extent of groundwater, rock, or other obstructions to be encountered.

#### 5.1.6 - Safety Conditions

The Contractor shall conduct his operations in accordance with the requirements of OSHA and the Nebraska Department of Labor. Neither the Owner nor the Engineer is obligated under these Specifications to be responsible for the safety of this Project. Obviously dangerous situations may be observed by representatives of the Owner or the Engineer, and the Contractor's representatives notified of the problem.

## 5.2 - STORM SEWER MAINS

### 5.2.1 - Pipe

Pipe for the storm sewer conduit, as stated on the Bid, shall meet the Specifications contained herein. Alternates may be called out in the Bid. Inclusion of alternates in these Specifications does not necessarily mean that they are included or allowed in the Bid.

- a. Reinforced concrete storm sewer (RCP) pipe shall be precast and meet the following ASTM standards:

|                 |                                            |
|-----------------|--------------------------------------------|
| Round Pipe      | Class III or Class V, ASTM Designation C76 |
| Arch Pipe       | ASTM Designation C506                      |
| Elliptical Pipe | ASTM Designation C507                      |

- b. High density polyethylene storm sewer (HDPE) pipe shall meet the following Specifications and requirements:

#### Smooth Interior Corrugated Polyethylene Pipe

Standard HDPE pipe and fittings shall be constructed from polyethylene compounds meeting ASTM D3350 Cell Classification 324420C or ASTM D1248, Type III, Category 4, Grade P33, Class C. HDPE pipe shall comply with the requirements for test methods, dimensions, and markings in AASHTO Designation M 294.

- c. Corrugated metal pipe (CMP) shall meet the following Specifications and requirements.

|                          |                             |
|--------------------------|-----------------------------|
| Round and Arches         | AASHTO M 36                 |
| 8" through 24" Diameter  | 16 gauge (0.057 inch thick) |
| 30" through 36" Diameter | 14 gauge (0.072 inch thick) |
| 42" through 54" Diameter | 12 gauge (0.101 inch thick) |
| 60" through 72" Diameter | 10 gauge (0.129 inch thick) |

Corrugation shall be 2-2/3 inch thick by 1/2 inch, or approved equal. Belts, nuts, washers, and all other hardware used with coupling bonds shall be galvanized in accordance with ASTM A153 or mechanically galvanized in accordance with ASTM B645, Class 50.

- d. Polyvinyl Chloride (PVC) shall meet the following specifications and requirements:

ASTM D 1784, SDR 26  
Unplasticized PVC, Type 1, Grade 1

### 5.2.2 - Joints

- a. RCP - Joints for precast concrete pipe shall be tongue-in-groove with mastic joints.
- b. HDPE - Joint fittings may be either molded or fabricated coupling bands that shall provide sufficient longitudinal strength to preserve pipe alignment and prevent separation at the joints.

Pipe fittings shall conform to AASHTO Designation M 294 and be supplied by the pipe manufacturer.

Gasketed coupling bands, if required, shall be made of closed-cell synthetic expanded rubber meeting the requirements of ASTM D1056, Type 2.

- c. PVC - Joints shall be elastomeric gasket type providing water proof seal conforming to ASTM F 477 and joints to ASTM D 3212.

### 5.2.3 - Laying Pipe

The Contractor shall be required to use one of the following two methods:

- a. The Contractor shall be required to furnish and use laser equipment for installation of all storm sewer mains as a means of establishing proper line grade. Stakes shall be provided for horizontal and vertical control of all structures. Staking beyond that shall be the responsibility of the Contractor and at his cost.
- b. The Contractor may use an overhead grade line or top line method for establishing grade or sighting of the grade pole over parallel double lines. The Contractor shall have in position a minimum of three grade or batter boards while laying pipe; any discrepancies or irregularities in the line or grade stakes should be corrected before pipe laying proceeds.

If the Contractor elects to use the second method for installation of the storm sewer mains, the required surveying and staking beyond the horizontal and vertical control stakes shall be the Contractor's responsibility and at his cost.

The laser beam projector is to be rigidly mounted. Units using the laser beam coaxially through the center of the pipe should maintain control of atmospheric conditions in the pipe to assure proper line and grade. Units other than through the pipe should provide adequate control sufficient to produce acceptable standards of construction.

No water shall be allowed in the trench without approval of the Engineer. Not more than 100 feet of ditch may be opened ahead of pipe laying without approval of the Engineer. To prevent earth or other material from entering the pipe, excavation shall be kept ahead of the pipe laying, and the exposed end of the pipe shall be closed with a board or other stopper.

All pipe shall be laid true to line and grade with bell end upgrade. The sections of pipe shall be so laid and fitted together that, when complete, the sewer will leave a smooth and uniform invert. The pipe shall be kept clean so that jointing compounds will adhere. Each pipe shall be inspected for defects before being lowered into the trench. The interior of the pipe shall be kept free from all dirt, cement, and superfluous material of every description as the Work progresses.

HDPE pipe shall be laid in accordance with the requirements of ASTM D2321.

### 5.2.4 - RCP and HDPE Connection

All connections of RCP pipe to HDPE pipe shall contain a high density polyethylene adaptor which fits properly inside the RCP pipe. A concrete collar shall encompass the adaptor to ensure no slippage or misalignment. The concrete collar shall be included in the connection fitting bid item.

## 5.3 - INLETS, JUNCTION BOXES, AND RELATED STRUCTURES

Inlets, junction boxes, and related structures shall be constructed as shown on the Drawings. Bid price for inlets and junction boxes shall include manhole frame and lid. All connections shall be neatly built, leaving no projections on the inside of the box. The connections shall be made watertight by grouting.

All bases shall be poured-in-place concrete only. Groundwater shall be kept below bottom of base for 24 hours following pouring of the base. No brick or block boxes will be accepted.

### 5.3.1 - Concrete

Concrete shall be NDOT Type 47B-3500 P.C. concrete, and air-entrained by addition of an agent. Concrete shall be in accordance with Article 6 of this Project Manual.

### 5.3.2 - Reinforcing Bars

Reinforcing bars are to be deformed Grade 60 billet steel bars, except where otherwise noted on the Drawings, and shall conform to the requirements of the NDOR Standard Specifications for Highway Construction, 2007 English Edition, Section 1020 and ASTM Designation A615. One test shall be made of reinforcing bars, as delivered to the job. Samples for the test are to be taken from bars delivered to the job, and one sample taken for each bar size. Testing is to be made to determine compliance with reinforcing bar Specifications.

Welded wire fabric for concrete reinforcement shall conform to the requirements of the NDOR Standard Specifications for Highway Construction, 2007 English Edition, Section 1024, ASTM Designation A185, and AASHTO M 55. One test is to be made of welded wire fabric as delivered to the job, and a test made to determine compliance with Specifications for welded wire fabric. Any wire fabric reinforcement delivered to the job after test on same has been made shall be identical to tested fabric regarding material and manufacture.

### 5.3.3 - Concrete Protection for Reinforcement

For cast-in-place concrete, the following minimum concrete cover shall be provided for reinforcement:

|                                                          |        |
|----------------------------------------------------------|--------|
| Concrete Cast Against, and Permanently Exposed to, Earth | 3"     |
| Concrete Exposed to Earth or Weather                     |        |
| #6 Bars and Larger                                       | 2"     |
| #5 Bars and Smaller                                      | 1-1/2" |

## 5.4 - RINGS AND COVERS FOR APPURTENANCES

All manholes, junction boxes, and inlets shall be equipped with cast iron manhole rings and covers, as shown on the Drawings and standard detailed drawings.

The manhole frame and lid shall be Deeter Foundry No. 1156 with machined bearing surface, open pick hole, and suitable for H-20 traffic loading. The frame and lid shall have a minimum weight of 335 pounds, and a minimum opening through the frame of 24 inches.

## 5.5 - GRADE AND ALIGNMENT TEST

Completed storm sewers shall be checked for alignment and grade. Deviations from the established line and grade which, in the opinion of the Engineer, are excessive shall be corrected by the Contractor. The Engineer will be the sole judge in determining the need for corrective measures.

## 5.6 - METHOD OF MEASUREMENT AND PAYMENT

Payment for storm sewer shall be included in the total cost of the project or as broken down on the bid form, which payment shall be full compensation for trenching, bedding, backfilling, spoil of material, pipe, jointing, and all of the material, equipment, and labor necessary to complete the storm sewer construction.

Payment for manholes, headwalls, inlets, collars, bends, end plugs, and HDPE to RCP connection fittings will be included in the total price or as shown on the Bid form.

## 5.7 - CLEANUP

When the installation of the storm sewer pipe is completed, the Contractor shall remove all material, equipment, temporary structures, trash, and other debris resulting from the construction of the Project. The construction area shall be left in a neat and uncluttered condition. The Contractor shall also remove all dirt, trash, and debris from the completed sewer lines, boxes, and manholes, and shall be responsible for the methods and means by which this Work is accomplished.

## ARTICLE 6

### P.C. CONCRETE CONSTRUCTION, NDOT 47B-3500 (PAVING), BX-3000 (WALKS)

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## **ARTICLE 6**

### **P.C. CONCRETE CONSTRUCTION, NDOT 47B-3500 (PAVING), BX-3000 (WALKS)**

#### **6.0 - 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.

#### **6.1 - PAVEMENT REMOVAL**

Where indicated on the Drawings, removal of pavement and road surfaces shall be required in order to construct the improvements. The limits of concrete removal and replacement shall be marked by Engineer and/or Owner during construction. All existing pavement to be removed shall be saw cut to ensure the breakage of pavement along straight lines. Saw cutting shall be considered incidental in the removal of concrete or asphalt paving. All concrete or asphalt paving removed shall be removed from the site and disposed of by the Contractor at the Contractor's expense.

#### **6.2 - EXCAVATION**

Excavation of every description, and of whatever substance encountered within the limits of the Project, shall be performed to the lines and grades indicated, or as required to construct the concrete slabs to the thickness indicated on the Drawings. Except as otherwise permitted by the Engineer, all excavated areas shall be excavated in such a manner as would afford adequate drainage.

##### **6.2.1 - Over-excavation**

After the existing concrete or asphalt has been removed, the Contractor shall be required to over-excavate the entire width of the subgrade under the concrete slab to a depth of one foot and recompact this material so as to provide a uniform base for the concrete.

The over-excavation and re-compaction is not intended to consist of excavating and working the original material in place. The Contractor, however, may either excavate one full foot, replacing and re-compacting the soil in six inch lifts; or the Contractor may excavate and remove the top six inches, then scarify, mix, and re-compact the next six inches, followed by hauling back, mixing, relaying, and re-compacting the top six inches. This work is considered incidental work and should be included in the bid for the concrete paving.

##### **6.2.2 - Removal of Unsuitable Material**

The Contractor's attention is called to the fact that unsuitable soils, including wet or spongy material and poor utility trench backfill, for the paving subgrade may be encountered during the paving excavation. The Contractor shall be required to remove all unsuitable soils encountered to whatever length, width, and depth necessary, and replace the unsuitable material with satisfactory material in order to provide a suitable subgrade having the required bearing capacity. The final or top one foot of this replacement shall be placed at the same time as the scarifying and recompaction of the one foot of soil base immediately below the slab. It shall be the Contractor's responsibility to notify the Engineer when unsuitable material is encountered, prior to its removal and replacement, in order that a measurement of the unsuitable material can be made. If not specified in a Bid item, the price shall be negotiated between the Contractor and the Owner.

#### **6.3 - SUBGRADE**

The bottom of the excavation for the slab shall be known as the paving subgrade and shall conform to the lines, grade, and cross section of the existing paving being removed and replaced, or as required to construct a new slab to the thickness indicated 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 pavement construction.

Paving 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 paving.

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 correct elevations to provide a final top of paving elevation to match the elevation of the previously removed paving, or as required to construct the paving to the thickness indicated on the Drawings. 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 for correct elevation. The subgrade shall also be cleared of any loose material which may have fallen upon it. Any ridges made by ready-mix trucks or other equipment shall be cut off and the material removed. All ruts formed by such equipment shall be filled with concrete only.

#### **6.3.1 - Subgrade Compaction Requirements**

The paving 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.

Non-cohesive soils with less than 10 percent passing the No. 200 sieve shall be compacted by an approved method to at least 70 percent relative density. The compaction standard to be utilized to determine the relative density is ASTM D4253 and D4254.

Crushed aggregate and earthen mixture shall be compacted to 95 percent of the maximum dry density of the standard proctor or 70 percent of relative density of the mixture as determined by ASTM D2049.

The Contractor shall adjust the moisture content of the subgrade to not more than three percent above, or three percent below, the optimum moisture content.

#### **6.3.2 - Protection of Subgrade**

The finished subgrade shall be maintained in a smooth and compacted condition until the concrete has been placed.

### **6.4 - FINAL GRADING**

Contractor shall grade and backfill behind the curb in a neat workmanlike manner. All excess concrete and debris shall be removed from the excavation behind the curb line 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 Engineer.

Traffic signs, street signs, and other obstructions removed during construction shall be replaced as part of the final grading.

## 6.5 - MATERIALS

### 6.5.1 - Concrete

Concrete shall be composed of Portland Cement, aggregates, and water, and conform to the NDOT 2017 Standard Specifications for Highway Construction, 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.

### 6.5.2 - Portland Cement

Portland Cement shall conform to the 2017 NDOT Standard Specifications for Highway Construction, Section 1004. Type I or II Portland Cement shall be used and conform to ASTM C150. Fly ash shall be Class C or F conforming to ASTM C618 and the 2017 NDOT Standard Specifications for Highway Construction, Section 1008.

### 6.5.3 - Air-Entraining Agent

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

### 6.5.4 - Aggregates

All aggregates shall conform to the requirements of Traditional Class 47-B and BX concrete as listed in Table 1033.02A, Class B, Fine Aggregate for Concrete Gradation Limits and Table 1033.03A, Class E, Coarse Aggregate for Concrete Gradation Limits of the 2017 NDOT Standard Specifications for Highway Construction for the Nebraska Department of Transportation - State of Nebraska. Aggregates with adversely reactive constituents shall not be used.

The aggregate (both fine and coarse) shall be handled so that its moisture content and gradation is reasonably uniform and does not change appreciably from batch to batch or hour to hour.

No aggregates shall be used which have become mixed with foreign material while in storage. Frozen aggregates, or aggregates containing frozen lumps, shall be thawed before use.

### 6.5.5 - Water

Water used in mixing or curing concrete shall be clean and free from injurious amounts of oil, acids, salt, alkali, organic materials, or other substances harmful to concrete. Water for concrete shall meet the 2017 NDOT Standard Specifications for Highway Construction, Section 1005. Water from public supplies, or which is suitable for drinking, is satisfactory.

### 6.5.6 - Reinforcing Steel

Reinforcing steel, if specified, shall be deformed Grade 60 billet steel and conform to the 2017 NDOT Standard Specifications for Highway Construction, Section 1020, and the latest ASTM Designations as follows:

|                   |                       |
|-------------------|-----------------------|
| Bars and rods     | ASTM Designation A615 |
| Steel wire fabric | ASTM Designation A185 |

### 6.5.7 - Approval of Concrete Mixes

Prior to construction, the Contractor shall submit and have tested by a reputable testing laboratory all materials proposed to be used under these Specifications. Results of the tests shall be submitted to the Engineer prior to placement. No material shall be used until it has been approved by the Engineer in writing. The Contractor shall acquire from the testing laboratory its recommended job mix and aggregate gradation curve, based on materials submitted, and submit them to the Engineer for approval prior to construction. The costs of these tests and job mix designs shall be borne by the

Contractor. The Contractor shall furnish the Engineer with the ready-mix plant and aggregate source prior to construction.

Approval of pay requests are subject to receipt of this testing information.

## **6.6 - JOINTS**

All joints shall be constructed and spaced as shown on the Drawings. Details of joints are included in the Drawings.

### **6.6.1 - Expansion Joints**

Expansion joints shall be 1/2 inch from the bottom of the slab to 1/2 inch from the top of the slab at the width as indicated on the Drawings. Expansion joints for paving shall be non-extruding preformed redwood, cypress, or cedar boards, or premolded fiber conforming to ASTM D544 and AASHTO M 33, M 153 Type 3. Expansion joints for sidewalks shall be non-extruding, preformed joint fillers similar to Soneborn, Sonoflex F, foam expansion joint filler, or approved equal. Closed cell polyethylene foam backer rods may be utilized in sidewalk joint construction.

The top 1/2 inch shall be filled with sealing compound. Expansion joints shall be placed at locations noted on the Drawings. Expansion joints are considered incidental Work and shall be included in the appropriate paving Bid item.

### **6.6.2 - Contraction Joints or Construction Joints**

Joints shall be either sawed or hand-tooled and cut using a straight edge and trowel while the concrete is still plastic. Joints shall be cut to a depth of 1/4 of the slab thickness and rounded and smoothed with a joint tool or edger. Joints that result in premature and uncontrolled cracking shall be revised immediately by adjusting the time interval between the placing of the concrete and the cutting of the joints. The street longitudinal and transverse joints shall be filled with sealing compound.

### **6.6.3 - Joint Sealing Compound**

Sealing material for filling and leveling of all street expansion, contraction, and construction joints, if any in the Project, shall be Sealtight HI-SPEC or WR Meadows 3405, hot-pour joint sealing compound, meeting ASTM D3405 and Federal Specification SS-5-1401B, or approved equal, meeting the 2107 NDOT Standard Specifications for Highway Construction.

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.

### **6.6.4 - Metal Supports and Keyway**

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.

Metal keyway shall be trapezoidal shaped steel of not less than 24 gauge (0.0276 inch thick) and punched along the centerline to admit tie bars as shown on the detail.

### **6.6.5 - Materials for Curing Concrete**

Curing compound shall be W.R. Meadows, Inc., Sealtight 1650 curing compound, or approved equal. The compound shall meet the requirements of the 2017 NDOT Standard Specifications for Highway Construction, Section 1012, ASTM C309, and AASHTO M 148. Curing compounds shall be listed on the NDOT's Approved Products List. The Contractor shall use extreme care in placing of curing compound around buildings, signs, etc., and shall remove all excess curing from such locations.

## 6.7 - MIXING AND PLACING

### 6.7.1 - 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.

### 6.7.2 - Proportioning Concrete

Proportions of cement, water, and aggregates shall conform to the standard proportions for pavement concrete of the Nebraska Department of Transportation 47B-3500.

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 6.7.10. Air-entrained concrete shall have a total air content of 5 to 7-1/2 percent by volume of the plastic concreting, including natural entrained air found in Portland Cement.

#### a. 47B-3500 (Paving)

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 0.48. 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.

#### b. BX-3000 (Sidewalks)

Sidewalk concrete shall be NDOT Type BX-3000 P.C. concrete, and air-entrained by addition of an agent. Concrete shall be in accordance with NDOT Standard Specifications for Highway Construction, 2017 Edition. Portland Cement shall be in accordance with Section 1002, Portland Cement Section 1004, Water for Concrete Section 1005, Concrete Aggregate Section 1033, Fly Ash Section 1008, and Admixtures Section 1007 of the NDOT Standard Specifications for Highway Construction, 2017 Edition. The maximum water/cementitious ratio shall be 0.48, six-sack (94 pounds per sack), air content between 5 and 7.5 percent by volume, and slump between 1 and 3 inches. Compressive strengths shall be a minimum of 2,100 psi at 7 days and 3,000 psi at 28 days.

### 6.7.3 - Compression Tests

Compression test specimens shall be made in the field, as required by the Engineer and in accordance with ASTM Designation C31 and cured in accordance with AASHTO T 23. When tested in accordance with ASTM C39 and AASHTO T 22, minimum compressive strength shall be 7 days, 2,450 psi; 28 days, 3,500 psi for 47B paving and sidewalks. High early concrete shall have a 48-hour break of 3,500 psi. Tests shall be paid for by the Contractor.

There shall be a minimum of three cylinders taken each day that concrete is placed up to 1,000 square yards in which an additional three cylinders shall be taken for each additional 1,000 square yards placed. Cylinders shall be taken on the first load and be clearly marked as to location and Project. Cylinders shall be made in accordance with ACI and NDOT Specifications. One cylinder shall be broken at 7 days, the second at 28 days, and the third as a spare for retest.

All compression tests shall indicate location of pavement poured for this section utilizing street names and stationing on the Drawings. All compression test results shall be signed by a professional Engineer of the State of Nebraska.

Approval of pay requests is subject to receipt and acceptance of all testing information.

#### 6.7.4 - Consistency

The slump of the concrete shall be from one to three inches. The consistency shall be measured as described in the current ASTM Standard Method of Slump Test for Consistency of Portland Cement Concrete (Designation C143), or the method of test for ball penetration for Portland Cement Concrete, ASTM Designation 360.

#### 6.7.5 - Workability

Concrete shall at all times be of such consistency that it can be worked into corners and angles of the forms and around joints, dowels, and tie bars by the construction methods used, without excessive spading, segregation, or undue water or laitance on the surface.

#### 6.7.6 - Job-Mixed Concrete

Job-mixed concrete shall be mixed in a drum mixer, which shall conform to the concrete paving mixer standards of the Mixer Manufacturers Bureau of the Associated General Contractors of America. The mixer shall be capable of combining the aggregates, cement, and water into a thoroughly mixed and uniform mass within the specified time, and of discharging the material without segregation. The entire contents of the drum shall be discharged before recharging. The volume of the mixed materials per batch shall not exceed the manufacturer's guaranteed capacity (110 percent of rated capacity) of the mixer. The mixer shall be equipped with an automatic dispensing device, which will inject the required amount of air-entraining admixture into each batch of concrete.

#### 6.7.7 - 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.

#### 6.7.8 - 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.

#### 6.7.9 - 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.

#### 6.7.10 - 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 6.7.2 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.

### 6.8 - FORMS AND EQUIPMENT

#### 6.8.1 - Forms

Forms shall be made of metal 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.

#### 6.8.2 - 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.

#### 6.8.3 - Grade and Alignment

The concrete shall be mixed in quantities required for immediate use and shall be deposited on the subgrade to the required depth and width. The concrete shall be placed as uniformly as possible in order to minimize the amount of additional spreading necessary.

While being placed, the concrete shall be spaded or vibrated and compacted with suitable tools so that the formation of voids or honeycomb pockets is prevented. The concrete shall be especially well spaded or vibrated and tamped against the forms and along all joints. Care shall be taken in the distribution of the concrete to deposit a sufficient volume along the outside form lines so that the curb section can be consolidated and finished simultaneously with the slab.

No concrete shall be placed around manholes or other structures until they have been brought to the required grade and alignment.

#### 6.8.4 - Paving Equipment

The use of power screeds and slip-form paving equipment can be used, provided that the equipment is capable of producing a paving cross section equivalent to that described in the preceding section. The Contractor shall provide the Engineer with the type of paving equipment to be used, and the Engineer shall take action on approval of such equipment. This approval, however, does not relieve the Contractor from the responsibility of producing a paving slab equivalent to that poured between forms, and any paving slab formed that does not meet these requirements may be rejected. Typically, rejection would occur if the equipment "tears" the surface or the sides of the slab or if the concrete should slump subsequent to placement.

#### 6.8.5 - Cold Weather Concreting

Except by specific written authorization, concreting shall cease when the descending air temperature in the shade and away from artificial heat falls below 40 degrees F. It shall not be resumed until the ascending air temperature in the shade and away from artificial heat rises to 35 degrees F and with a favorable weather forecast.

### 6.9 - CONSOLIDATING AND FINISHING

The pavement shall be struck off and consolidated with a mechanical finishing machine or by hand finishing methods. If requested by the Engineer, the Contractor shall construct a minimum of three two-foot by two-foot concrete test panels with different finishes for the Owner to determine the type of desired finish. The test panel and finishing is considered incidental work and shall be located at an approved Site.

### 6.9.1 - Final Surface Finish

The final surface of the concrete and curb shall have a uniform gritty texture free from excessive harshness. The Engineer may require changes in the final finishing procedure, as required, to produce the desired final surface texture.

### 6.9.2 - Integral and Drop Curbs

Integral curbs shall be required as indicated on the Drawings or where existing curbs had been removed for construction of the water main improvements. Depressed curbs shall be provided at all driveways, alleys, handicap ramps, and places, as shown on the Drawings or as required to match pre-construction conditions, and at such other locations as designated by the Engineer or his representative.

The curb shall be constructed of the same concrete either as part of the paving machine or immediately following the finished operation. Special care shall be taken so that the curb construction does not form a cold joint and shall secure adequate bond with the paving slab and eliminate all voids.

Drop curbs shall be one inch for handicap ramps in accordance with the Americans with Disabilities Act and two inches for driveway returns and other areas designated on the Drawings.

The construction of integral and drop curbs is considered incidental Work and should be included in the appropriate Bid item.

## 6.10 - CURING

Concrete shall be cured by protecting it against loss of moisture, rapid temperature change, and from rain, flowing water, and mechanical injury for a period of not less than five days from the beginning of the curing operation. Moist curing, waterproof papers, white polyethylene sheeting, liquid membrane compounds, or a combination thereof, may be used for curing.

Immediately after the finishing operations have been completed, the entire surface shall be covered by the curing medium, which is applicable to local conditions and approved by the Engineer. The edge of the concrete slabs exposed by the removal of forms shall be protected immediately to provide these surfaces with continuous curing treatment equal to the method selected for curing the slab surface and to prevent injury to pavement edges.

The use of a covering material which contains or becomes contaminated with sugar in any form, tannic acid, or any other substances considered detrimental to Portland Cement will not be permitted. The initial curing medium shall be effective and shall be applied so as to prevent checking, cracking, and the appearance of dry spots in the surface of the concrete. The Contractor shall have the equipment needed for adequate curing at hand and ready to install before actual concrete placement begins. In all cases in which the curing medium requires the use of water, the curing shall have a prior right to all water supply. Failure to provide sufficient cover material of the type selected, failure to maintain saturation for the entire curing period in the moist-curing methods, lack of water to adequately care for both curing and other requirements, or other failures to comply with requirements shall be cause for immediate suspension of concreting operations.

### 6.10.1 - 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.

### 6.10.2 - Liquid Membrane Curing Compound

Pigmented liquid, non-bituminous membrane curing compound shall meet the Specifications under Section 6.6.5. 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 re-sawed to remove all traces of the compound.

### 6.11 - HANDICAP RAMPS

All handicap ramps shall meet the latest requirements of the Americans with Disabilities Act and local ordinances. Handicap ramps shall be constructed at the locations and to the detail shown on the Drawings. Ramp width shall be as noted on the Drawings and shall not be less than four feet. Longitudinal slope shall not be steeper than 1 vertical to 12 horizontal, as noted on the Drawings or designated by the Engineer. The drop curb for handicap ramps shall be one-quarter inch per 12 inches or two percent maximum.

The concrete portion of the ramp and wings, as noted on the respective detail, shall be non-slip finished by doming or brooming as noted on the detail. Domes shall be 0.2 inch by 0.9 inch, and 2.35 inches apart, as shown on the detail. A non-uniform and unsightly dome and tining finish, as determined by the Engineer, is grounds for removal and replacement.

Domes shall be two-foot wide by width of ramp, brick red colored, precast vitrified epoxy polymer, precast foundry, stamped colored concrete, or pre-cast concrete. Polymer insert shall be ultraviolet stabilized coating, red detectable truncated dome unit similar to Armor-Tile specifications, section 09310. Armor-Tile is manufactured by Engineered Plastics, Inc., with URL: [www.armor-tile.com](http://www.armor-tile.com).

Handicap ramp construction shall be included in the appropriate sidewalk paving Bid item.

### 6.12 - METHOD OF PAYMENT

The Contractor shall note that the units for removal of all paving are in square yards, or as a job/lump sum, as shown on the bid form. The paving removal Bid item shall include all remaining surfaces such as concrete, asphalt, brick, and any combination thereof.

Method of payment for concrete paving, including sidewalks, is in square yards, or as a job/lump sum, as shown on the bid form. Concrete paving, returns, curb and gutter, expansion joints, construction joints, sealant, curing, and subgrade shall be included in the appropriate concrete thickness Bid item.



ARTICLE 7  
PAVEMENT MARKINGS  
INDEX

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## **ARTICLE 7**

### **PAVEMENT MARKINTS**

#### **7.0 GENERAL**

##### **7.1 Summary**

- A. The Contractor shall furnish all labor, materials, tools and equipment, and perform all work and services necessary for or incidental to the performance and completion, of all operations in connection with all paving striping and markings as shown on the Drawings and as specified, in accordance with provisions of the Contract Documents, and completely coordinated with work of all other trades.
- B. Although such work is not specifically shown or specified, furnish and install all supplementary or miscellaneous items, appurtenances and devices incidental to or necessary for a sound, secure and complete application.
- C. Section Includes:
  - 1. Traffic lines and markings.
  - 2. Handicap parking symbol.
  - 3. Paint.

##### **7.1.2 References**

- A. American Association of State Highway and Transportation Officials:
  - 1. AASHTO M247 - Standard Specification for Glass Beads Used in Traffic Paint.
- B. ASTM International:
  - 1. ASTM D34 - Standard Guide for Chemical Analysis of White Pigments.
  - 2. ASTM D126 - Standard Test Methods for Analysis of Yellow, Orange, and Green Pigments Containing Lead Chromate and Chromium Oxide Green.
  - 3. ASTM D562 - Standard Test Method for Consistency of Paints Using the Stormer Viscometer.
  - 4. ASTM D1475 - Standard test Method for Density of Liquid Coatings, Inks, and Related Products.
  - 5. ASTM D2371 - Standard Test Method for Pigment Content of Solvent-Reducible Paints.
  - 6. ASTM D2621 - Standard Test Method for Infrared Identification of Vehicle Solids From Solvent-Reducible Paints.

##### **7.1.3 Performance Requirements**

- A. Paint Adhesion: Adhere to parking lot and drive surfaces forming smooth continuous film one minute after application.
- B. Paint Drying: Tack free by touch so as not to require coning or other traffic control devices to prevent transfer by vehicle tires within two minutes after application.

#### **7.1.4 Quality Assurance**

- A. Provide all materials and perform all work in compliance with the applicable requirements of regulatory agencies.
  - 1. Federal Specifications: TT-P-001952-B, Type I.
- B. Specifications are based upon paint products as manufactured by Diamond Vogel, or approved equal.
- C. In compliance with these Specifications, other manufacturers desiring "or equal" approval, shall submit requests in accordance with Section 01 60 00, Product Requirements.

#### **7.1.5 Environmental Requirements**

- A. Section 01 60 00 - Product Requirements: Environmental conditions affecting products on site.
- B. Do not apply materials when surface and ambient temperatures are outside temperature ranges required by paint product manufacturer. Do not apply paint when temperatures are expected to fall below 50 degrees F for 24 hours after application.
- C. Do not apply exterior coatings during rain or snow when relative humidity is outside humidity ranges, or moisture content of surfaces exceed those required by paint product manufacturer.
- D. Volatile Organic Content (VOC). Do not exceed State or Environmental Protection Agency maximum VOC on traffic paint.

#### **7.1.6 Project Conditions**

- A. Painting will not be permitted until a minimum of five (5) days has elapsed from the time the surface is completed. A longer period may be required, if directed by the Architect.
- B. No paint shall be applied over wet surfaces, during wet or damp weather, or when temperature is below forty degrees (40°F.).

### **7.2 PRODUCTS**

#### **7.2.1 Painted Pavement Markings**

- A. Paint:
  - 1. UC Series, Best Quality, Slow Dry, High Hide, Water Reducible, Traffic and Highway Striping Paint, as manufactured by Diamond Vogel, or approved equal.
  - 2. Color of Paint: Paint color for handicapped symbol shall be UC-7501, flat blue. Paint color at all stalls, shall be UC-3586, yellow.
  - 3. All paint shall be lead free.

### **7.2.2 Equipment**

- A. Striping equipment shall be self-contained, self-propelled, capable of painting up to 6 inches wide stripes by use of spray nozzle. Paint shall be kept in constant agitation and under pressure
- B. Provide such auxiliary hand-painting equipment as may be necessary to satisfactorily complete the job.
- C. Other Equipment:
  - 1. For application of crosswalks, legends and other miscellaneous items by walk behind strippers, hand spray or stencil trucks, apply with equipment meeting requirements of this section. Do not use hand brushes or rollers.

## **7.3 EXECUTION**

### **7.3.1 Examination**

- A. Section 01 30 00 - Administrative Requirements: Verification of existing conditions before starting work.
- B. Do not apply paint to concrete surfaces until concrete has cured for 28 days.

### **7.3.2 Preparation**

- A. Surfaces which are to receive painted stripes or markings shall be thoroughly cleaned of all dirt, dust, grease, oil, curing compounds if used, and other foreign substances and shall be completely dry before paint is applied.
- B. Method of applying paint shall be approved by Architect prior to commencing marking operations.
- C. Striping or marking shall not be applied when the pavement temperature is greater than 120°F or when the atmospheric and surface temperatures are below 50°F.
- D. Paint shall not be applied to portland cement concrete pavement until the concrete in the areas to be painted is clean of curing material. Sand blasting or high pressure shall be used to remove curing material from concrete surfaces.

### **7.3.3 Application**

- A. Stripings and markings shall be in accordance with applicable Drawings.
  - 1. Paint handicap symbol on parking stalls so designated on the Drawings.
  - 2. Apply markings to indicated dimensions at indicated locations.
- B. Use a guide to form markings true to line and width.
- C. On those sections of pavement where no previously applied markings are available to serve as a guide, the proposed markings shall be laid out in advance of the paint application.

- D. Paint shall be thoroughly stirred and kept at a uniform consistency during application and not be thinned in excess of manufacturer's recommendations.
- E. Agitate paint for 1-15 minutes prior to application to ensure even distribution of paint pigment.
- F. Apply 1 coat at 20 mils wet film thickness.
- G. Rate of application shall be a minimum of 73 square feet/gallon for a dry film thickness of 9 mils per coat, but sufficient enough to produce complete coverage without voids or thin spots.
- H. The edges of the markings shall not vary from a straight line more than 1/2 inch in 50 feet, and the dimensions shall be with a tolerance of plus or minus 5%.
- I. After application of the paint, all markings shall be protected from damage until the paint is dry. All surfaces shall be protected from disfiguration by splatter, splashes, or drippings of paint.
- J. Prevent splattering and over spray when applying markings.
- K. Unless material is track free at end of paint application, use traffic cones to protect markings from traffic until track free. When vehicle crosses a marking and tracks it or when splattering or over spray occurs, eradicate affected marking and resultant tracking and apply new markings.
- L. Upon completion of Work, remove all containers from site. Remove paint spots or stains upon adjacent surfaces and leave entire job clean and acceptable to the Architect.
- M. Collect and legally dispose of residues from painting operations.

#### **7.3.4 APPLICATION TOLERANCES**

- A. Maximum Variation from Wet Film Thickness: 1 mil.
- B. Maximum Variation from Wet Paint Line Width: Plus or minus 1/8 inch.
- C. Maximum Variation from Specified Application Temperature: Plus or minus 5 degrees F

#### **7.3.5 FIELD QUALITY CONTROL**

- A. Inspect for incorrect location, insufficient thickness, line width, coverage, retention, uncured or discolored material, and insufficient bonding.
- B. Repair lines and markings, which after application and curing do not meet following criteria:
  - 1. Incorrect Location: Remove and replace incorrectly placed patterns.
  - 2. Insufficient Thickness, Line Width, Paint Coverage, Glass Bead Coverage or Retention: Prepare defective material by acceptably grinding or blast cleaning to remove substantial amount of beads and to roughen marking surface. Remove loose particles and debris. Apply new markings on cleaned surface in accordance with this Section.
  - 3. Uncured or Discolored Material, Insufficient Bonding: Remove defective markings in accordance with this Section and clean pavement surface one foot beyond

affected area. Apply new markings on cleaned surface in accordance with this Section.

- C. Replace defective pavement markings as specified throughout warranted period. When markings are damaged by pavement failure or by Owner's painting, crack sealing, or pavement repair operations, Contractor is released from warranty requirements for damaged work.

#### 7.3.6 PROTECTION OF FINISHED WORK

- A. Protect painted pavement markings from vehicular and pedestrian traffic until paint is dry and track free. Follow manufacturer's recommendations or use minimum of 30 minutes. Consider barrier cones as satisfactory protection for materials requiring more than 2 minutes dry time.



| Country        | 1950 | 1960 | 1970 | 1980 | 1990 | 2000 | 2010 | 2020 | 2030 | 2040 | 2050 |
|----------------|------|------|------|------|------|------|------|------|------|------|------|
| Japan          | 7    | 8    | 10   | 12   | 14   | 16   | 18   | 20   | 22   | 24   | 26   |
| Germany        | 10   | 11   | 12   | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   |
| France         | 11   | 12   | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   | 21   |
| Italy          | 12   | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   | 21   | 22   |
| Spain          | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   | 21   | 22   | 23   |
| Sweden         | 14   | 15   | 16   | 17   | 18   | 19   | 20   | 21   | 22   | 23   | 24   |
| United Kingdom | 15   | 16   | 17   | 18   | 19   | 20   | 21   | 22   | 23   | 24   | 25   |
| United States  | 16   | 17   | 18   | 19   | 20   | 21   | 22   | 23   | 24   | 25   | 26   |
| Canada         | 17   | 18   | 19   | 20   | 21   | 22   | 23   | 24   | 25   | 26   | 27   |
| Belgium        | 18   | 19   | 20   | 21   | 22   | 23   | 24   | 25   | 26   | 27   | 28   |
| Netherlands    | 19   | 20   | 21   | 22   | 23   | 24   | 25   | 26   | 27   | 28   | 29   |
| Australia      | 20   | 21   | 22   | 23   | 24   | 25   | 26   | 27   | 28   | 29   | 30   |
| South Korea    | 21   | 22   | 23   | 24   | 25   | 26   | 27   | 28   | 29   | 30   | 31   |
| India          | 22   | 23   | 24   | 25   | 26   | 27   | 28   | 29   | 30   | 31   | 32   |
| China          | 23   | 24   | 25   | 26   | 27   | 28   | 29   | 30   | 31   | 32   | 33   |
| Brazil         | 24   | 25   | 26   | 27   | 28   | 29   | 30   | 31   | 32   | 33   | 34   |
| Argentina      | 25   | 26   | 27   | 28   | 29   | 30   | 31   | 32   | 33   | 34   | 35   |
| South Africa   | 26   | 27   | 28   | 29   | 30   | 31   | 32   | 33   | 34   | 35   | 36   |
| Indonesia      | 27   | 28   | 29   | 30   | 31   | 32   | 33   | 34   | 35   | 36   | 37   |
| Philippines    | 28   | 29   | 30   | 31   | 32   | 33   | 34   | 35   | 36   | 37   | 38   |
| Thailand       | 29   | 30   | 31   | 32   | 33   | 34   | 35   | 36   | 37   | 38   | 39   |
| Malaysia       | 30   | 31   | 32   | 33   | 34   | 35   | 36   | 37   | 38   | 39   | 40   |
| Singapore      | 31   | 32   | 33   | 34   | 35   | 36   | 37   | 38   | 39   | 40   | 41   |
| Hong Kong      | 32   | 33   | 34   | 35   | 36   | 37   | 38   | 39   | 40   | 41   | 42   |
| Taiwan         | 33   | 34   | 35   | 36   | 37   | 38   | 39   | 40   | 41   | 42   | 43   |
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| Germany        | 36   | 37   | 38   | 39   | 40   | 41   | 42   | 43   | 44   | 45   | 46   |
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| Italy          | 38   | 39   | 40   | 41   | 42   | 43   | 44   | 45   | 46   | 47   | 48   |
| Spain          | 39   | 40   | 41   | 42   | 43   | 44   | 45   | 46   | 47   | 48   | 49   |
| Sweden         | 40   | 41   | 42   | 43   | 44   | 45   | 46   | 47   | 48   | 49   | 50   |
| United Kingdom | 41   | 42   | 43   | 44   | 45   | 46   | 47   | 48   | 49   | 50   | 51   |
| United States  | 42   | 43   | 44   | 45   | 46   | 47   | 48   | 49   | 50   | 51   | 52   |
| Canada         | 43   | 44   | 45   | 46   | 47   | 48   | 49   | 50   | 51   | 52   | 53   |
| Belgium        | 44   | 45   | 46   | 47   | 48   | 49   | 50   | 51   | 52   | 53   | 54   |
| Netherlands    | 45   | 46   | 47   | 48   | 49   | 50   | 51   | 52   | 53   | 54   | 55   |
| Australia      | 46   | 47   | 48   | 49   | 50   | 51</ |      |      |      |      |      |

1998



August 31, 2022

Ref: 226.343D

Honorable Mayor & City Council  
City of Crete  
P.O. Box 86  
Crete, NE 68333

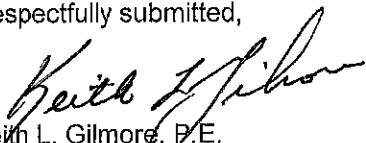
City Office South Drive - Crete, Nebraska

Nebraska State Statutes require that the advertisement be published once at least seven days prior to the bid opening date. However, it is our recommendation that the advertisement be published three weeks prior to the selected bid opening date.

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

Estimated Construction Cost - \$140,000

Respectfully submitted,



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

KLG:bo

cc: Tom Ourada, City Administrator  
Jerry Wilcox, Clerk



# CITY OFFICE SOUTH DRIVE CRETE, NEBRASKA 2022



**BIDDING DOCUMENTS NOTE:**

Complete sets of Bidding Documents as issued by Gilmore and Associates, Inc., and the bidding 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.



**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

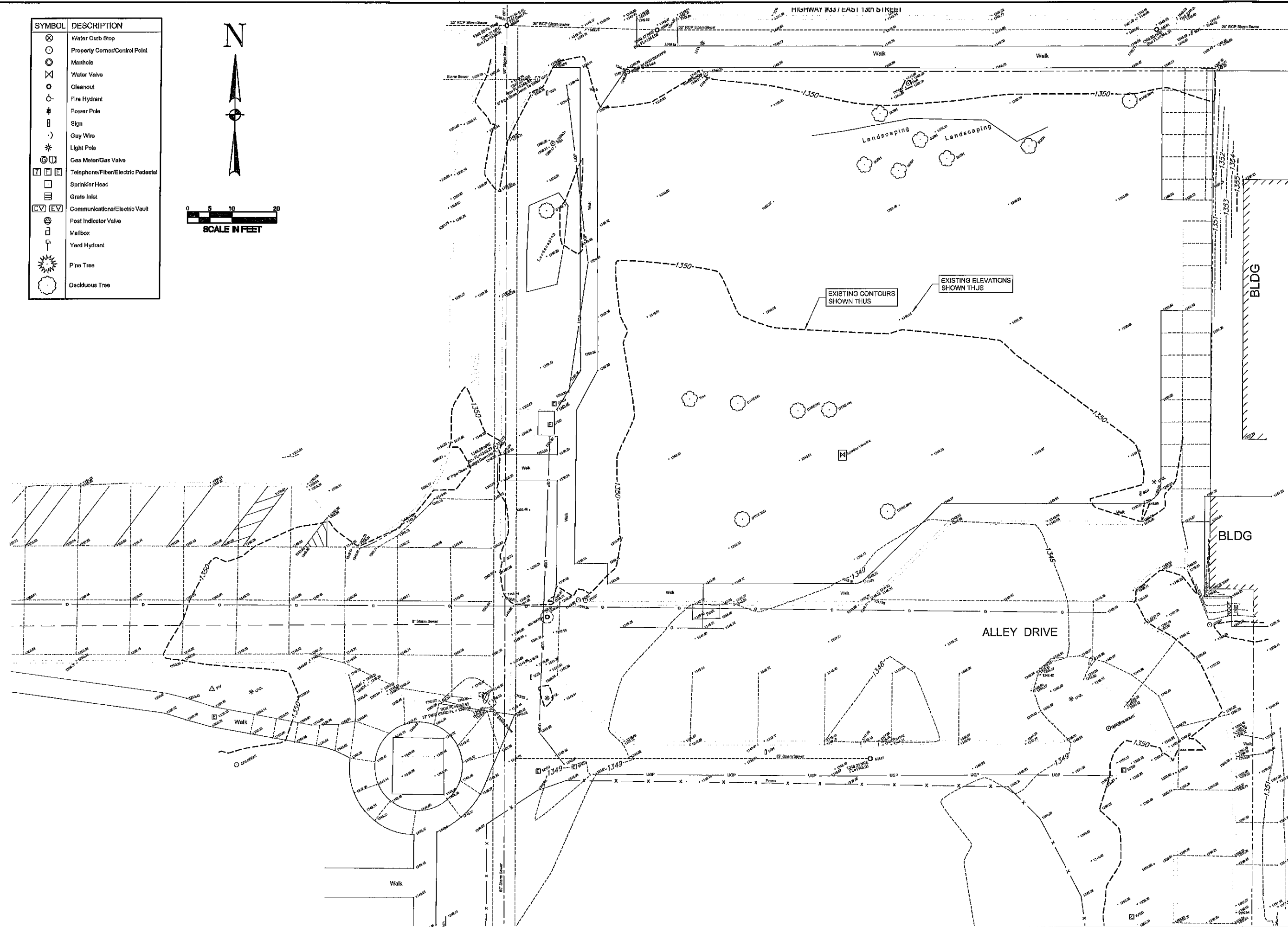
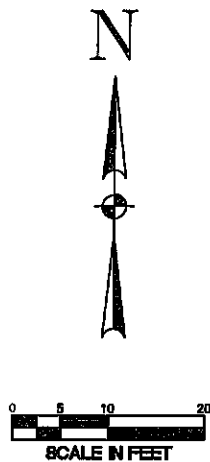
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| SYMBOL                                                                                | DESCRIPTION                       |
|---------------------------------------------------------------------------------------|-----------------------------------|
|  | Water Curb Stop                   |
|  | Property Corner/Control Point     |
|  | Manhole                           |
|  | Water Valve                       |
|  | Cleanout                          |
|  | Fire Hydrant                      |
|  | Power Pole                        |
|  | Sign                              |
|  | Guy Wire                          |
|  | Light Pole                        |
|  | Gas Meter/Gas Valve               |
|  | Telephone/Fiber/Electric Pedestal |
|  | Sprinkler Head                    |
|  | Grate Inlet                       |
|  | Communications/Electric Vault     |
|  | Post Indicator Valve              |
|  | Mailbox                           |
|  | Yard Hydrant                      |
|  | Pine Tree                         |
|  | Deciduous Tree                    |

1. Contractor may use sod cultter and reuse or replace sod. Sod shall be left a minimum of 2" below concrete.
2. Guardrail shall be installed per manufacturer recommendation. Exposed nuts and bolts shall be capped to prevent injury.
3. 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.
4. Contractor shall provide barricades and safety netting, to prevent pedestrians from injury during the work. Pedestrian control is the responsibility of the Contractor.
5. Access to the building shall be maintained during construction.
6. Damages to adjacent walks, paths, 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.
7. 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.
8. Contractor shall coordinate with the Owner access to the area for scheduled events.
9. Final grading and shaping by the contractor shall be ready for the placement of sod.
10. Contractor shall protect underground sprinklers, sprinkler lines, and valve boxes during construction.
11. Contractor shall protect underground electrical and communication lines during construction.
12. All concrete and building materials removed during construction shall be properly disposed of by the contractor.
13. Contractor shall verify the location and elevation of all private and public utilities prior to commencing construction work. Contractor shall notify all utilities via one-call system in accordance with state regulations. Contractor shall coordinate disconnects and utility owned property with respective company.
14. Storm water erosion and sediment control shall conform to NDEE NPDES requirements. BMP structures shall be placed as required to meet guidelines.
15. Copies of all tests and reports shall be forwarded to the Engineer immediately for review. Pay requests are subject to receipt and said testing results.
16. All excess material except earthen material, if any, shall be properly disposed of by the Contractor as part of this Project. All earthen borrow sites and applicable soils testing, if any, shall be provided by the Contractor as part of this Project. Excess earthen material, if any, shall be spread on site as directed by the Engineer.
17. All borrow soils required to construct paving and paving cross sections shown, are the responsibility of the Contractor and shall be considered incidental work.
18. All work required to be performed in order to construct the Project, which is not specifically designated on a bid item in the Bld, is considered incidental work.
19. All existing lawns disturbed by construction shall be resodded and considered incidental work.

| SHEET INDEX |                            |
|-------------|----------------------------|
| SHT. NO.    | SHEET NAME                 |
| 1           | INDEX SHEET                |
| 2           | EXISTING                   |
| 3           | REMOVALS                   |
| 4           | DESIGN                     |
| 5           | DETAILS                    |
| 6           | PAVING DETAILS             |
| 7           | JOINT PLAN & SWPPP DETAILS |
|             |                            |

| SYMBOL | DESCRIPTION                       |
|--------|-----------------------------------|
| ⊗      | Water Curb Stop                   |
| ○      | Property Corner/Control Point     |
| ⊙      | Manhole                           |
| ⊗      | Water Valve                       |
| ○      | Cleanout                          |
| ⊙      | Fire Hydrant                      |
| ⊗      | Power Pole                        |
| ⊙      | Sign                              |
| ⊙      | Guy Wire                          |
| ⊙      | Light Pole                        |
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| ⊙      | Grate Inlet                       |
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| ⊙      | Mailbox                           |
| ⊙      | Yard Hydrant                      |
| ⊙      | Pine Tree                         |
| ⊙      | Deciduous Tree                    |



Professional Engineer  
 KENT L. GILMORE  
 15422  
 State of Nebraska

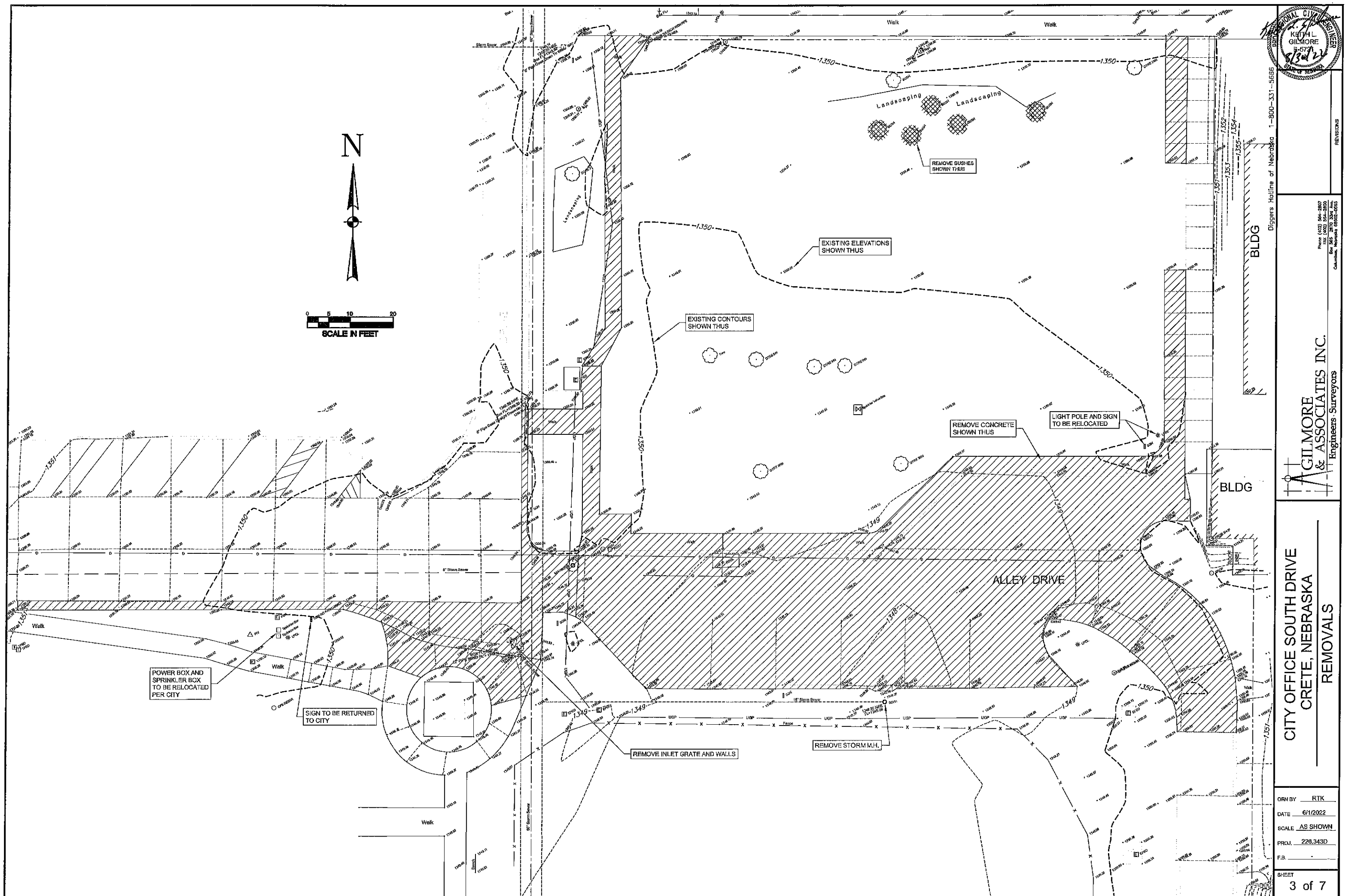
REVISIONS

Phone (402) 544-2867  
 Fax (402) 544-2863  
 Crete, Nebraska 68031-0405

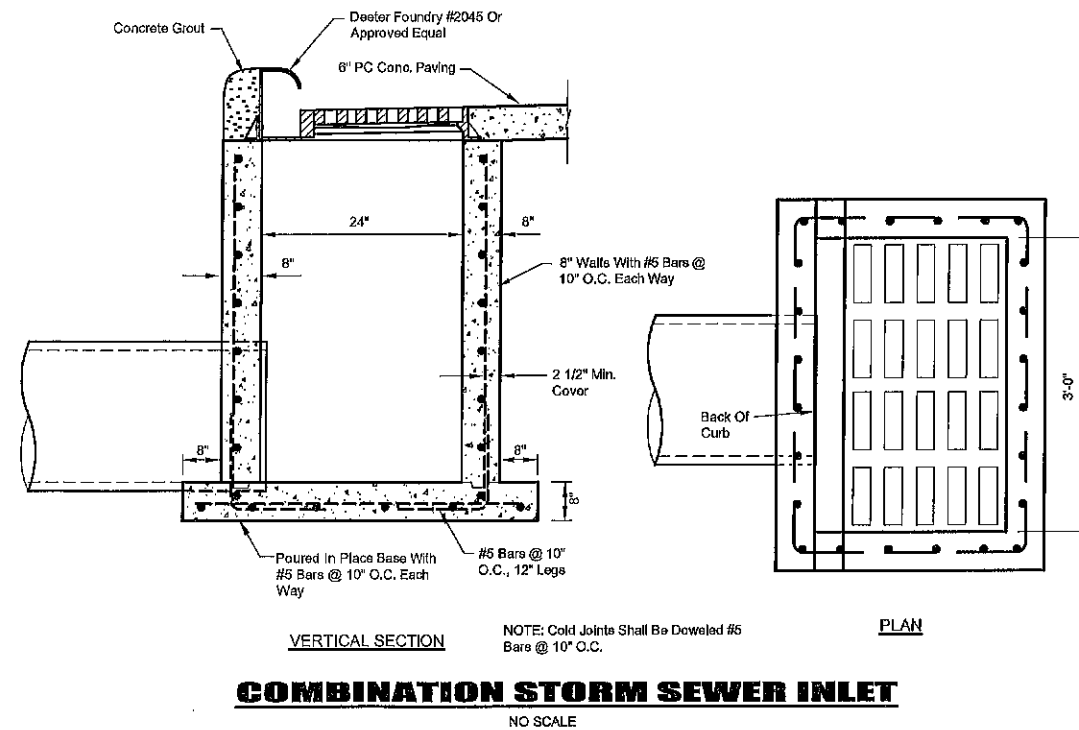
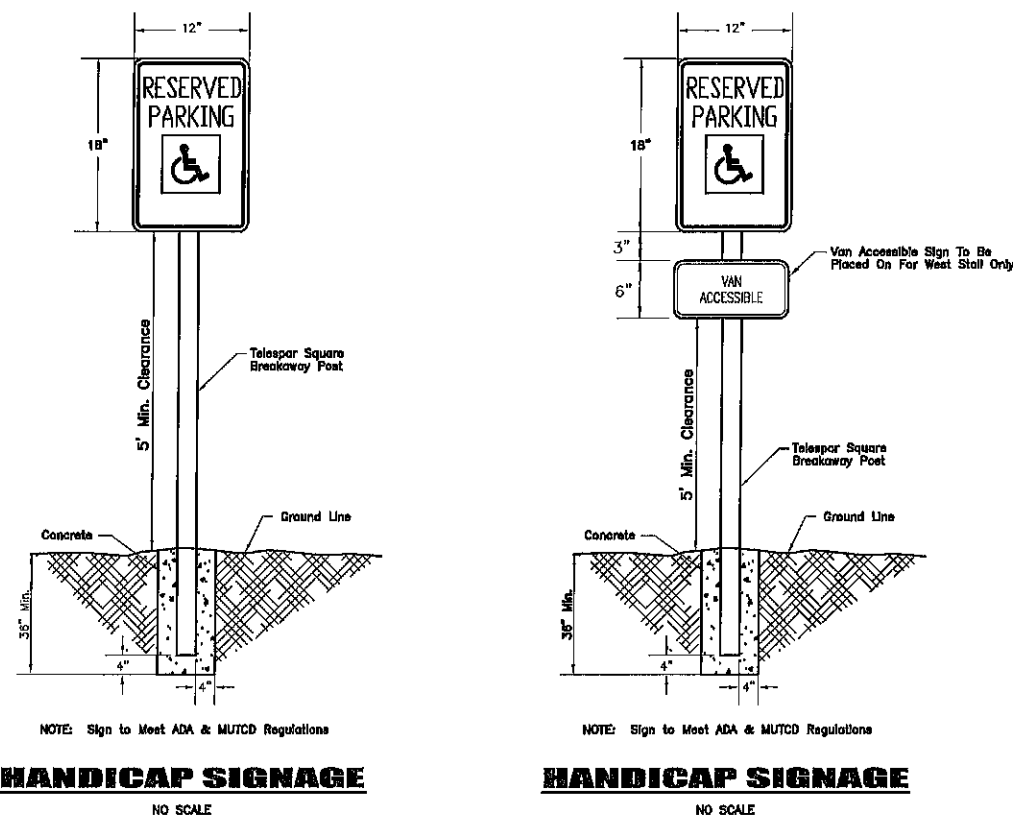
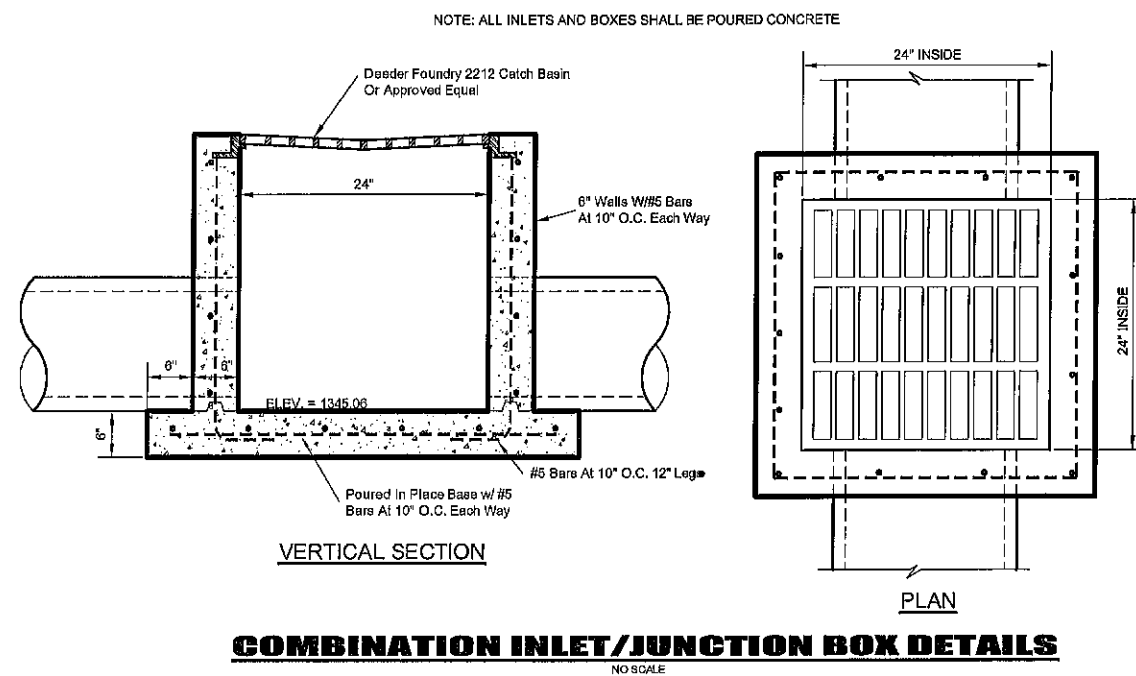
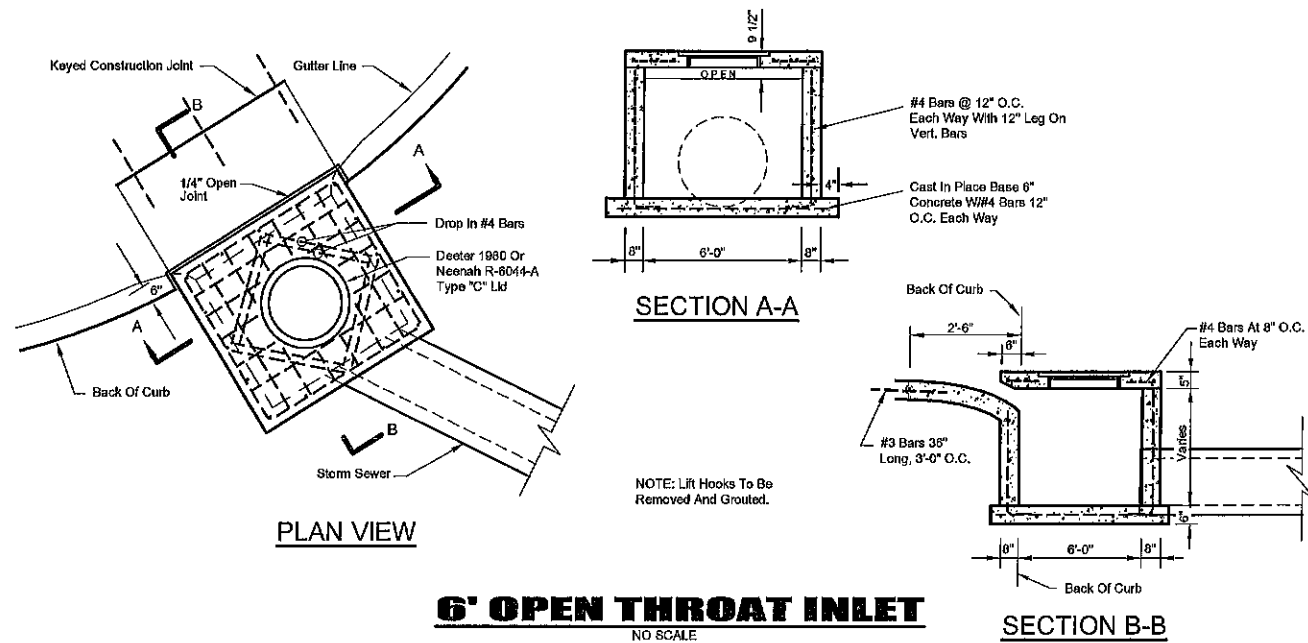
**GILMORE & ASSOCIATES INC.**  
 Engineers - Surveyors

CITY OFFICE SOUTH DRIVE  
 CRETE, NEBRASKA  
 EXISTING

DRN BY: RTK  
 DATE: 8/1/2022  
 SCALE: AS SHOWN  
 PROJ: 228.343D  
 F.B.:  
 SHEET  
 2 of 7







Diggers Hotline of Nebraska 1-800-331-5868

PROFESSIONAL CIVIL ENGINEER  
 KEITH L. GILMORE  
 E-57722  
 State of Nebraska

REVISIONS

Phone (402) 944-2807  
 Fax (402) 944-2802  
 1000 S. 10th Street  
 Columbus, Nebraska 68602-0005

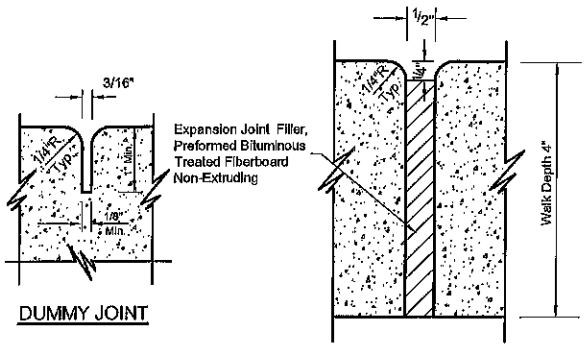
GILMORE & ASSOCIATES INC.  
 Engineers - Surveyors

CITY OFFICE PASS THRU DRIVE  
 CRETE, NEBRASKA  
 SIGN & STORM SEWER DETAILS

DRN BY RTK  
 DATE 8/12/2022  
 SCALE AS SHOWN  
 PROJ. 226.343D  
 F.B.  
 SHEET

5 of 7



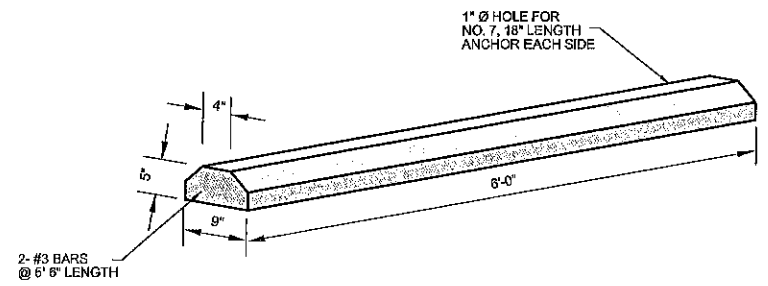


**JOINT SPACING FOR STRAIGHT RUNS**

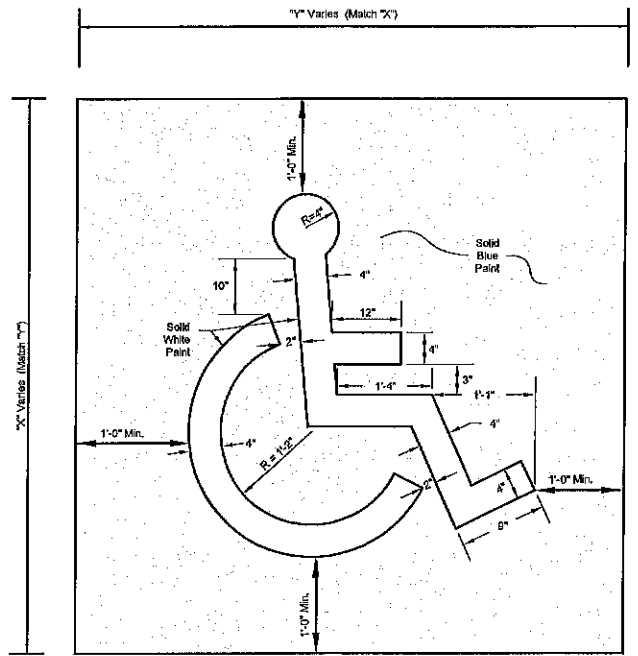
| WALK WIDTH | DUMMY JOINT SPACING |              | EXPANSION JOINT SPACING |
|------------|---------------------|--------------|-------------------------|
|            | TRANSVERSE          | LONGITUDINAL |                         |
| 4'         | 4'                  | Not Required | 40' Max.                |
| 6'         | 6'                  | Not Required | 42' Max.                |
| 8'         | 4'                  | 4'           | 40' Max.                |
| 10'        | 6'                  | 6'           | 40' Max.                |
| 12'        | 6'                  | 6'           | 42' Max.                |

NOTE: Whenever A Concrete Walk Abuts A Structure Such As Another Walk, Curb, Stoop, Storm Drain Inlet, Or Manhole, An Expansion Joint Shall Be Installed Between The Walk And The Structure.

**TYPICAL SIDEWALK DETAIL**



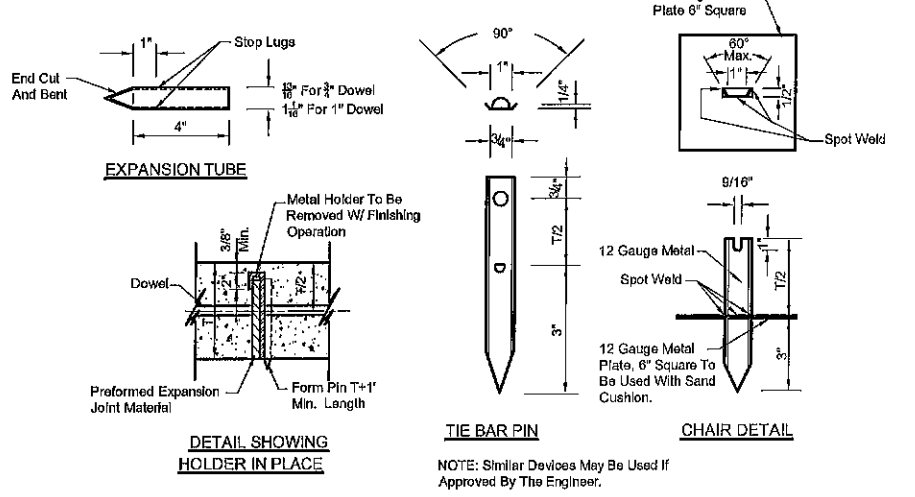
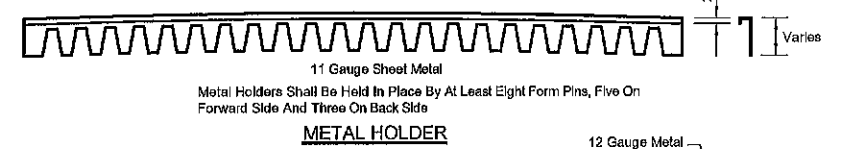
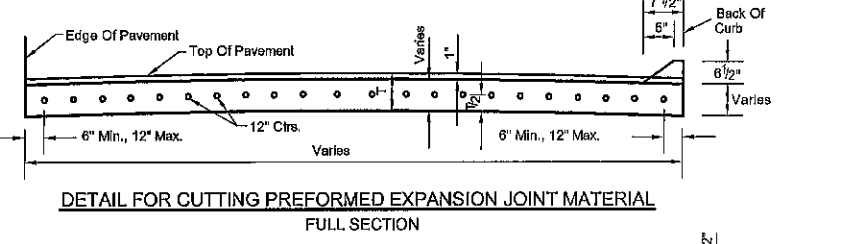
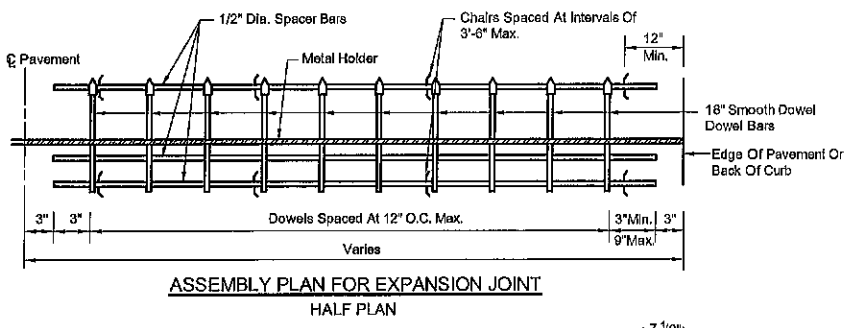
**PRE-CAST CONCRETE PARKING BARRIER**



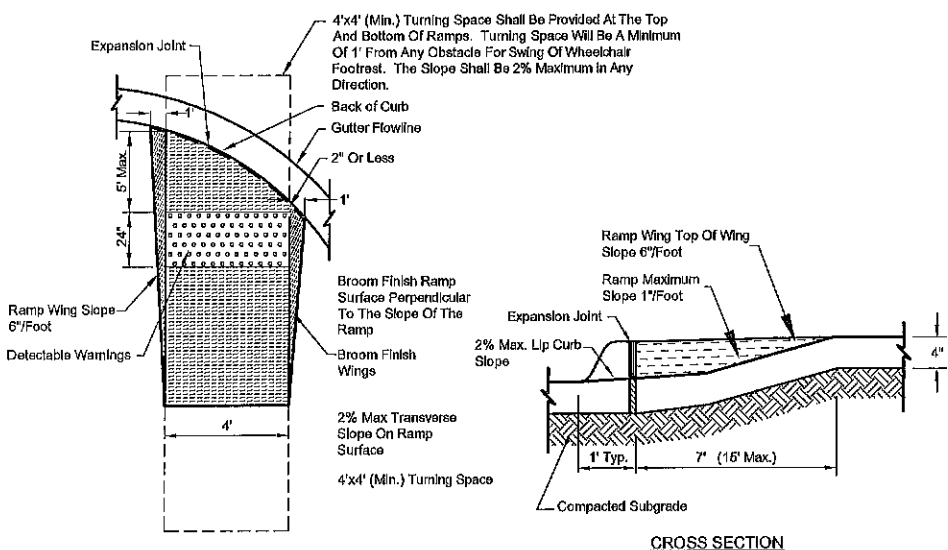
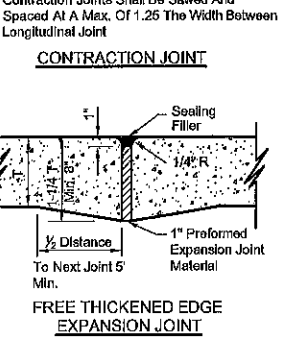
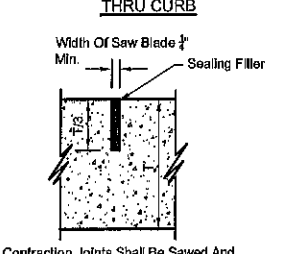
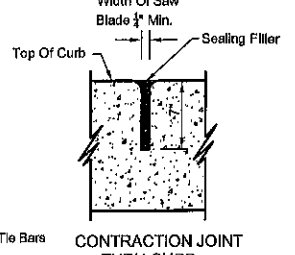
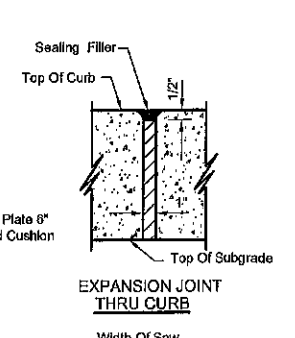
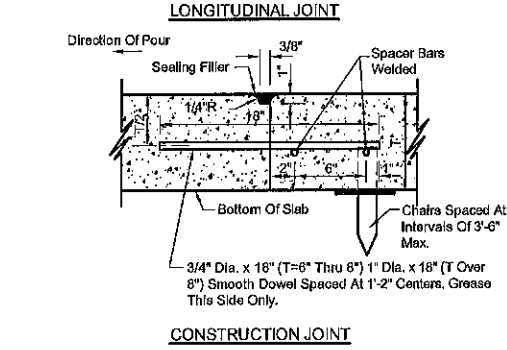
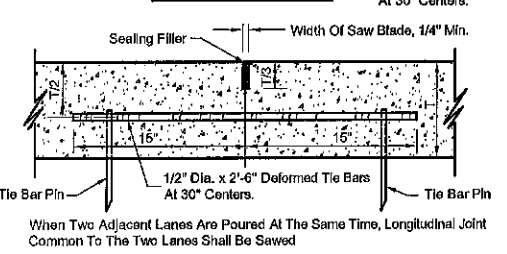
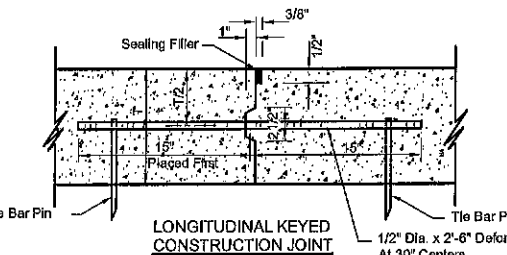
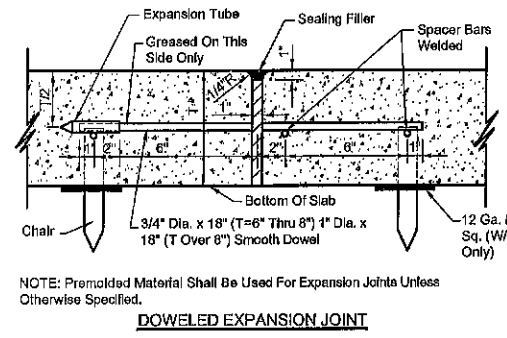
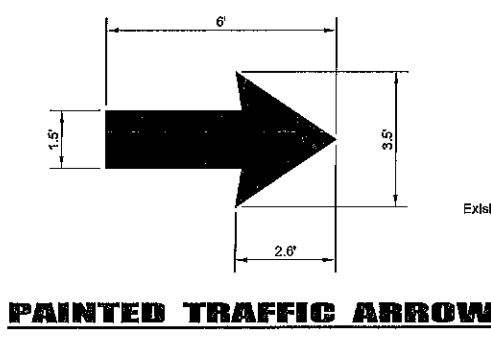
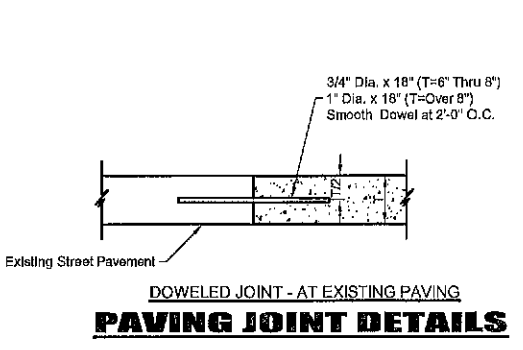
NOTE: Painted Symbol To Meet ADA Requirements.

**HANDICAP PAINT DETAIL (BY OWNER)**

NO SCALE



**EXPANSION JOINT DETAILS**

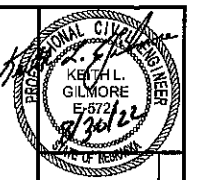


Locations As Shown On The Plans. Construction Shall Be Considered Incidental Work And Included In The Sidewalk Paving Bid Item.

PLAN

**HANDICAPPED RAMP**

CROSS SECTION

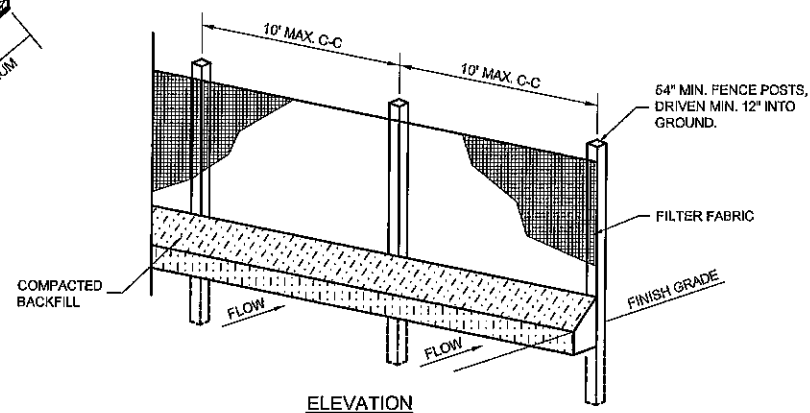
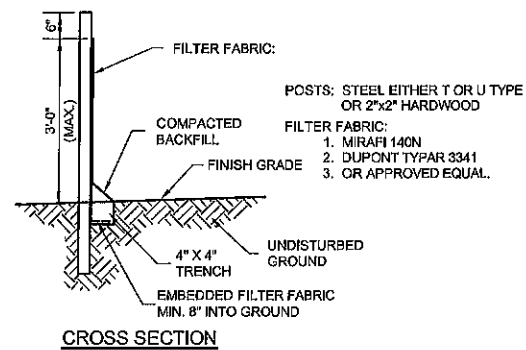


Diggers Hotline of Nebraska 1-800-331-5666

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

**CITY OFFICE PASS THRU DRIVE  
CRETE, NEBRASKA  
PAVING DETAILS**

DRN BY: RTK  
DATE: 6/1/2022  
SCALE: AS SHOWN  
PROJ.: 228.343D  
F.B.:  
SHEET: 6 of 7



1. FILTER CLOTH TO BE FASTENED SECURELY TO POSTS WITH TIES AT TOP, BOTTOM, AND MID SECTION
2. WHEN TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER THEY SHALL BE OVERLAPPED BY SIX INCHES AND FOLDED.
3. MAINTENANCE SHALL BE PERFORMED AS NOTED IN THE EROSION CONTROL PLAN. COLLECTED MATERIAL SHALL BE REMOVED WHEN "BULGES" DEVELOP IN THE SILT FENCE.

SEDIMENT/SILT FENCE  
N.T.S.

